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

- - - - -

UNITED STATES OF AMERICA,)	
)	<u>CERTIFIED</u>
Plaintiff,)	
)	
vs.)	No. 8:15-CR-0060-DOC
)	Day 3, Volume I
1) NADER SALEM ELHUZAYEL;)	
2) MUHANAD ELFATIH M.A. BADAWI,)	
)	
Defendants.)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Jury Trial

Santa Ana, California

Thursday, June 9, 2016

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Federal Official Court Reporter
United States District Court
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1 **SANTA ANA, CALIFORNIA, THURSDAY, JUNE 9, 2016**

2 **Day 3, Volume I**

3 (8:02 a.m.)

08:02 4 *(Outside the presence of the jury.)*

08:02 5 THE COURT: All right. We're on the record. And
6 all counsel and the parties are present.

08:02 7 I want to inform you and ask about your wisdom.

08:03 8 First of all, I saw Ms. Corrigan this morning, and
9 took her -- so Counsel should know -- down to the Federal
10 Bar Association meeting so that they had a quorum. I also
11 saw Dennise Willett from your office, said "good morning" to
12 both of them; that's been the extent of the conversation.

08:03 13 Second -- and then Ms. Corrigan came right back to
14 court. They needed a quorum.

08:03 15 Second, this case apparently has made at least the
16 front page of the Orange County Register -- because I take
17 both papers and saw this this morning. I think I should
18 take that head-on. I think I should remind them that, if
19 there is notoriety concerning this case, press coverage,
20 that as soon as they recognize that there's any news
21 coverage, they should simply set that article down. I think
22 it's impossible, obviously, to sequester them, nor would I
23 do that at this time.

08:03 24 Also, I think there's been some television coverage
25 on Channel 7 last night, which I didn't see. So I think

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1 it's the appropriate time just to remind them about their
2 ethics, rather than pretending that the 800-pound gorilla is
3 not in the room. It is in the room. Let's take this
4 head-on this morning.

08:04 5 And, if you have any better suggestions, I'm
6 wide-open to them. So let me turn to the government.

08:04 7 MS. HEINZ: Your Honor, the government would
8 agree.

08:04 9 THE COURT: Okay.

08:04 10 MS. CORRIGAN: I would agree also. And I just
11 wanna make one comment just on the KABC, the Channel 7 News.
12 It was forwarded to me by e-mail. I did take a look at it,
13 and there is a clip of me talking. I just want to represent
14 to the Court -- and I know I've already spoken with the
15 government about this -- that was not a clip from yesterday.
16 In fact, I wasn't even wearing the same suit.

08:04 17 THE COURT: I gonna joke with you. So there's no
18 hidden cameras in the courtroom?

08:04 19 MS. CORRIGAN: No.

08:04 20 But it seems to be something that they caught me
21 right after the initial appearance, and it's -- was -- so I
22 just wanna make sure that -- the Court's understanding --
23 I'm not mugging for the cameras.

08:04 24 THE COURT: Let's take that head-on. There's no
25 reason to ignore that, but I'm looking for suggestions, and

1 I'd like to handle it this morning.

08:05 2 MR. LENGYEL-LEAHU: KFI had it on the radio this
3 morning. I did not hear it. But they are -- it's not
4 really news. It's commentary. And they're somewhat
5 critical. So we need to remind them not to be listening --

08:05 6 THE COURT: They're critical of going to trial?

08:05 7 MR. LENGYEL-LEAHU: No. Counsel.

08:05 8 THE COURT: The government counsel?

08:05 9 MR. LENGYEL-LEAHU: No, sir.

08:05 10 MS. CORRIGAN: *(Laughs.)*

08:05 11 THE COURT: *(Laughs.)* I'm just joking. Don't
12 worry about what they're critical of. That will change and
13 ebb and flow on a daily --

08:05 14 MR. LENGYEL-LEAHU: Well, it wasn't me. And I'd
15 just prefer that the jury doesn't listen to the radio on the
16 way into court because, once you hear it, you can't unhear
17 it.

08:05 18 THE COURT: I think it's almost impossible to shut
19 off television or radio. I can't counsel them or admonish
20 them to do that because if I do and they disobey it, then
21 there's going to be a request for mistrial. It's a -- kind
22 of an order I can't control.

08:05 23 I can admonish them, if they start to hear
24 something about case, to immediately turn the channel, to
25 turn off that source of information. But I think it's

1 impossible in the electronic age that they're not exposed to
2 television and radio.

08:06 3 All right. If you'd be kind enough -- I'm going to
4 bring in the jury.

08:07 5 *(In the presence of the jury.)*

08:08 6 THE COURT: Then, we're in session. All counsel
7 are present. The parties are present. The jury and
8 alternates are present.

08:08 9 Counsel, would you like to continue with your
10 direct examination, please.

08:08 11 *(Court and clerk confer.)*

08:08 12 THE COURT: Oh, we're missing one juror. My
13 apologies. I thought we were all here.

08:08 14 MS. CORRIGAN: We are missing someone.

08:08 15 THE COURT: Well, we need to wait. So just visit
16 amongst yourselves, and we'll wait.

08:12 17 *(Court and clerk confer.)*

08:15 18 THE COURT: Ladies and gentlemen -- we're back on
19 record. Debbie made contact with that juror. And he
20 overslept. He'll be here in 10 minutes. So now at least we
21 know. So I'd just invite you to go back, have some coffee
22 for a few moments, and we'll come get you as soon as that
23 juror is here. Okay?

08:15 24 Thank you very much. Sorry for the inconvenience.

08:16 25 *(Jury exits the courtroom.)*

08:16 1 THE COURT: All right. If the parties would
2 remain.

08:16 3 *(Outside the presence of the jury.)*

08:16 4 **DISCUSSION RE JUROR NO. 6**

08:16 5 THE COURT: All right. Now we're back on record.
6 The jury's not present. The alternates are not present.

08:16 7 That isn't the whole conversation.

08:16 8 *(To the clerk:)* So, Debbie, if you'd be kind enough
9 to step to a microphone and tell respective counsel what the
10 whole conversation was with that juror.

08:16 11 THE CLERK: Well, the whole conversation was that
12 he is on his way here. He overslept. He said he should be
13 here in about 10 minutes. He said that he has overslept
14 every day that we've had court, and he doesn't think that he
15 can do it.

08:17 16 THE COURT: Now, I didn't want to say that in
17 front of the jury.

08:17 18 But he is the gentleman who was late the other day
19 also, if you noticed. And so I leave that to your wisdom
20 about a stipulation or a non-stipulation. But apparently,
21 whatever time we set, including 8:30, he is consistently
22 late. So I leave that to you, to a discussion.

08:17 23 But if -- I would entertain drawing an alternate
24 out of the hat. It's a wonderful process. And that's why
25 it's random. So all of you talk. If you don't stipulate,

1 we will continue forward with Juror No. 6.

08:17 2 *(Counsel confer.)*

08:18 3 THE COURT: And, Counsel, when he says he doesn't
4 know if he can do it, I don't know what that means. I don't
5 know if that's just sleeping or I don't know if he's now
6 reached the resolution that he just doesn't wanna sit. I
7 don't know if you want me to question him and take the time,
8 out of the presence of the jury. I'm happy to do that, if
9 you think he's a good juror and you want to continue on with
10 him.

08:18 11 MR. LENGYEL-LEAHU: Your Honor, I would ask you to
12 admonish him: It's time to grow up. Ninety percent of life
13 is --

08:18 14 THE COURT: Just a moment.

08:18 15 *"Juror No. 6, grow up."*

08:18 16 MR. LENGYEL-LEAHU: *"Grow up."* He's 19 years old.

08:18 17 MS. CORRIGAN: I would prefer that the Court
18 didn't say that to him.

08:18 19 THE COURT: I'm joking with all of you. I won't
20 be saying -- but I get the idea.

08:18 21 MR. LENGYEL-LEAHU: He's 19. He has to start
22 showing up with life. This isn't high school anymore. He
23 can't just show up whenever he wants to.

08:18 24 THE COURT: Counsel, I have the idea. I would
25 dress it up in a lot better language, but I have

1 understanding.

08:19 2 MR. LENGYEL-LEAHU: Appreciate that.

08:19 3 THE COURT: It depends upon all -- if all of you
4 want him or not. So you talk. If all of you want me to
5 continue on with him, then I'm going to wait. I'm going to
6 get him in here. I'm going to say that he needs to be on
7 time. And if he tells me he can't, then we'll deal with it.

08:19 8 But what's your preference? Is there a stipulation
9 or not?

08:19 10 MR. LENGYEL-LEAHU: We would not stipulate,
11 Your Honor.

08:19 12 THE COURT: So you'd like to continue on with that
13 juror?

08:19 14 MR. LENGYEL-LEAHU: We spent a lot of time --

08:19 15 THE COURT: All right.

08:19 16 MR. LENGYEL-LEAHU: -- just selecting these
17 individuals.

08:19 18 THE COURT: Well, over 10 or 15 minutes, I'm going
19 to, obviously, not simply excuse him, even if the others
20 disagree. I don't think it's appropriate. I don't think I
21 have the record, frankly, over a 10-minute -- well, half an
22 hour being late.

08:19 23 But we need to have that discussion with him.
24 Agreed?

08:19 25 MS. CORRIGAN: Agreed.

08:19 1 THE COURT: Out of the presence of the jury.
2 Agreed?

08:19 3 MS. HEINZ: Agreed.

08:19 4 THE COURT: And, Counsel, thank you for your
5 wisdom, but I don't think I'll say, "*Grow up.*" I think I'll
6 take a different tact in this: Why are you late? And let
7 him tell us why he's late. Ask him if he can be on time; if
8 he can't be on time, why? He's not doing anything other
9 than sleeping.

08:20 10 MS. CORRIGAN: As the Court may recall, he's the
11 young man who I asked quite a bit of questions about his
12 schedule --

08:20 13 THE COURT: Yeah.

08:20 14 MS. CORRIGAN: -- 'cause he works till midnight.
15 But he assured us that he would have enough energy to make
16 this happen.

08:20 17 THE COURT: We're not going to excuse him for
18 cause right now, but let's find out what the reasons are.
19 And it may be his statement, "*I don't think I can do it*" is
20 far greater than just a time issue now. It may be, "*I*
21 *thought about it. I don't wanna do it.*"

08:20 22 And then you'll have to make a different
23 decision --

08:20 24 MS. CORRIGAN: Sure.

08:20 25 THE COURT: -- or the same decision.

08:20 1 (To the clerk:) So, Deb, we won't know when he
2 arrives.

08:20 3 THE CLERK: He said he was on First Street. So he
4 has to park and then make his way into the building.

08:20 5 THE COURT: I'm just wondering if we can recognize
6 him in the hallway and bring him directly into court,
7 without going back into the jury room.

08:20 8 THE CLERK: I can stand out there.

08:20 9 THE COURT: Deb, would you be so kind. I'd really
10 appreciate that. And I apologize for asking you to do that.

08:20 11 But if we can head him off in the hallway, Counsel,
12 we'll bring him right into court and have him seated. That
13 way there's no discussion with the other jurors because, by
14 this time, they have to be frustrated with him, frankly.

08:21 15 MS. CORRIGAN: Your Honor, can I be excused for
16 about two minutes? One minute?

08:21 17 THE COURT: Absolutely.

08:21 18 *(Pause in the proceedings at 8:21 a.m.)*

08:26 19 *(Proceedings resumed at 8:26 a.m.)*

08:26 20 *(Outside the presence of the jury.)*

08:26 21 *(Juror No. 6 enters the courtroom.)*

08:27 22 THE COURT: Okay. We're back on the record. All
23 counsel are present, the parties are -- good morning -- and
24 Juror No. 6 is present.

25

DISCUSSION WITH JUROR NO. 6

THE COURT: We received a phone call this morning, uh -- when Debbie called you -- saying you overslept, and then -- but then, the statement was made that you didn't think you could do it.

Whatever that statement was, talk to us a little bit about where you're at mentally, and if you can be in court on time, and if not, why. And what's going on?

JUROR NO. 6: I got off work at 12:30, so I got home at 1:00.

THE COURT: Okay. So you're working at night?

JUROR NO. 6: Yes.

THE COURT: And you told us about that.

JUROR NO. 6: Yes.

THE COURT: And then you're trying to get to court.

JUROR NO. 6: Yeah.

THE COURT: I see. Is that making it difficult because of that evening shift that you're working?

JUROR NO. 6: A little.

THE COURT: Can you be here at 8:00 o'clock? I'm not going to start at 7:30, I promise you.

JUROR NO. 6: Okay.

THE COURT: Can you be here, though, at 8:00 o'clock, if you continue on with this case?

08:28 1 JUROR NO. 6: Yes, if I add more alarms onto my
2 phone.

08:28 3 THE COURT: Pardon me?

08:28 4 JUROR NO. 6: If I add more alarms onto my phone,
5 I should be fine.

08:28 6 THE COURT: Okay.

08:28 7 Counsel, any further inquiry?

08:28 8 On behalf of the government?

08:28 9 MS. HEINZ: Nothing from the government.

08:28 10 THE COURT: Mr. Lengyel-Leahu?

08:28 11 MR. LENGYEL-LEAHU: No. Thank you, Your Honor.

08:28 12 THE COURT: Ms. Corrigan?

08:28 13 MS. CORRIGAN: No, Your Honor. Thank you.

08:28 14 THE COURT: Okay.

08:28 15 *(To the clerk:)* Then, Debbie, would you get the
16 rest of the jurors, please.

08:28 17 Thank you.

08:29 18 *(In the presence of the jury.)*

08:30 19 THE COURT: All right. Then we're back in
20 session. The jury's present. All the alternates are
21 present. All parties and counsel are present. The witness
22 is present.

23 **SCOTT WALES, FBI SPECIAL AGENT, CALLED BY THE GOVERNMENT,**
24 **PREVIOUSLY SWORN, RESUMED THE STAND**

08:30 25 THE COURT: Counsel, your continued direct

1 examination, please.

08:30 2 **DIRECT EXAMINATION (RESUMED)**

08:30 3 BY MS. ELIOT:

08:30 4 Q. When we left off yesterday, we had been looking at a
5 Twitter account with the screen name of "darrulislam."

08:30 6 MS. ELIOT: If we could place before the witness
7 what has been marked as Government's Exhibits 210 to 213,
8 please.

08:30 9 *(Documents provided to the witness.)*

08:30 10 THE WITNESS: I have them.

08:30 11 BY MS. ELIOT:

08:30 12 Q. If you would take a look at these exhibits, setting
13 aside the one marked with an "A", 210-A. We'll get to that
14 in just a moment.

08:30 15 A. Okay.

08:30 16 MS. ELIOT: For the record, Exhibits 210 to 213
17 were previously identified as Twitter data captured by
18 Ms. Grote.

08:30 19 BY MS. ELIOT:

08:30 20 Q. Special Agent Wales, do you recognize the Twitter
21 account shown here?

08:30 22 A. I do.

08:30 23 THE COURT: Move that mic just a little closer.

08:30 24 BY MS. ELIOT:

08:30 25 Q. Do you recognize the Twitter account shown here?

08:31 1 A. I do.

08:31 2 Q. And whose Twitter account is this?

08:31 3 A. This is Defendant's, Muhanad Badawi's, account.

08:31 4 MS. HEINZ: Your Honor, the government moves to

5 admit 210, 211, 212 and 213 into evidence.

08:31 6 THE COURT: Any objection, Counsel?

08:31 7 And I begin with Mr. Lengyel-Leahu.

08:31 8 MR. LENGYEL-LEAHU: No objection, Your Honor.

08:31 9 THE COURT: Ms. Corrigan?

08:31 10 MS. CORRIGAN: No, Your Honor. Thank you.

08:31 11 THE COURT: All right. 210, 211, 212, and 213 are

12 received into evidence.

08:31 13 (Exhibit No. 210, 211, 212 and 213 received in

14 evidence.)

08:31 15 MS. ELIOT: Thank you, Your Honor.

08:31 16 BY MS. ELIOT:

08:31 17 Q. If you could look now at Government's Exhibit 210-A,

18 please.

08:31 19 MS. ELIOT: And, for the record, this exhibit was

20 briefly admitted as a true and accurate translation of

21 Arabic writing into English, subject to relevance.

08:31 22 BY MS. ELIOT:

08:31 23 Q. Special Agent Wales, does Exhibit 210-A appear to be a

24 true and accurate copy of Exhibit 210 in evidence, with

25 English translation of any Arabic writing?

08:32 1 A. Yes, it does.

08:32 2 MS. ELIOT: Your Honor, the government moves to
3 admit Exhibit 210-A into evidence.

08:32 4 THE COURT: Any objection?

08:32 5 MS. CORRIGAN: No, Your Honor.

08:32 6 MR. LENGYEL-LEAHU: No objection.

08:32 7 THE COURT: Received.

08:32 8 *(Exhibit No. 210-A received in evidence.)*

08:32 9 *(Exhibit displayed.)*

08:32 10 BY MS. ELIOT:

08:32 11 Q. If you'll take a look at Exhibit 210-A with the
12 translations, please.

08:32 13 On the first page there, where there is Arabic writing
14 both above and underneath the handle "*darulislam*," what is
15 the English translation of the Arabic writing? It's the
16 third line on the translation.

08:32 17 A. "*Muhanad Al-Fatih*."

08:32 18 Q. Turning over to the next page, please, where there is
19 an image of a video clip.

08:33 20 *(Exhibit displayed.)*

08:33 21 BY MS. ELIOT:

08:33 22 Q. The last line of the translation, can you read the
23 English translation of the reference to the video clip,
24 please.

08:33 25 A. Yes. So, um, the video clip, which is the yellow

1 Arabic writing on the video, is translated as:

08:33 2 *"Here he reads some verses that describe*
3 *the women of paradise to make himself*
4 *eager to receive martyrdom."*

08:33 5 Q. Turning over to the next page.

08:33 6 *(Exhibit displayed.)*

08:33 7 BY MS. ELIOT:

08:33 8 Q. Are these messages displayed here written by Muhanad
9 Elfatih?

08:33 10 A. Yes, they are. All of them are original texts by
11 Muhanad Badawi.

08:33 12 Q. Can you read the second line of the translation
13 starting with *"By God this is true."*

08:33 14 A. Yes. *(Reading:)*

08:33 15 *"by God this is true, whoever ponders*
16 *God's support to the fighters,*
17 *mujahidin, and the establishment of the*
18 *State of Islam, he would not -- he would*
19 *know it very well."*

08:34 20 *(Spellings above kept consistent with exhibit.)*

11:09 21 BY MS. ELIOT:

08:34 22 Q. And what are the next entries there?

08:34 23 A. *(Reading:)*

08:34 24 *"May God guide him.*

08:34 25 *"Today we will raid them so they will*

1 *not raid us, God willing."*

08:34 2 *"If you are satisfied to be a slave to*
3 *them, curse you. Are you -- are your*
4 *apostates better than your masters? Are*
5 *you absolved in the ancient scripture of*
6 *David?" (Verbatim as read.)*

08:34 7 Q. And can you tell when those messages were sent by
8 Defendant Badawi?

08:34 9 A. Yes. They are marked -- all but the last one are
10 marked May 17th, and then it's May 15 for the last. And
11 that would correspond to 2015.

08:34 12 Q. Turning over to the next page, please.

08:34 13 *(Exhibit displayed.)*

08:34 14 BY MS. ELIOT:

08:34 15 Q. The Arabic translation where it says -- the fourth
16 message -- do those messages, from the fourth one down,
17 regard the martyrdom of Abu Malik al-Tamimi?

08:35 18 A. Yes.

08:35 19 Q. And after the hashtag, "*#Abu Malik al-Tamimi*," can you
20 read the further translations below, starting with "*The*
21 *Islamic State*."

08:35 22 A. Yeah. So, hashtag:

08:35 23 *"#The Islamic State," hashtag, "#The*
24 *martyrdom of Shaykh Anas al-Nashwan."*

08:35 25 Q. And what are the entries below that, please?

08:35 1 A. (Reading:)

08:35 2 "Hey," hashtag, "#Hams, you are an

3 example for glories and your glory today

4 is to have Nashwan's grave in you."

5 Hashtag, "#The martyrdom of Shaykh Anas

6 al-Nashwan."

08:35 7 BY MS. ELIOT:

08:35 8 Q. And the reference to "Hams," do you know where that's

9 located?

08:35 10 A. Hams is in Syria.

08:35 11 Q. If you would turn to the next page, please.

08:36 12 (Exhibit displayed.)

08:36 13 BY MS. ELIOT:

08:36 14 Q. The photographs that appear on the next page, are those

15 associated with the messages sent about Abu Malik al-Tamimi?

08:36 16 A. That's correct.

08:36 17 Q. And do those pictures appear to depict him both during

18 his life and after his death?

08:36 19 A. Yes, it does.

08:36 20 Q. Turning over to the next page, please.

08:36 21 (Exhibit displayed.)

08:36 22 BY MS. ELIOT:

08:36 23 Q. The tweet in the middle, can you read starting with

24 "Soon Al-Furqan."

08:36 25 A. (Reading:)

08:36 1 *"Soon Al-Furqan Media.*

08:36 2 *"March Fourth, whether light or heavy.*

08:36 3 *"Hopefully a speech by the Caliph."*

08:37 4 Q. And what does *"Al-Furqan Media"* refer to?

08:37 5 A. Al-Furqan Media is the media wing of the Islamic State

6 of Iraq and the Levant.

08:37 7 Q. And the reference to the caliph in the last message,

8 who does that refer to?

08:37 9 A. To Abu Bakr al-Baghdadi, the leader of ISIL.

08:37 10 Q. If you could turn to the next page with the photograph,

11 please.

08:37 12 *(Exhibit displayed.)*

08:37 13 BY MS. ELIOT:

08:37 14 Q. Do you recognize the person depicted in this photo?

08:37 15 A. I do.

08:37 16 Q. Who is that?

08:37 17 A. This is Abu Bakr al-Baghdadi during his initial speech

18 when he was named the caliph of the Islamic State.

08:37 19 Q. And does this entry follow the previous message of

20 *"Hopefully a speech by the Caliph"*?

08:37 21 A. Yes.

08:37 22 Q. We're going to skip the next page, please, and turn to

23 the one after that.

08:38 24 *(Exhibit displayed.)*

25

08:38 1 BY MS. ELIOT:

08:38 2 Q. Can you read the last message sent by Anjem Choudary.

08:38 3 A. *(Reading:)*

08:38 4 *"How fast will the Islamic State*

08:38 5 *spread?"* Question mark.

08:38 6 BY MS. ELIOT:

08:38 7 Q. Is there a link thereafter?

08:38 8 A. There is a YouTube link.

08:38 9 Q. And turning over to the next page, please, can you read

10 the English translation of the Arabic writing, the two

11 sentences at the bottom of the page.

08:38 12 A. *(Reading:)*

08:38 13 *"God has answered the supplication of*

08:38 14 *the holy fighters, mujahidin. Today we*

08:38 15 *will raid them and they will not raid*

08:38 16 *us,"* and then a series of "ha"s.

08:38 17 Q. And can you tell if that is a retweet or an original

08:38 18 message of Muhanad Badawi?

08:39 19 A. This is an original message of Muhanad Badawi.

08:39 20 Q. If we could turn to the next page, please.

08:39 21 *(Exhibit displayed.)*

08:39 22 BY MS. ELIOT:

08:39 23 Q. At the bottom tweet, is there a message about the

08:39 24 current terrorism threat level that was retweeted by Muhanad

08:39 25 Badawi?

08:39 1 A. Yes. It says,
08:39 2 *"The former head of the United States*
3 *National Security stated to CNN: The*
4 *level of threats today is serious, and*
5 *is greater than what it was during*
6 *September 11th."*

08:39 7 Q. And can you see the date of that retweet?

08:39 8 A. The retweet was done on May 11, 2015.

08:39 9 Q. And turning over to the next page, please.

08:39 10 *(Exhibit displayed.)*

08:39 11 BY MS. ELIOT:

08:39 12 Q. The first entry there, is that a message -- an original
13 message by Defendant Badawi or a retweet?

08:40 14 A. It's, um, his own words.

08:40 15 Q. And what is the message there?

08:40 16 A. *(Reading:)*

08:40 17 *"If someone ask (sic) you, Hey, where*
18 *are you going? Say: to Allah."*

08:40 19 Q. And then the middle message starting with, *"May Allah."*

08:40 20 A. *(Reading:)*

08:40 21 *"May Allah protect our sisters from*
22 *these filthy kuffar."*

08:40 23 Q. What is the reference to *"kuffar"* there?

08:40 24 A. *Kufar* is nonbeliever/disbeliever.

08:40 25 Q. Is that anyone who does not practice the Muslim faith?

08:40 1 A. That's correct.

08:40 2 Q. And what is the final entry at the bottom, please.

08:40 3 A. *(Reading:)*

08:40 4 *"O Allah give me strength and keep me*

08:40 5 *firm."*

08:40 6 Q. And the tweet that has been translated from Arabic in

08:40 7 that English below, can you read that, please.

08:40 8 A. *(Reading:) "By God we will avenge."*

08:41 9 Q. If you would turn over to the next page, please.

08:41 10 *(Exhibit displayed.)*

08:41 11 BY MS. ELIOT:

08:41 12 Q. At the English translation of the Arabic words at the

08:41 13 bottom, where it says, *"fourth message,"* can you read the

08:41 14 translation starting with *"Peace be upon you."*

08:41 15 A. *(Reading:)*

08:41 16 *"Peace be upon you, brother, if you will*

08:41 17 *permit me a word with you in private."*

08:41 18 Q. And what is the following message?

08:41 19 A. *(Reading:)*

08:41 20 *"Mosuli Munasir I asked Levantine*

08:41 21 *merchant, 'How did you cross the*

08:41 22 *borders?' He said, 'I didn't cross the*

08:41 23 *borders; we are in the Islamic State.'"*

08:41 24 Q. And are you aware of further contact between

08:41 25 Defendant Badawi and Mosuli Munasir that is found later in

1 the social media?

08:41 2 A. Yes, I am.

08:41 3 Q. If we could skip one page and go to the next one,
4 please.

08:41 5 *(Exhibit displayed.)*

08:42 6 BY MS. ELIOT:

08:42 7 Q. The last two entries there, are those references to
8 Defendant Elhuzayel's Twitter accounts?

08:42 9 A. Yes.

08:42 10 Q. And what does the first entry say about
11 Defendant Elhuzayel's account?

08:42 12 A. *(Reading:) "He got suspended already."*

08:42 13 Q. If we could skip three pages and go to the fourth one
14 thereafter.

08:42 15 *(Exhibit displayed.)*

08:42 16 BY MS. ELIOT:

08:42 17 Q. If the first entry, do you see a reference to the
18 Islamic State?

08:42 19 A. Yes.

08:42 20 Q. And what does that say there?

08:42 21 A. *(Reading:) "Where are my #IslamicState brothers?"*

08:42 22 Q. Is that the original words of Defendant Badawi or a
23 retweet?

08:42 24 A. That's correct: They're original words by Badawi.

08:43 25 Q. What is the date of that message?

08:43 1 A. May 8, 2015.

08:43 2 Q. If you could turn -- skip the next page and go to the
3 one thereafter, please, where there's a picture of a person.

08:43 4 *(Exhibit displayed.)*

08:43 5 BY MS. ELIOT:

08:43 6 Q. Can you read the message above the picture?

08:43 7 A. Yes. *(Reading:)* "The #caliphate of the Muslims."

08:43 8 Q. And is this original wording of Defendant Badawi?

08:43 9 A. That's correct.

08:43 10 Q. And who is depicted in the picture there?

08:43 11 A. Again, it's Abu Bakr al-Baghdadi.

08:43 12 Q. What's the date of that message?

08:43 13 A. May 8, 2015.

08:43 14 Q. Turning over to Exhibit 211.

08:43 15 *(Exhibit displayed.)*

08:44 16 BY MS. ELIOT:

08:44 17 Q. The second entry there, a tweet with Anjem Choudary's
18 claim about the Arabian Peninsula, can you read that one,
19 please.

08:44 20 A. Yes. *(Reading:)*

08:44 21 *"Today the Arabian Peninsula is being*
22 *ruled by kufr regimes who rule by other*
23 *than what Allah has revealed, violating*
24 *the sanctity of Allah!"*

08:44 25 *(Spellings above kept consistent with exhibit.)*

08:44 1 BY MS. ELIOT:

08:44 2 Q. And again what is the reference to "*kufr regimes*"?

08:44 3 A. "*Kufr regimes*" are nonbelieving -- or just, you know,
4 people that are not Muslim.

08:44 5 Q. And then the entry about Khalifa Ibrahim and Barack
6 Obama, that is two tweets later, could you read that,
7 please.

08:44 8 A. Yes. (*Reading:*)

08:44 9 *"Things aren't as it used to be anymore.*
10 *It is very clear now either you are with*
11 *the Khalifa Ibrahim or with Barack*
12 *Obama."*

08:44 13 Q. Is that a retreat or original words of Mr. Badawi?

08:45 14 A. Those are Badawi's words.

08:45 15 Q. And what is the date there of that message?

08:45 16 A. October 22nd, 2014.

08:45 17 Q. Turning over to Exhibit 212, please.

08:45 18 (*Exhibit displayed.*)

08:45 19 BY MS. ELIOT:

08:45 20 Q. Is this a tweet directly from Muhanad Badawi, or is it
21 a retweet he forwarded?

08:45 22 A. It's a -- it's directional tweet from Muhanad Badawi to
23 Nader Elhuzayel.

08:45 24 Q. And what is his message to --

08:45 25 A. Or, at least, referencing Nader Elhuzayel.

08:45 1 Q. What is the message referencing Defendant Elhuzayel?

08:45 2 A. (*Reading:*)

08:45 3 "I can't wait to make hijra with my
4 brother @MayAllahAccept inshallah to
5 al-Sham," hashtag,
6 "#o_Allah_help_us_to_go_to_al-sham."

08:45 7 Q. And where is al-Sham?

08:46 8 A. "Sham" is Syria.

08:46 9 Q. And what is --

08:46 10 MR. LENGYEL-LEAHU: Your Honor, I'd object to the
11 answer'a the question as either nonresponsive or calls for
12 speculation.

08:46 13 THE COURT: Overruled.

08:46 14 MR. LENGYEL-LEAHU: He indicated that it
15 referenced my client. I don't see my client on that message
16 at all.

08:46 17 THE COURT: Oh, I thought the objection was to
18 *hijra*.

08:46 19 MR. LENGYEL-LEAHU: No.

08:46 20 THE COURT: I'm confused. I thought you were
21 objecting because you didn't think there was a nexus to
22 *hijra*?

08:46 23 MR. LENGYEL-LEAHU: The witness said that this is
24 a message that, um, referenced my client. And it doesn't
25 have may client on there at all. It calls for speculation.

08:46 1 THE COURT: Just a minute.

08:46 2 Why don't we just reask the question. I'm a little
3 confused by the objection, but I'm not certain of the
4 question either. It was leading. So let's strike the
5 question. Let's strike the answer.

08:47 6 Reask the question.

08:47 7 MR. LENGYEL-LEAHU: Appreciate it. Thank you,
8 Your Honor.

08:47 9 BY MS. ELIOT:

08:47 10 Q. In the tweet itself is there a reference to another
11 Twitter account?

08:47 12 A. Yes, there is.

08:47 13 Q. And are you familiar with the Twitter account
14 MayAllahAccept?

08:47 15 A. I am.

08:47 16 Q. Who's Twitter account is that?

08:47 17 A. That's utilized by Nader Elhuzayel.

08:47 18 Q. And again, where is al-Sham?

08:47 19 A. Al-Sham is Syria.

08:47 20 Q. So that hashtag there is "Allah_help_us_to_go_to"
21 Syria?

08:47 22 A. Yes.

08:47 23 Q. If you could turn over to 213, please.

08:47 24 *(Exhibit displayed.)*
25

08:48 1 BY MS. ELIOT:

08:48 2 Q. On the front page there, who's account is this?

08:48 3 A. This is Muhanad Badawi's account.

08:48 4 Q. If you could turn over to the next page, please.

08:48 5 *(Exhibit displayed.)*

08:48 6 BY MS. ELIOT:

08:48 7 Q. The bottom two messages, are those retweets of someone

08:48 8 else's words?

08:48 9 A. Yes, they are.

08:48 10 Q. And whose retweets are they?

08:48 11 A. Those are retweets of Elhuzayel's account Repent2ALLah.

08:48 12 Q. And can you read the two messages there, please.

08:48 13 A. *(Reading:)*

08:48 14 *"May Allah hasten the release of Shaykh*

08:48 15 *Omar Bakri, Aafia Siddiqui, Shami*

08:48 16 *Witness, Ibn Salahidin, and our younger*

08:48 17 *brother Sabi. #FreeAseer."*

08:48 18 The second retweet is:

08:48 19 *"Keep all the Muslim prisoners in your*

08:48 20 *dua's in shaa allah. May Allah free*

08:48 21 *them and replace them with the real*

08:48 22 *criminals."*

08:48 23 *(Spellings above kept consistent with exhibit.)*

08:48 24 BY MS. ELIOT:

08:48 25 Q. And do you know what the reference "your dua's" means?

08:48 1 A. A "dua" is a prayer.

08:49 2 Q. Do you know who Aafia Siddiqui is?

08:49 3 A. Aafia Siddiqui is a female that is imprisoned in the
4 United States.

08:49 5 Q. Were the charges terrorism charges against her?

08:49 6 A. Yes.

08:49 7 Q. Turning over to the next page, please.

08:49 8 *(Exhibit displayed.)*

08:49 9 BY MS. ELIOT:

08:49 10 Q. In the middle of the page there, the May 11th tweet:
08:49 11 *"If someone ask you, Hey, where are you*
12 *going? Say: To Allah."*

08:49 13 Is that what this tweet looked like on the computer
14 screen at the time that Defendant Badawi sent that?

08:49 15 A. That's correct.

08:49 16 Q. And two messages down, starting with "May Allah
17 protect," can you read that, please.

08:49 18 A. *(Reading:)*
08:49 19 *"May Allah protect our sisters from*
20 *these filthy kufar."*

08:49 21 Q. Can you explain the significance of the "shout-out"
22 tweet right below, please.

08:50 23 A. In this case -- again, it's, um -- whenever you're
24 shouting out, you're linking -- you're vouching for another
25 person's account, so that you can connect them to the social

1 network of other like-minded individuals.

08:50 2 Q. And what are the accounts that Muhanad Badawi is
3 shouting out?

08:50 4 A. The accounts are @23_lonewolf_23 and @sleepingcell_24.

08:50 5 Q. And if you could skip the next page and turn to what
6 has been marked as "page 5" at the top with the image of a
7 person.

08:50 8 A. Okay.

08:50 9 Q. Do you recognize the person depicted there?

08:50 10 A. Yes, I do.

08:50 11 Q. Who is it?

08:50 12 A. This is Abu Bakr al-Baghdadi.

08:51 13 Q. Turning over to the next page, please.

08:51 14 *(Exhibit displayed.)*

08:51 15 BY MS. ELIOT:

08:51 16 Q. The second entry from the bottom, talking about the
17 Texas attack, can you read that message, please.

08:51 18 A. Yes. *(Reading:)*

08:51 19 *"Nobody was slaughtered in the Texas*
20 *attack so Allah sent a tornado to wreck*
21 *the kuffars! Allahu Akbar!!!"*

08:51 22 Hashtag: *"#texastornado."*

08:51 23 Q. And given the date of that tweet, do you understand the
24 reference to the Texas attack?

08:51 25 A. Yes.

08:51 1 Q. And what is that?

08:51 2 A. The Garland, Texas attack of -- the Prophet Muhammad
3 cartoon contest.

08:51 4 Q. And when the person who is sending the message says
5 nobody was slaughtered, are you aware of any civilians or
6 law enforcement personnel being killed?

08:51 7 A. There were no law enforcement persons killed. There
8 was a guard that was injured in the attack.

08:51 9 Q. If you'd turn to the next page, please.

08:52 10 *(Exhibit displayed.)*

08:52 11 BY MS. ELIOT:

08:52 12 Q. In the middle of the page where there's a photograph --
13 or portion of a photograph, does that message refer to a
14 martyrdom option?

08:52 15 A. Yes.

08:52 16 Q. Can you read that, please.

08:52 17 A. *(Reading:)*

08:52 18 *"This bro said he could smell jannah*

19 *from the operation -- from the" --*

08:52 20 Can I start again, please?

08:52 21 Q. Of course, yes.

08:52 22 A. *(Reading:)*

08:52 23 *"This bro said he could smell jannah*

24 *before the operation began & his body*

25 *was emanating smell of musk. Glad*

1 *tidings!!"*

08:52 2 Q. And what does "jannah" mean?

08:52 3 A. "Jannah" is paradise.

08:52 4 Q. If you could turn to the next page, please.

08:52 5 *(Exhibit displayed.)*

08:52 6 BY MS. ELIOT:

08:52 7 Q. Can you read the first entry there.

08:52 8 A. *(Reading:)*

08:52 9 *"If u want to know who Abu Bakr Baghdadi*

10 *is, written by #IS Shari Abu Sufyan*

11 *Sulami."*

08:53 12 *(Spellings above kept consistent with exhibit.)*

08:53 13 BY MS. ELIOT:

08:53 14 Q. In the bottom entry, is that original wording of
15 Muhanad Badawi, or is it a retweet?

08:53 16 A. The very bottom message is Badawi's words.

08:53 17 Q. And what are those words?

08:53 18 A. *(Reading:) "The #caliphate of the Muslims."*

08:53 19 Q. And what is the date of that message?

08:53 20 A. May 8th, 2015.

08:53 21 Q. Turning over to the next page.

08:53 22 *(Exhibit displayed.)*

08:53 23 BY MS. ELIOT:

08:53 24 Q. Is that a picture or rendering of Abu Bakr al-Baghdadi?

08:53 25 A. It is.

08:53 1 Q. And that follows Badawi's tweet, "*The #caliphate of the*
2 *Muslims*"?

08:53 3 A. That's correct.

08:53 4 Q. If you would turn to the next page, please.

08:53 5 *(Exhibit displayed.)*

08:53 6 BY MS. ELIOT:

08:53 7 Q. The bottom entry there, can you explain -- read the
8 message and then explain what the context of that is.

08:54 9 A. *(Reading:)*

08:54 10 *"It seems you are ignorant about Islam.*

11 *Here's the evidence for killing*

12 *apostates."*

08:54 13 Q. Who are apostates?

08:54 14 A. So apostates are Muslims that have left the faith.

08:54 15 Q. And what is the context of the question about need
16 evidence for the killing of Muslims who have left the faith?
17 What is the discussion about in general?

08:54 18 A. *(No response.)*

08:54 19 Q. Perhaps if you turn to the next page.

08:54 20 *(Exhibit displayed.)*

08:54 21 BY MS. ELIOT:

08:54 22 Q. The small print at the bottom, is there a reference to
23 a *hadith* or evidence justifying the killing of apostates?

08:54 24 A. That's right. So there -- so it appears here, um --
25 the photograph is displaying various *hadith*. "*Hadith*" being

1 the sayings of the Prophet, the recordings of the sayings of
2 the Prophet. And these are *hadith* that support the killing
3 of apostates.

08:55 4 Q. Turning over to the next page, please.

08:55 5 *(Exhibit displayed.)*

08:55 6 BY MS. ELIOT:

08:55 7 Q. Can you read what Anjem Choudary has to say, the second
8 entry from the bottom, about Muslims supporting any system
9 of government other than shariah?

08:55 10 A. *(Reading:)*

08:55 11 *"How can a Muslim support any system of*
12 *government that has no basis at all in*
13 *Islam instead of calling for the*
14 *shariah?" Question mark.*

08:55 15 *Hashtag, "#StayMuslimDon'tVote."*

08:55 16 Q. What is the date of that entry?

08:55 17 A. April 15, 2015.

08:55 18 Q. If we could skip the next page and move to page 14 at
19 the top.

08:55 20 *(Exhibit displayed.)*

08:55 21 BY MS. ELIOT:

08:55 22 Q. Do you see repeated the entry about -- in the middle of
23 the page -- about wanting to make *"hijra with my brother*
24 *@MayAllahAccept"*?

08:56 25 A. Yes.

08:56 1 Q. Can you read the entry before that.

08:56 2 A. *(Reading:)*

08:56 3 *"Wish that I had a 100 soul to fight for*

08:56 4 *the sake of Allah with all of them."*

08:56 5 Hashtag, *"#OAllah_help_me_to_go_to_sham" (sic).*

08:56 6 Q. What's the date of Muhanad Badawi's tweet?

08:56 7 A. March 27th, 2015.

08:56 8 Q. And again, is the reference to "Sham" Syria?

08:56 9 A. That's correct.

08:56 10 Q. If we could skip the next page and move to page 16.

08:56 11 *(Exhibit displayed.)*

08:56 12 BY MS. ELIOT:

08:56 13 Q. The March 22nd entry above the graphic, can you read

08:56 14 the message, please.

08:56 15 A. *(Reading:)*

08:56 16 *"Khalifa Ibrahim is the salahudeen of*

08:56 17 *this generation."*

08:56 18 Q. And who does Khalifa Ibrahim refer to?

08:57 19 A. Khalifa Ibrahim is Abu Bakr al-Baghdadi.

08:57 20 Q. What's the message below that?

08:57 21 A. *(Reading:)*

08:57 22 *"O Allah cause us to die as Muslims,*

08:57 23 *those who submit unto thee and join us*

08:57 24 *with the righteous."*

08:57 25 Q. Is that an original tweet of Defendant Badawi or a

1 message he retweeted?

08:57 2 A. Those are his words.

08:57 3 Q. Turning over to the next page.

08:57 4 *(Exhibit displayed.)*

08:57 5 BY MS. ELIOT:

08:57 6 Q. The third message down with the reference to "kaffir"
7 or "kaffirs."

08:57 8 A. *(Reading:)*

08:57 9 *"The kafirs are boiling. Die with your*
10 *rage."*

08:57 11 *(Spelling kept consistent with exhibit.)*

08:57 12 Q. Is that a retweet or original message of
13 Defendant Badawi?

08:57 14 A. Original.

08:57 15 Q. And what is the date of that tweet?

08:57 16 A. March 22nd, 2015.

08:57 17 Q. If you could turn over -- skip two pages, and turn to
18 the third, marked "page 20" at the top.

08:58 19 *(Exhibit displayed.)*

08:58 20 BY MS. ELIOT:

08:58 21 Q. With the graphic in the middle there, can you read what
22 the message is.

08:58 23 A. *(Reading:)*

08:58 24 *"#islamicstate dramatically increasing*
25 *its presence on #twitter with up to*

1 90,000 accounts."

08:58 2 And then there's the graphic.

08:58 3 Q. If you could skip four pages and turn to "page 25"
4 marked at the top.

08:58 5 *(Exhibit displayed.)*

08:58 6 BY MS. ELIOT:

08:58 7 Q. Again an entry of Anjem Choudary, dated November 17th,
8 about the messenger, could you read that, please.

08:58 9 A. *(Reading:)*

08:58 10 *"The messenger Muhammad told us that*
11 *there will be a huge battle in Daabiq &*
12 *that Muslims will be Victorious."*

08:58 13 *(Spellings above kept consistent with exhibit.)*

08:58 14 BY MS. ELIOT:

08:58 15 Q. And in the parentheses after "*Dabiq*," does it say where
16 that is?

08:59 17 A. *"Turkish/Syrian border."*

08:59 18 Q. And the entry, November 15th, at the bottom of the
19 page, is that a direct message from Muhanad Badawi or is it
20 a retweet?

08:59 21 A. The very last?

08:59 22 Q. Yes.

08:59 23 A. It is a -- it is Badawi's words.

08:59 24 Q. And can you read these, please.

08:59 25 A. *(Reading:)*

08:59 1 *"Inshallah soon the islamic state will*
2 *take over Baghdad ya muslimen."*

08:59 3 Q. Where is Baghdad?

08:59 4 A. Baghdad is in Iraq?

08:59 5 Q. Turn to the next page, please.

08:59 6 *(Exhibit displayed.)*

08:59 7 BY MS. ELIOT:

08:59 8 Q. In the middle, November 12th, what does Anjem Choudary
9 say about communism and capitalism?

08:59 10 A. He says,

08:59 11 *"Communism is dead & capitalism is*
12 *dying. Islam is the only future & way*
13 *for revival for the growing*
14 *anti-democracy movement worldwide*
15 *today!"*

08:59 16 Q. The next entry, what is Defendant Badawi's words?

08:59 17 A. *(Reading:)*

08:59 18 *"The day will come when the Americans*
19 *and the Europeans wants to make an*
20 *alliance with the Islamic State to fight*
21 *an enemy of theirs."*

09:00 22 *(Spellings above kept consistent with exhibit.)*

11:09 23 BY MS. ELIOT:

09:00 24 Q. If you could skip two pages and go to page 29, please.

09:00 25 *(Exhibit displayed.)*

09:00 1 BY MS. ELIOT:

09:00 2 Q. The message three from the bottom, referencing Abu Bakr
3 al-Baghdadi, could you read that, please.

09:00 4 A. *(Reading:)*

09:00 5 *"Died or lived Abu Bakr al-Baghdadi, the*
6 *Khalifa has been established and it is*
7 *obligatory upon every capable Muslim to*
8 *defend it."*

09:00 9 Q. Is that a retweet or Defendant Badawi's words?

09:00 10 A. Those are Badawi's words.

09:00 11 Q. What is the date of the message?

09:00 12 A. November 2nd, 2014.

09:00 13 Q. If you could turn to the next page, please.

09:00 14 *(Exhibit displayed.)*

09:00 15 BY MS. ELIOT:

09:00 16 Q. What is Defendant Badawi's message, two from the
17 bottom, dated October 30th?

09:00 18 A. *(Reading:)*

09:00 19 *"May Allah grant me martyrdom to clean*
20 *all my filthy sins."*

09:01 21 Q. What is his next message below?

09:01 22 A. *(Reading:)*

09:01 23 *"We are men that love death for sake of*
24 *Allah as much as kafirs love life."*

09:01 25 *(Spellings above kept consistent with exhibit.)*

09:01 1 BY MS. ELIOT:

09:01 2 Q. Turning over to the next page, please.

09:01 3 *(Exhibit displayed.)*

09:01 4 BY MS. ELIOT:

09:01 5 Q. The second message from the top, what is

09:01 6 Defendant Badawi's statement about Jesus?

09:01 7 A. *(Reading:)*

09:01 8 *"Jesus is going to pray behind the*

09:01 9 *Muslims of the Islamic State."*

09:01 10 Q. And skipping the next two messages, what is the message

09:01 11 Badawi tweets about a call to all non-Muslims?

09:01 12 A. *(Reading:)*

09:01 13 *"We call all the non Muslims to come to*

09:01 14 *Islam and to live according to the law*

09:01 15 *of Allah the creator of all."*

09:01 16 *(Spellings above kept consistent with exhibit.)*

09:01 17 BY MS. ELIOT:

09:01 18 Q. Is that a retweet?

09:01 19 A. No. Those are Badawi's words.

09:01 20 Q. And two entries later, "May Allah grant victory," could

09:01 21 you read that message, please.

09:02 22 A. *(Reading:)*

09:02 23 *"May Allah grant victory to our brothers*

09:02 24 *in Sinai against the Egyptian taghoot*

09:02 25 *and their Jewish allies."*

09:02 1 Q. Turning over to the next page, 32, please.

09:02 2 *(Exhibit displayed.)*

09:02 3 BY MS. ELIOT:

09:02 4 Q. Can you read the first message regarding "sharia law"?

09:02 5 A. *(Reading:) "Only criminals reject sharia law."*

09:02 6 It appears that it was directed at Twitter account

09:02 7 @anjemchoudary.

09:02 8 Q. And is that the original words of the defendant?

09:02 9 A. Yes.

09:02 10 Q. In the course of this investigation, did you also

09:02 11 obtain Facebook records for accounts belonging to both

09:02 12 Defendant Badawi and Defendant Elhuzayel?

09:03 13 A. Yes.

09:03 14 Q. Did you obtain those records pursuant to lawful court

09:03 15 process?

09:03 16 A. Yes.

09:03 17 MS. ELIOT: If we could place before the witness

09:03 18 what has been marked as Government's Exhibit 422, 423 and

09:03 19 424.

09:03 20 *(Exhibits provided to the witness.)*

09:03 21 BY MS. HEINZ:

09:03 22 Q. Do you recognize these exhibits?

09:03 23 A. Yes.

09:03 24 Q. What are they?

09:03 25 A. These are Facebook subscriber or account information

1 records.

09:03 2 MS. ELIOT: Your Honor, at this time the
3 government moves to admit Government's Exhibits 422, 423 and
4 424?

09:04 5 MS. CORRIGAN: No objection.

09:04 6 MR. LENGYEL-LEAHU: No objection, Your Honor.

09:04 7 THE COURT: 422, 423 and 424 are received.

09:04 8 *(Exhibit Nos. 422, 423 and 424 received in*
9 *evidence.)*

09:04 10 MS. ELIOT: Thank you, Your Honor.

09:04 11 BY MS. ELIOT:

09:04 12 Q. Starting with Exhibit 422, please. What are the last
13 four numbers of that account number -- the account there?

09:04 14 A. Yeah. So the user ID ends in '4840.

09:04 15 Q. And this Facebook account '4840, who is the registered
16 user?

09:04 17 A. In this case, it's nader828@iCloud.com.

09:04 18 Q. And did you previously identify that e-mail address as
19 belonging to Defendant Elhuzayel?

09:04 20 A. Yes.

09:04 21 Q. If you could turn over to Exhibit 423, please. Who's
22 Facebook account -- or, who is this Facebook account
23 registered to?

09:05 24 A. This Facebook account is registered to
25 muhanadbadaawi@yahoo.com.

09:05 1 Q. And is there a different first and last name that this
2 person is going by for Facebook purposes?

09:05 3 A. Yes. So the profile name that's listed on the page --
4 the Facebook page is Ibn Adam.

09:05 5 Q. What are the last four numbers of this account?

09:05 6 A. '5154.

09:05 7 Q. On Exhibit 424 what is the profile name for this
8 account?

09:05 9 A. The profile name is Muhanad Badawi.

09:05 10 Q. And what are the registered e-mail addresses?

09:05 11 A. Muhanadbawadi@live.com.

09:05 12 Q. And the "vanity" name?

09:05 13 A. The vanity name is "MuhanadBadawi."

09:06 14 Q. And so is this the second Facebook account for
15 Defendant Badawi?

09:06 16 A. That's correct.

09:06 17 Q. What are the numbers at the end, the four digits?

09:06 18 A. '0593.

09:06 19 MS. ELIOT: If we could place before the witness
20 what has been marked as Government's Exhibits 430, 431, and
21 432.

09:06 22 *(Exhibits provided to the witness.)*

09:06 23 MS. ELIOT: For the record, these exhibits have
24 been previously identified as charts used by Special Agent
25 Ron Palmer in reviewing the integrity of the Facebook data.

09:06 1 BY MS. ELIOT:

09:06 2 Q. Do you recognize these exhibits?

09:06 3 A. I do.

09:06 4 Q. What are they?

09:06 5 A. So these are -- these are spreadsheets that were
6 prepared, as you previously mentioned, regarding these
7 Facebook accounts, and the exhibits that came from those
8 accounts.

09:07 9 Q. And does that chart -- do those charts set forth
10 product ID numbers for Facebook materials?

09:07 11 A. Yes, exactly.

09:07 12 Q. And each of the charts relates to a Facebook account of
13 either Defendant Badawi or Defendant Elhuzayel?

09:07 14 A. Correct.

09:07 15 MS. ELIOT: Your Honor, the government moves to
16 admit Government's Exhibits 430, 431, and 432.

09:07 17 MS. CORRIGAN: No objection.

09:07 18 MR. LENGYEL-LEAHU: No objection.

09:07 19 THE COURT: 430, 431, 432 are received into
20 evidence.

09:07 21 *(Exhibit Nos. 430, 431 and 432 received in*
22 *evidence.)*

09:07 23 MS. ELIOT: Thank you, Your Honor.

09:07 24 BY MS. ELIOT:

09:07 25 Q. Special Agent Wales, are you familiar with the

1 documents that are identified on these charts by product ID
2 number?

09:07 3 A. Yes, I've reviewed them.

09:07 4 Q. And did you review each exhibit listed on the charts to
5 determine the accuracy of the materials?

09:08 6 A. I did, yes. I compared the exhibits to the database
7 product ID's; and they are true and accurate.

09:08 8 MS. ELIOT: We're now placing before the -- if we
9 could place before the witness what has been marked as
10 Government's Exhibits 401 through 415.

09:08 11 THE COURT: 401 through 415.

09:08 12 MS. ELIOT: Yes, Your Honor.

09:08 13 Your Honor, could we possibly provide a list to the
14 people who are getting the exhibits to you? Could we get
15 them a list of exhibits so that it goes more smoothly?

09:08 16 THE COURT: I don't understand. I'm sorry.

09:08 17 MS. ELIOT: We had meant to provide the helpers
18 here with a list of exhibits so they could streamline it.

09:08 19 THE COURT: Oh, sure.

09:08 20 MS. ELIOT: Thank you.

09:09 21 BY MS. ELIOT:

09:09 22 Q. So, Agent Wales, if you could set aside the exhibits
23 with the "A" numbers for a moment, we'll talk about those
24 later.

09:09 25 I would ask if you recognize the exhibits that are not

1 marked with an "A"?

09:09 2 A. Yes. So these are Facebook records or communications
3 provided for the three Facebook accounts that we mentioned.

09:10 4 Q. Are these materials that you reviewed and compared to
5 the database that Special Agent Palmer discussed?

09:10 6 A. That's correct.

09:10 7 MS. ELIOT: Your Honor, at this time we move to
8 admit Government's Exhibits 401, 402, 403, 404, 405, 406,
9 407, 408, 409, 410 --

09:10 10 THE COURT: Just a moment.

09:10 11 MS. ELIOT: I'm sorry, Your Honor.

09:10 12 THE COURT: And 411 through -15?

09:10 13 Keep going, Counsel.

09:10 14 MS. ELIOT: 411, 412, 413, 414, and 415, please.

09:11 15 MS. CORRIGAN: No objection.

09:11 16 MR. LENGYEL-LEAHU: No objection, Your Honor.

09:11 17 THE COURT: 401, 402, 403, 404, 405, 406, 407,
18 408, 409, 410, 411, 412, 413 -- or 4-1-3 -- 414, 415 are
19 received into evidence.

09:11 20 *(Exhibit Nos. 401 through 415 received in*
21 *evidence.)*

09:11 22 MS. ELIOT: Thank you.

09:11 23 If you could now look at what has been marked as
24 Government's Exhibits 401-A, 402-A, 403-A and 404-A.

25

09:11 1 BY MS. ELIOT:

09:11 2 Q. Do you recognize these exhibits?

09:12 3 A. Yes. These are the English translations of the Arabic
4 writing contained in those exhibits.

09:12 5 MS. ELIOT: Your Honor, the government moves to
6 admit Exhibits 401-A, 402-A, 403-A and 404-A.

09:12 7 MS. CORRIGAN: No objection, Your Honor.

09:12 8 MR. LENGYEL-LEAHU: No objection, Your Honor.

09:12 9 THE COURT: 401-A, 402-A, 403-A and 404-A are
10 received into evidence. Those are the English translations.

09:12 11 *(Exhibit Nos. 401-A, 402-A, 403-A and 404-A*
12 *received in evidence.)*

09:12 13 BY MS. ELIOT:

09:12 14 Q. If you could look at Exhibit 401-A, please.
15 *(Exhibit displayed.)*

09:13 16 BY MS. ELIOT:

09:13 17 Q. What is this document from Facebook? What kind of
18 record?

09:13 19 A. This is a subscriber record.

09:13 20 Q. And whose account is this listed?

09:13 21 A. This is Elhuzayel's Facebook account.

09:13 22 Q. And under "name change," is there a change in the name
23 from English to Arabic writing?

09:13 24 A. That's correct.

09:13 25 Q. And is the Arabic writing translated into the name

1 Nader Elhuzayel?

09:13 2 A. It is.

09:13 3 Q. And under the section marked "Connections," after the
4 entry, "*Kurds are not Muslims*," what is the translation of
5 the Arabic writing?

09:13 6 A. *(Reading:)* "*The Islamic State*."

09:13 7 Q. And under "Interests," what is the sole entry listed
8 there?

09:13 9 A. *(Reading:)* "*Islamic State*."

09:14 10 Q. Turning over to Exhibit 402-A, please.

09:14 11 *(Exhibit displayed.)*

09:14 12 BY MS. ELIOT:

09:14 13 Q. If you could look at that in conjunction with 402. On
14 Exhibit 402, what is the title of the page?

09:14 15 A. I'm sorry?

09:14 16 Q. After "Album Name," what is it?

09:14 17 A. Album Name is "Cover Photos."

09:14 18 Q. And what's a cover photo in Facebook?

09:14 19 A. So a cover photo is like the banner photo that's on the
20 top of the page. And it's, again, in one of those
21 customizable features with Facebook, very similar to
22 Twitter. You have both your thumbnail photograph, and then
23 a larger banner photograph at the top. That is what the
24 cover photos is.

09:15 25 Q. And do you recognize the image as -- the cover photo?

09:15 1 A. I do.

09:15 2 Q. What is that?

09:15 3 A. This is the flag that's used by ISIL.

09:15 4 Q. So this is the cover photo for Defendant Elhuzayel's
5 account?

09:15 6 A. Yes. This is Facebook account '4840, Elhuzayel's
7 Facebook account.

09:15 8 Q. And turning over to the translation marked as
9 Government's 402-A.

09:15 10 *(Exhibit displayed.)*

09:15 11 BY MS. ELIOT:

09:15 12 Q. Can you read the translation of the Arabic writing on
13 the flag?

09:15 14 A. At the top it says, *"There is no God but Allah."*

09:15 15 And then the bottom is: *"God, messenger, Mohammed."*

09:15 16 And it's meant to be read: Mohammed, the messenger of God."

09:15 17 Q. Turning over to Exhibit 403, please.

09:15 18 *(Exhibit displayed.)*

09:15 19 BY MS. ELIOT:

09:16 20 Q. After "Album Name," what is the designation there?

09:16 21 A. After "Album Name," it's -- the designation is the
22 "Profile Pictures."

09:16 23 THE COURT: Is this 403 or 403-A?

09:16 24 MS. ELIOT: 403, Your Honor.

09:16 25 THE COURT: 403?

09:16 1 MS. ELIOT: Yes.

09:16 2 THE COURT: Thank you.

09:16 3 BY MS. ELIOT:

09:16 4 Q. Is this the same picture as you saw on the cover photo?

09:16 5 A. That's right. So this would be the smaller thumbnail

6 profile picture. And they are -- the cover photo and the

7 profile picture in this case are the same.

09:16 8 Q. If you could take a look at Exhibit 404, please.

09:16 9 *(Exhibit displayed.)*

09:16 10 BY MS. ELIOT:

09:16 11 Q. Are these mini-feed stories?

09:16 12 A. Yes.

09:16 13 Q. And whose account is this?

09:16 14 A. This is Elhuzayel's Facebook account '4840.

09:17 15 Q. And if you could keep 404 in front of you, but also

16 take a look at the translation marked as 404-A.

09:17 17 According to the translation of the Arabic writing, who

18 started using Facebook for iPhone?

09:17 19 A. *(No response.)*

09:17 20 Q. It would be on the second page, the translation.

09:17 21 A. Thank you. It is Nader Elhuzayel.

09:17 22 Q. And according to the translation, is Nader Elhuzayel's

23 name repeated at these multiple entries on that first page?

09:17 24 A. Yes.

09:17 25 Q. And do you see a search on that page for "Muhanad

1 Badawi"?

09:17 2 A. I do.

09:17 3 Q. And after that entry, what is the statement about
4 Islamic State?

09:17 5 A. (Reading:)

09:17 6 "Islamic State will be victorious,
7 inshallah."

09:17 8 Q. What is the date of that entry?

09:17 9 A. That is October 13, 2014.

09:18 10 Q. In the next entry, did Elhuzayel search for "Ibn Adam"?

09:18 11 A. Yes, he did.

09:18 12 Q. And do you understand that reference to be
13 Defendant Badawi?

09:18 14 A. I do.

09:18 15 Q. The entry about "martyrdom," can you read the
16 statement.

09:18 17 A. (Reading:)

09:18 18 "O Allah, grant me martyrdom and the
19 toufuque to leave this country fight for
20 your cause. O Allah, destroy your
21 enemies and give the Islamic State
22 victory."

09:18 23 Q. Does toufuque mean successes?

09:18 24 A. Yes.

09:18 25 Q. And what is the date of that entry?

09:18 1 A. The date of October 14, 2014.

09:18 2 Q. What is the next message there regarding Obama?

09:18 3 A. *(Reading:)*

09:18 4 *"The truth scares the Obama out of*

5 *America."*

09:18 6 Q. And below that, do you see searches for the "Islamic

7 State"?

09:19 8 A. Yes, multiple searches for the "Islamic State."

09:19 9 Q. And what is the search for "Islamic State" in reference

10 to violence?

09:19 11 A. *(Reading:) "Understanding violence in God's name."*

09:19 12 Q. Turning to the next page, the entry at the top.

09:19 13 *(Exhibit displayed.)*

09:19 14 BY MS. ELIOT:

09:19 15 Q. Can you read the entry from October 2014?

09:19 16 A. *(Reading:)*

09:19 17 *"Only the ignorant brainwashed*

18 *individuals call Islamic State*

19 *terrorists."*

09:19 20 Q. If you could turn over to the second to last page,

21 please, the portion at the bottom that is headed "Status

22 Updates."

09:19 23 *(Exhibit displayed.)*

09:19 24 BY MS. ELIOT:

09:19 25 Q. Can you read the update, second from the bottom,

1 regarding Islamic State?

09:19 2 A. *(Reading:)*

09:19 3 *"Islamic State will be victorious,*
4 *inshallah."*

09:20 5 Q. And what is the date of that message?

09:20 6 A. October 13, 2014.

09:20 7 Q. Turn over to Exhibit 405, please.

09:20 8 *(Exhibit displayed.)*

09:20 9 BY MS. ELIOT:

09:20 10 Q. Is this a subscriber record for a different Facebook
11 account?

09:20 12 A. Yes. This is Facebook account '5154.

09:20 13 Q. And what is the name listed at the top?

09:20 14 A. *"Ibn Adam."*

09:20 15 Q. And under "Name Changes," can you read that entry,
16 please.

09:20 17 A. Yes. So the name changed from "Muhanad Badawi" to "Ibn
18 Adam."

09:20 19 Q. And what is the e-mail contact there?

09:20 20 A. MuhanadBadawi@yahoo.com.

09:21 21 Q. If you could look at Exhibit 406, please.

09:21 22 *(Exhibit displayed.)*

09:21 23 BY MS. ELIOT:

09:21 24 Q. Do these entries -- are these from Muhanad Badawi's
25 Facebook account?

09:21 1 A. That's correct.

09:21 2 Q. If you could turn to the next page, page 2.

09:21 3 *(Exhibit displayed.)*

09:21 4 BY MS. ELIOT:

09:21 5 Q. What is the second search conducted?

09:21 6 A. Hashtag, "#islamicstate."

09:21 7 Q. And in the middle of the page, is there a reference to

09:21 8 "nationalism"?

09:21 9 A. Yes.

09:21 10 Q. What is the message there?

09:21 11 A. *(Reading:)* "Fuck nationalism."

09:21 12 Q. Turning over to Exhibit 407, what is this Album Name?

09:22 13 A. The Album Name is "Profile Pictures." It contains the

09:22 14 profile picture of the Ibn Adam account.

09:22 15 Q. And is this account '5154?

09:22 16 A. That's correct.

09:22 17 Q. Do you recognize the person in the picture?

09:22 18 A. Yes.

09:22 19 Q. Who is it?

09:22 20 A. It's the defendant, Muhanad Badawi.

09:22 21 Q. And if you could look at Exhibit 408.

09:22 22 *(Exhibit displayed.)*

09:22 23 BY MS. ELIOT:

09:22 24 Q. Whose name is listed at the top?

09:22 25 A. Muhanad Badawi.

09:22 1 Q. And under "Connections," what is the first entry?

09:22 2 A. Under "Connections," the first entry is "Anjem
3 Choudary."

09:22 4 Q. And is that the same name as the Twitter account that
5 we previously saw promoting the Islamic State?

09:23 6 A. That's correct.

09:23 7 Q. If you could take a look at Exhibit 409, please.

09:23 8 *(Exhibit displayed.)*

09:23 9 BY MS. ELIOT:

09:23 10 Q. Is this the Badawi Facebook account '0593?

09:23 11 A. Yes.

09:23 12 Q. Can you read the several-line entry in the top part of
13 the page.

09:23 14 A. Yes. *(Reading:)*

09:23 15 *"Asalamu Alaykum (sic) brothers and*
16 *sisters, as we you (sic) all know*
17 *khalifah has been established last*
18 *Ramadan after it had been distorted 90*
19 *years ago by the enemies of Allah the*
20 *Crusades and their zionist allies, all*
21 *praised (sic) is due to Allah after the*
22 *big victory of the mujahideen in Syria*
23 *and Iraq your brothers hasten to*
24 *announce the khilafa (sic) and appoint a*
25 *khalifa Ibrahim awad abubakr albaghdadi*

1 may Allah protect him, although the
2 crusades and zionists try to destrubt
3 (sic) it and spread propaganda against
4 it, it (sic) still spreading day after
5 day. The brothers has established it
6 what are you doing to defend it."

09:24 7 *(Spellings and punctuation above kept consistent*
8 *with exhibit.)*

09:24 9 THE WITNESS: And a YouTube video link is also
10 attached.

09:24 11 BY MS. ELIOT:

09:24 12 Q. The reference to "mujahideen," does that mean fighters?

09:24 13 A. That's correct.

09:24 14 Q. And Khalifa Ibrahim is the leader of the terrorist --

09:24 15 A. Of the Islamic State of Iraq and the Levant.

09:24 16 Q. If you could turn to the next page, please.

09:24 17 *(Exhibit displayed.)*

09:24 18 BY MS. ELIOT:

09:24 19 Q. In the bottom half of the page, there's a reference to
20 "jihad" in November 2014. Can you read that, please.

09:25 21 A. *(Reading:)* "It's time for jihad."

09:25 22 Q. And so we're clear, with Facebook there's no issue of
23 retweeting other messages; is that right?

09:25 24 A. That's correct. You can post -- you can repost to
25 others, but it will be as if it's your -- it's your post.

09:25 1 Q. There any indication that these words are anyone
2 else's?

09:25 3 A. These are -- no. These are his.

09:25 4 Q. And the entry below about "anger"...?

09:25 5 A. And -- and, I'm sorry -- just to clarify your last
6 question: These specific Facebook communications are not a
7 repost. These are Muhanad Badawi's words directed at
8 another user.

09:25 9 Q. And what's the reference below there?

09:25 10 A. *(Reading:)* "Have some anger for the enemies of allah."

09:25 11 Q. And are there two photographs that are attachments to
12 posts in this exhibit?

09:26 13 A. Yes.

09:26 14 *(Exhibit displayed.)*

09:26 15 BY MS. ELIOT:

09:26 16 Q. What does the first photograph depict?

09:26 17 A. It appears to depict a group of deceased children, and
18 maybe an adult -- a couple of adults, as well.

09:26 19 *(Exhibit displayed.)*

09:26 20 BY MS. ELIOT:

09:26 21 Q. And what does the next photograph depict?

09:26 22 A. This appears to depict a mass execution by knife.

09:26 23 Q. And is there a patch or a flag on one of the arms in
24 the --

09:26 25 A. Actually, this is not on the arm. The flag in the

1 upper left-hand corner is common for ISIL-related media.
2 They put the ISIL flag in the upper left-hand corner
3 throughout the whole video. And so, it -- even though it
4 looks like it's on the arm, it's actually played -- it's
5 there the whole time.

09:26 6 Q. So that's something superimposed over --

09:26 7 A. That's correct.

09:26 8 Q. -- the image?

09:27 9 MR. LENGYEL-LEAHU: Your Honor, I'd object. Lack
10 of foundation. The witness indicated that this was an
11 execution, but there's no information that these individuals
12 aren't already dead.

09:27 13 THE COURT: Well, this is a still photograph.

09:27 14 Is there a video that follows? In other words, if
15 you turn the page again, it appears to be, on the last page,
16 a video.

09:27 17 So help the Court, either counsel. Is this a video
18 or still photograph?

09:27 19 MS. ELIOT: This is a still photograph -- is my
20 understanding -- from a video. But we have not marked the
21 video.

09:27 22 THE COURT: Let me state it a different way.

09:27 23 MR. LENGYEL-LEAHU: I'll withdraw my objection,
24 Your Honor.

09:27 25 THE COURT: No. Just a moment now. I'm

1 uncertain.

09:27 2 If -- in other words, there's actually a video that
3 goes with this, but you've taken a portion and created a
4 still photograph of that video?

09:27 5 MS. ELIOT: I believe, Your Honor, the -- this
6 image was the attachment that the defendant posted on
7 Facebook.

09:28 8 THE COURT: Understood.

09:28 9 Now my question is --

09:28 10 MS. ELIOT: Yes.

09:28 11 THE COURT: -- is there also a video that went
12 with this?

09:28 13 MS. ELIOT: I don't believe the video was sent.

09:28 14 BY MS. ELIOT:

09:28 15 Q. Is that correct, Agent Wales?

09:28 16 A. That is correct. Only the image.

09:28 17 THE COURT: Only the image.

09:28 18 All right. Now, Counsel, objection or withdrawing
19 the objection?

09:28 20 MR. LENGYEL-LEAHU: I'll withdraw the objection.

09:28 21 THE COURT: All right. It's withdrawn.

09:28 22 BY MS. ELIOT:

09:28 23 Q. If you could turn now to Exhibit 410, please. Again,
24 who's account is this that we're talking about?

09:28 25 A. This account is Muhanad Badawi's Facebook account

1 ending in '5093.

09:28 2 Q. And can you read the references starting with
3 "kaafirs"?

09:28 4 A. Just read through them down to the bottom?

09:28 5 Q. Yes, please.

09:28 6 A. Okay. So starting with "Kaafirs."

09:28 7 "Kllab."

09:28 8 "Dogs."

09:28 9 "Yeah, fuckers."

09:28 10 "We should going ISIS in Iraq and
11 Syria." (Verbatim.)

09:29 12 Q. Okay.

09:29 13 A. Can I back up just so I can say who was saying what? I
14 apologize.

09:29 15 Q. Yes.

09:29 16 A. So this is a conversation. So I'll indicate who was
17 saying what.

09:29 18 Beginning with "kaafirs" that was -- that was sent by an
19 individual that I'll refer to as Issak.

09:29 20 (Court reporter requests clarification for the
21 record.)

09:29 22 THE WITNESS: I-S-S-A-K. (Reading:)

09:29 23 Issak says, "Kaafirs. Kllab"-- strike that.

09:29 24 Issak says: "Kaafirs."

09:29 25 Badawi says: "Kllab." "Dogs."

09:29 1 Issak responds: *"Yeah, fuckers."*

09:29 2 Badawi says: *"We should going ISIS in*

3 *Iraq and Syria."*

09:29 4 Issak says: *"What."*

09:29 5 And finally Badawi says: *"Check their*

6 *YouTube videos."*

09:30 7 Q. And in this instance does Badawi use the word *"ISIS"* or

8 *"Islamic State"*?

09:30 9 A. Here he uses *"ISIS in Iraq and Syria."*

09:30 10 Q. And what is the date of that message?

09:30 11 A. The date of the message there is July 15th, 2014.

09:30 12 Q. And is that -- where is that in relation to when the

13 Islamic State was established by the caliph?

09:30 14 A. That is after the Islamic State was announced.

09:30 15 Q. So after the Islamic State was announced

16 Defendant Badawi refers to it as *"ISIS"*?

09:30 17 A. That's correct.

09:30 18 Q. If you could turn to the next page.

09:30 19 *(Exhibit displayed.)*

09:30 20 BY MS. ELIOT:

09:30 21 Q. Continuing with the conversation, what does

22 Defendant Badawi say after he says, *"Check their YouTube*

23 *videos"*?

09:30 24 A. Badawi says, *"They're jihadist."* *(Verbatim.)*

09:30 25 Q. What is Issak's reply?

09:30 1 A. *(Reading:)*

09:31 2 *"I see what they are doing to babies and*

3 *mother."*

09:31 4 Q. What is Badawi's response?

09:31 5 A. *(Reading:) "Yea, those yahodis (sic) don't care."*

09:31 6 Q. And what does "yahodis" mean?

09:31 7 A. It refers to a Jewish person.

09:31 8 Q. And is there a photograph attachment that is associated

9 with this conversation?

09:31 10 A. Yes.

09:31 11 MS. ELIOT: If we could display that, please, the

12 last page.

09:31 13 *(Exhibit displayed.)*

09:31 14 BY MS. ELIOT:

09:31 15 Q. Do you recognize the faces of the people imposed on

16 other images?

09:31 17 A. I do.

09:31 18 Q. Who are they?

09:31 19 A. So this appears to be Benjamin Netanyahu from Israel on

20 the left and Barack Obama superimposed on the dog on the

21 right.

09:31 22 Q. If you could take a look at Exhibit 411, please. Is

23 this still Defendant Badawi's account?

09:32 24 A. Yes, it is.

09:32 25 Q. If you could turn over to the page marked at the bottom

1 "7417," several pages in, please.

09:32 2 *(Exhibit displayed.)*

09:32 3 BY MS. ELIOT:

09:32 4 Q. Does this appear to be a conversation between Badawi
5 and someone else?

09:32 6 A. Yes. With an individual named Nouredin Abualnadi.

09:32 7 Q. The second entry from the bottom about "watching," can
8 you read what that says.

09:32 9 A. Yeah. Badawi says, *"I watch a lot too."*

09:32 10 Q. And can you turn over and continue with the
11 conversation on the next page.

09:32 12 *(Exhibit displayed.)*

09:32 13 A. Yeah. So Badawi continues: *(Reading:)*

09:32 14 *"I know what's going on man"*

09:32 15 *"In Syria Iraq specially"*

09:33 16 *"Egypt"*

09:33 17 *"Saudi"*

09:33 18 *"Jordan"*

09:33 19 *"I know these countries more than I know
20 Sudan. lol"*

09:33 21 *"Jordan is getting ready now"*

09:33 22 *"Coz ISIS might enter their territories"*

09:33 23 *"They have armies in the border"*

09:33 24 *"With Syria."*

09:33 25 *(Above as shown on exhibit.)*

09:33 1 Q. And the reference to "ISIS," when does that occur?
2 What date is that message when Mr. Badawi refers to the
3 group as "ISIS"?

09:33 4 A. (No response.)

09:33 5 Q. Starting with "Coz ISIS might enter their territories."

09:33 6 A. Okay. That's July 23rd, 2014.

09:33 7 Q. Turning to the next page, two entries from the bottom,
8 dated July 23rd, 2014, what does Muhanad Badawi tell
9 Noureddin?

09:33 10 A. (Reading:)

09:33 11 "I might join ISIS in the future man."

09:33 12 Q. And the next entry?

09:33 13 A. (Reading:) "Inshallah."

09:33 14 Q. In what does "inshallah" mean?

09:34 15 A. God willing.

09:34 16 Q. So the message is: "I might join ISIS in the future
17 man" -- God willing?

09:34 18 A. That's correct.

09:34 19 Q. The next page over, the second entry from the top, what
20 is Muhanad Badawi's statement to Noureddin regarding the
21 prophet?

09:34 22 A. Badawi states:

09:34 23 "The prophet said where there (sic)
24 gonna be a lot of armies and wars in
25 Yemen Iraq and Syria he said join the

1 *Sryians."*

09:34 2 *(Spelling kept consistent with exhibit.)*

09:34 3 Q. If you could turn over to Exhibit 412, please. A few
4 pages in, at the page marked "7296" at the bottom, please.

09:35 5 *(Exhibit displayed.)*

09:35 6 BY MS. ELIOT:

09:35 7 Q. Is this another conversation between Defendant Badawi
8 and Noureddin?

09:35 9 A. That's correct.

09:35 10 Q. In the middle of the page, a reference to "Syria," can
11 you say what that message is?

09:35 12 A. Yes. Badawi writes: *"I'm going to Syria."*

09:35 13 Q. What does he say in the next two messages?

09:35 14 A. *(Reading:)*

09:35 15 *"I want to"*

09:35 16 *"help to fight."*

09:35 17 *(Above consistent as displayed on exhibit.)*

09:35 18 Q. Turning over to the next page.

09:35 19 *(Exhibit displayed.)*

09:35 20 BY MS. ELIOT:

09:35 21 Q. The second message from the top, what does Muhanad
22 Badawi tell Noureddin about "establishing the state"?

09:35 23 A. He says:

09:35 24 *"Trust me we will be happy."*

09:35 25 *"We have to establish the state first in*

1 *Iraq and Syria then we will go little by*
2 *little till we reach gaza."*

09:35 3 *(Spellings above kept consistent with exhibit.)*

11:09 4 BY MS. ELIOT:

09:35 5 Q. Where is Gaza?

09:35 6 A. Gaza is near Israel.

09:35 7 Q. What's the next message Muhanad Badawi shares with
8 Noureddin?

09:36 9 A. (Reading:)

09:36 10 *"We can join al dawlah al Islamiya in*
11 *Iraq and Syria."*

09:36 12 *(Spellings above consistent with exhibit.)*

09:36 13 BY MS. ELIOT:

09:36 14 Q. Do you understand what that reference to "*al dawlah*"
15 is?

09:36 16 A. Yes. "*Al-Dawla al-Islamiya*" is the Islamic State. So
17 here it would mean: *We can join the Islamic State in Iraq*
18 *and Syria.*

09:36 19 Q. And can you continue with the message about YouTube
20 videos.

09:36 21 A. Badawi says,

09:36 22 *"I've seen a lot of youtube videos of*
23 *ppl from america sudan jordan egypt*
24 *russia germany joing (sic) aldawlah to*
25 *fight syrian regime."*

09:36 1 *(Spellings above kept consistent with exhibit.)*

11:09 2 BY MS. ELIOT:

09:36 3 Q. What is Noureddin's response?

09:36 4 A. *(Reading:)*

09:36 5 *"I bet you NASA is reading this right*

6 *now. lol."*

09:36 7 Q. What does Badawi respond to that?

09:36 8 A. *"lmao."*

09:36 9 Q. Do you understand that reference?

09:36 10 A. *"Laughing my ass off."*

09:36 11 Q. What does Badawi say after that?

09:37 12 A. Badawi says:

09:37 13 *"I know I was just thinking that.*

09:37 14 *"Who cares man yolo."*

09:37 15 Q. And what is YOLO?

09:37 16 A. You Only Live Once.

09:37 17 Q. If you could turn over to Exhibit 413, please.

09:37 18 *(Exhibit displayed.)*

09:37 19 BY MS. ELIOT:

09:37 20 Q. Is this exhibit the mobile uploads for Badawi's

21 Facebook account?

09:37 22 A. That's correct.

09:37 23 Q. At the bottom entry under "Comments," can you read the

24 last comment by Badawi, on that first page at the bottom.

09:37 25 A. *(Reading:)*

09:37 1 "Ameen brother and May Allah give
2 victory to the mujahideen in Iraq and
3 Syria and all part of the world."
09:38 4 (Above consistent with exhibit.)
09:38 5 Q. Turning over to the page where the messages are,
6 skipping the photograph, the page marked "6229" at the
7 bottom.
09:38 8 (Exhibit displayed.)
09:38 9 BY MS. ELIOT:
09:38 10 Q. The third entry at the top, what is Muhanad Badawi's
11 statement regarding "killing Muslims"?
09:38 12 A. (Reading:)
09:38 13 "They kill Muslims so we condemn the
14 killing of Muslims. And we support the
15 mujahideen who fight the American and
16 the bashar alasad regime who mischief in
17 the land and kill and bomb the incident
18 (sic) everyday."
09:38 19 (Spellings above kept consistent with exhibit.)
09:38 20 BY MS. ELIOT:
09:38 21 Q. Who is Bashar al-Assad?
09:38 22 A. Bashar al-Assad is the president of Syria -- the
23 current president.
09:38 24 Q. And who is this conversation with -- that continues?
09:38 25 A. This is, uh, Ashraf A. Ismail.

09:38 1 Q. And what is Ashraf's response to this discussion?

09:38 2 A. *(Reading:)*

09:38 3 *"I think you misunderstood me. I said I*
4 *don't care as I KNOW THEY ARE THE ENEMY*
5 *OF ALLAH, A VERY CLEAR ENEMY OF ALLAH.*
6 *They kill Muslims why wouldn't I care?*
7 *I'm talking about Muslims killing*
8 *Muslims which you seem not to*
9 *acknowledge at all."*

09:39 10 *(Spellings above kept consistent with exhibit.)*

11:09 11 BY MS. ELIOT:

09:39 12 Q. And what does Badawi say in response?

09:39 13 A. *(Reading:)*

09:39 14 *"You can't say you don't care about*
15 *them. The prophet has said, 'Whoever*
16 *amongst you sees anything objectionable,*
17 *let him change it with his hand, if he*
18 *is not able, then with his tongue -- if*
19 *he's not even able to do so, then with*
20 *his heart, and the latter is the weakest*
21 *form of faith." (Verbatim as read.)*

09:39 22 Q. What does Ashraf say in response to that?

09:39 23 A. *(Reading:)*

09:39 24 *"I'm talking about Muslims killing*
25 *Muslims. Is this a part of this*

1 Deen?"

09:39 2 Q. What is the reference to "deen" mean?

09:39 3 A. Like, um, world.

09:39 4 Q. And what does Ashraf say about the known enemy in the
5 next entry?

09:39 6 A. Ashraf says:

09:40 7 *"I don't care about them since they're a*
8 *very KNOWN enemy. They're NON-MUSLIMS*
9 *KAFIRS. I'm talking about those who are*
10 *from our own Ummah and destroying this*
11 *Ummah Non-Muslims are very well-known*
12 *enemy brotha!!!"*

09:40 13 *(Spellings above kept consistent with exhibit.)*

11:09 14 BY MS. ELIOT:

09:40 15 Q. What does Badawi say about condemning the American and
16 other regimes?

09:40 17 A. Badawi says:

09:40 18 *"I think you need to condemn the*
19 *American and the bashar alasad (sic) and*
20 *Iranian regimes for killing the*
21 *Muslims."*

09:40 22 Q. Does Ashraf reference ISIS in the next entry?

09:40 23 A. Yes.

09:40 24 Q. Can you read that, please.

09:40 25 A. *(Reading:)*

09:40 1 "No it's not. Since ISIS is KILLING
2 MUSLIMS, destroying the" --
09:40 3 (Court reporter requests clarification for the
4 record.)

09:40 5 THE WITNESS: (Reading:)

09:40 6 "-- destroying the image of Islam
7 without ANY FREAKING EVIDENCE. I don't
8 know how people evaluate things these
9 days. This religion forbids to do
10 ANYTHING without EVIDENCE. Evidence
11 suggest (sic) that ISIS is doing lots of
12 things against the Sunnah of the Prophet
13 Salla Allahu Alyhi Wa Sallam. How in
14 the world would killing Muslims is a
15 part of this deen? How in the world
16 does killing the people of the book whom
17 we have a truce with is a part of this
18 deen? Forgive me but you're talking
19 about this from an emotional point of
20 view like many others. Same thing when
21 the so-called revolutions started and
22 the (sic) whole 'arab spring' dogcrap."

09:41 23 (Spellings above kept consistent with exhibit.)

11:09 24 BY MS. ELIOT:

09:41 25 Q. Does Ashraf use the reference "ISIS" to the group he's

1 talking about?

09:41 2 A. Yes, he does.

09:41 3 Q. And what is the date of that message?

09:41 4 A. That's October 3rd of 2014.

09:41 5 Q. Is that before or after the *caliphate* was established?

09:41 6 A. That's after.

09:41 7 Q. In the next response what does Badawi say in response
8 to a discussion about the group ISIS?

09:41 9 A. He says:

09:41 10 *"The fact of the matter is, you either*
11 *support the americans and the british*
12 *and their allies or the muslims."*

09:42 13 Q. Turning over to the next page.

09:42 14 *(Exhibit displayed.)*

09:42 15 BY MS. ELIOT:

09:42 16 Q. At the top, what does Badawi say about a war between
17 Muslims?

09:42 18 A. *(Reading:)*

09:42 19 *"It's a war between muslims and the*
20 *crusades."*

09:42 21 Q. What is Ashraf's response?

09:42 22 A. *(Reading:)*

09:42 23 *"People kill each other? Or kill the*
24 *ENEMY."*

09:42 25 Q. And what does Muhanad Badawi say thereafter?

09:42 1 A. (Reading:)

09:42 2 "Allah will give VICTORY to the Muslims

3 inshallah soon."

09:42 4 Q. Turn over to Exhibit 414, please. Is this also

5 material from Muhanad Badawi's Facebook account?

09:43 6 A. That's correct.

09:43 7 Q. On the first page, do you see entries for searches for

8 "Islamic State"?

09:43 9 A. Yes, I do. I see "Islamic State," "ISIS" -- I see

10 multiple "Islamic State," and then also one for "ISIS."

09:43 11 Q. And the reference to "ISIS," what is the date of that

12 search?

09:43 13 A. That was October 4th, 2014.

09:43 14 Q. Turning over to the next page, what are the searches

15 that you found significant?

09:43 16 A. Again, there are multiple "Islamic State" searches,

17 multiple "ISIS" searches.

09:43 18 Q. And turning over to the third page, do you again see

19 searches for the "Islamic State" or "ISIS"?

09:43 20 A. Yes, I see both. Multiple for the "Islamic State" and

21 an "ISIS" search as well.

09:43 22 Q. And what is a search in the Facebook context?

09:44 23 A. Well, you can -- in the -- there's a search function on

24 the top bar of a Facebook page. And when you go in there

25 and type anything and hit "enter," it will log it as a

1 search.

09:44 2 Q. And will the search bring up Facebook accounts for the
3 entity searched?

09:44 4 A. That's correct.

09:44 5 Q. If you could look at Exhibit 415, please. Turning to
6 the third page there, marked "7353" at the bottom.

09:44 7 Does this appear to be a conversation between Muhanad
8 Badawi and Noureddin?

09:44 9 A. Yes.

09:44 10 Q. And can you read the conversation at the top of the
11 page.

09:45 12 A. Yes. So at the top of the page, Badawi starts with:

09:45 13 *"What u think of isil?"*

09:45 14 Noureddin responds:

09:45 15 *"Man I'm bored of technology and staying*
16 *home I wanna drive around. lol.*

09:45 17 *"isil?"* question mark.

09:45 18 Badawi responds:

09:45 19 *"Yea.*

09:45 20 *"Islamic state of iraq and al-sham" --*

09:45 21 I added an "al" in there. It's:

09:45 22 *"Islamic State of iraq and sham."*

09:45 23 Badawi continues:

09:45 24 *"isis or isil"*

09:45 25 *"Levant."*

09:45 1 *"What about it?"*

09:45 2 Noureddin writes:

09:45 3 *"Randomest question you asked me in the*
09:45 4 *past 7 years."*

09:45 5 *"lol."*

09:45 6 Q. And the references, um -- do you see multiple
09:45 7 references to different forms referring to a particular
09:45 8 group?

09:46 9 A. Yes. So it's "ISIL," "Islamic State of Iraq, and Sham"
09:46 10 "ISIS."

09:46 11 Q. And when are these phrases being used -- in terms of
09:46 12 before or after the *caliphate* has been established?

09:46 13 A. It was after the Caliphate.

09:46 14 *(Exhibit displayed.)*

09:46 15 BY MS. ELIOT:

09:46 16 Q. Turning over to the next page at the top, what is
09:46 17 Defendant Badawi's question for Noureddin?

09:46 18 A. *(Reading:)*

09:46 19 *"Are you with or against it?"*

09:46 20 Q. And continuing to the word "Suni."

09:46 21 A. Badawi says: "H" *(sic)*.

09:46 22 Noureddin: *"What is it? Is it suni? Good? Bad? Idk*
09:46 23 *lol."*

09:46 24 Q. And what does that --

09:46 25 A. And finally Badawi says, *"It's suni, yea."*

09:46 1 Q. And what is the reference to "*sunni*"? Do you understand
2 that?

09:46 3 A. Yeah. So kind of what I was explaining before, that in
4 Islam, there are two main sects of Islam. And Sunni Muslims
5 make up -- or let me phrase it this way: All Islamic State
6 of Iraq and the Levant Muslims are Sunni Muslims.

09:47 7 Q. Is that as opposed to Shia?

09:47 8 A. That's correct.

09:47 9 MS. ELIOT: If we could place before the witness
10 what has been marked as Exhibits 418, 419, 420, and 421.

09:47 11 MR. LENGYEL-LEAHU: Your Honor, could we have a
12 sidebar on that?

09:47 13 THE COURT: Why don't we take a recess, then, at
14 this time, Counsel, and let the jury relax.

09:47 15 *(To the jury:)* You're admonished not to discuss
16 this matter amongst yourselves nor form or express any
17 opinion concerning the case.

09:47 18 We'll come and get you in about 20 to 30 minutes.
19 Okay? I don't know how long the sidebar will be. But we'll
20 get you almost immediately.

09:48 21 **JURY ADMONISHED RE PRESS COVERAGE**

09:48 22 THE COURT: Oh, by the way, before you leave --
23 now have a seat for just a second. This would be a good
24 time to discuss a matter concerning the Press.

09:48 25 I was notified by Counsel this morning that there's

1 been some press concerning this case in both the newspapers,
2 television, and radio. We're not going to sequester you,
3 and we're not going to cut you off from your daily lives of
4 watching television. I don't think anybody could follow
5 that admonition, quite frankly. It's almost impossible in
6 this electronic age.

09:48 7 But the way we should conduct ourselves is as
8 follows: If you pick up a newspaper and you see something
9 that you think relates to this case, turn it over
10 immediately. Simply don't continue reading. Fair enough?

09:49 11 If you're watching a television program and
12 something comes on about the case, turn to another channel.
13 Get rid of it immediately. Or, if you're listening to the
14 radio on the way to work, on the way home, if this case
15 receives continued notoriety or press coverage, please turn
16 that station -- or turn it off.

09:49 17 Now, there's some practical reasons for that.
18 That's the legal reason.

09:49 19 Historically, we would sequester jurors. We'd put
20 you in a hotel for six weeks. Well, I know you all like
21 each other, but let's not do that. And I'm joking with you.
22 Okay?

09:49 23 The practical reason is because you're going to be
24 the only folks who will hear all of this evidence at one
25 time -- nobody has heard the government or the defense's

1 evidence -- and the Press may be absolutely accurate, but
2 they may pay undo notoriety to something that's
3 consequential or inconsequential, or they may come in, in a
4 portion of the testimony and it's not an accurate nor a full
5 story. Remember, when we're judges, we're absolutely
6 neutral and absolutely level along the way.

09:50 7 So it's one of the reasons we sent out the
8 questionnaire. We didn't know what was going to happen, but
9 it was, in effect, just to make certain that you could be
10 fair.

09:50 11 And if you would please follow that admonition,
12 that means that I'm not starting the trial all over again.
13 Okay? If you don't, then I'm starting the trial all over
14 again, and I won't hesitate. So it's your taxpayer dollars,
15 it's your sense of fairness and your pledge to us that you
16 would conduct yourself in such a way and to turn off media
17 sources also.

09:50 18 Okay. Now, why don't you take a recess at this
19 time.

09:50 20 *(Jury recesses at 9:50 a.m.)*

09:51 21 *(Outside the presence of the jury.)*

09:51 22 THE COURT: All right. Counsel, the jury's no
23 longer present. All parties are present -- Counsel and the
24 parties and the witness.
25

SIDEBAR PROCEEDINGS RE EXHIBITS 418-421

THE COURT: There's a sidebar that's requested concerning 418, 419, 420 and 421.

And, Counsel.

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

ARGUMENT BY MR. LENGYEL-LEAHU

MR. LENGYEL-LEAHU: I'd specifically direct your attention to 419. The People (*sic*) are proposing introducing photographic images of the 9/11 attack on New York. We don't believe that there's anything relevant for the purposes of these proceedings regarding that particular attack.

The Islamic State was not in existence. ISIS, ISIL weren't even in existence at the time of 9/11. That was an attack based on, uh -- from our understanding and the evidence that's been accumulated -- from al-Qa'ida. Al-Qa'ida is at war with the groups ISIS, ISIL, and the Islamic State.

We think it's more prejudicial than probative and could serve to inflame the jury beyond the needs of the government in this case.

THE COURT: Counsel on behalf of the government.

ARGUMENT BY MS. ELIOT

MS. ELIOT: Your Honor, we do think it's probative in this case. There -- I believe defense counsel in his

1 opening statement said that ISIS -- or the Islamic State had
2 its roots in al-Qa'ida and Iraq. So it was originally an
3 al-Qa'ida organization.

09:52 4 Furthermore, we will be producing evidence through
5 this witness today that on Defendant Badawi's iPhone he had
6 pictures of Osama bin Laden, pictures of -- one picture of
7 Mohamed Atta, a 9/11 hijacker, and also a picture of Abu
8 Musab al-Zarqawi, who was a noted al-Qa'ida figure and the
9 leader of al-Qa'ida in Iraq. So we do note the al-Qa'ida
10 connection, and --

09:53 11 THE COURT: Now, I want to get the tracing that
12 you believe that took place. So let's have a better
13 understanding with all counsel for just a moment.

09:53 14 There's been references to ISIS being formed
15 sometime in 2014.

09:53 16 Now, Counsel, you're going to correct me now and
17 you're going educate me. So when was ISIS formed? When did
18 it transform to ISIL? Is there any agreement between -- of
19 you -- the two of you?

09:53 20 MR. LENGYEL-LEAHU: If I'm not mistaken,
21 Your Honor, ISIS and ISIL developed at the end of 2013.

09:54 22 THE COURT: They weren't synonymous, though,
23 Counsel.

09:54 24 MR. LENGYEL-LEAHU: Actually they are, Your Honor.

09:54 25 THE COURT: I disagree with you. And maybe -- not

1 arguing that point -- but ISIL transformed almost
2 immediately after ISIS. But for a long time there was a
3 reference just to ISIS. And then, within weeks/months, it
4 transformed into ISIL.

09:54 5 Now, that may not be accurate. Maybe you have much
6 more knowledge than I do. But that's the way it was
7 portrayed, at least in the American Press.

09:54 8 MR. LENGYEL-LEAHU: I believe that the expert will
9 testify when he gets here, um, that the names are nuanced.
10 Missions are different.

09:54 11 Originally, al-Qa'ida and Iraq was limited to the
12 insurgency in Iraq. And they transformed into "I-S-I,"
13 Islamic State in Iraq.

09:54 14 Then as the insurgency takes over into *al-Nusra* --
15 that's a separate group -- and moves into Syria and the
16 civil war there, that's when they start calling themselves
17 either ISIS or ISIL. It has to do with the nuance of the
18 geography.

09:55 19 THE COURT: Okay.

09:55 20 MR. LENGYEL-LEAHU: But it's not -- but -- but
21 they literally are synonymous.

09:55 22 THE COURT: Now let me ask -- I'm going to assume
23 that you're right in that depiction, that I don't have the
24 exact months correct for a moment.

09:55 25 My question to both of you is why is that relevant

1 in terms of me making a ruling? This is going into state of
2 mind, violence, and it seems to be offered for that purpose.
3 And the question is really a 403 determination.

09:55 4 It's really a determination of how much inflaming
5 is occurring by the introduction of what I'm hearing --
6 Osama bin Laden's photograph on an iPhone, and 9/11, and, of
7 course, apparently depictions of the Trade Center.

09:56 8 Isn't this a 403 determination?

09:56 9 **ARGUMENT AND MOTION BY MS. CORRIGAN**

09:56 10 MS. CORRIGAN: I think it is, Your Honor. And
11 actually, I was gonna raise it. I have it in front'a me.
12 And I think, in terms -- from my perspective, this argument
13 is causing -- I understand what co-defendant's counsel is
14 arguing here.

09:56 15 But the continuation of this is unduly prejudicing
16 my client. We're having information that I don't think
17 otherwise the government would be in a position to be
18 bringing in against my client on the basis that it would be
19 causing undue delay, wasting time, and it'd be cumulative
20 after awhile.

09:56 21 At this time I'm gonna renew my motion to sever.

09:56 22 THE COURT: Okay.

09:56 23 And, Counsel.

09:56 24 **ARGUMENT BY MS. ELIOT**

09:56 25 MS. ELIOT: Your Honor, co-counsel has informed me

1 that there's also a phone call -- a recorded phone call that
2 we intend to submit into evidence where both defendants are
3 on the conversation and they are discussing their hope that
4 Islamic State and al-Qa'ida join forces.

09:57 5 THE COURT: Now, that isn't the issue, though.

09:57 6 The issue is -- or are -- the photographs and the
7 information that you would hope to introduce on the iPhone?
8 And this is simply an introduction in 419 about what is
9 coming. In other words, we're going to have to deal with
10 this problem now and in the future.

09:57 11 MS. ELIOT: Yes, Your Honor.

09:57 12 THE COURT: And so let me repeat what I'm hearing
13 as your argument; and that is, if I was to balance the
14 relevance of this evidence against the prejudicial effect,
15 because this is found on Elhuzayel's -- in other words,
16 let's start with 419.

09:58 17 This is the account for Elhuzayel; is that correct?

09:58 18 MS. ELIOT: It's actually Defendant Badawi.

09:58 19 THE COURT: Okay. Now just a moment.

09:58 20 MS. CORRIGAN: Right.

09:58 21 THE COURT: Then let me turn to Ms. Corrigan.
22 Because, you see, all this got lumped together in this
23 omnibus --

09:58 24 MS. ELIOT: Presentation.

09:58 25 THE COURT: -- request.

09:58 1 So let's start with Mr. Badawi and let's make
2 certain we have a clear record; and that is, 419 is from
3 Badawi's account.

09:58 4 MS. CORRIGAN: That's correct.

09:58 5 THE COURT: And on Badawi's account, we have a
6 picture.

09:58 7 Put this up on the screen, please.

09:58 8 *(Exhibit displayed.)*

09:58 9 THE COURT: We have on page 1 a black-and-white,
10 with the tags on page 2; and then, page 3, the color
11 photograph of the World Trade Center.

09:58 12 So let's go through that quickly and put that up on
13 the screen.

09:59 14 So, Ms. Corrigan, in a sense, if your client was
15 being tried separately and the Court ruled against you on
16 403 grounds, this would be coming into evidence in a severed
17 trial.

09:59 18 Now, let's be certain about what's coming in the
19 future from the government's perspective.

09:59 20 Are there other images on Badawi's Facebook page?
21 Twitter? Are there conversations that specifically refer
22 to -- not al-Qa'ida joining with the Islamic State. That's
23 a red herring for me. Are there other images that Badawi
24 would have of Osama bin Laden? Or are these all on
25 Elhuzayel's account?

09:59 1 MS. ELIOT: These -- the ones we referenced are on
2 Badawi's account.

10:00 3 THE COURT: Let's go through them now very
4 carefully.

10:00 5 MS. ELIOT: Yes, Your Honor.

10:00 6 THE COURT: "The ones we've referenced" -- is that
7 419?

10:00 8 MS. ELIOT: 419 is the picture that's on the
9 screen.

10:00 10 THE COURT: Is this on Badawi's account? Yes or
11 no.

10:00 12 MS. ELIOT: Yes, Your Honor, the Facebook account.

10:00 13 THE COURT: Are there images on 420 or a reference
14 to the World Trade Center?

10:00 15 MS. ELIOT: I don't believe there are any other
16 images related --

10:00 17 THE COURT: Are there images on 421, references or
18 photographs -- you notice I included both now -- a
19 conversation about the World Trade Center? Osama bin Laden?

10:00 20 MS. ELIOT: I don't believe so, Your Honor.

10:00 21 THE COURT: Not "I don't believe so."
22 Are there or not? Yes or --

10:00 23 MS. ELIOT: There are none.

10:00 24 THE COURT: Okay. None. All right.

10:00 25 Now, Ms. Corrigan if, in fact, Mr. Badawi has

1 images of the World Trade Center, why would the Court be
2 excluding those? I could understand the motion if that
3 image only existed on Mr. Elhuzayel's account.

10:01 4 Is it because I'm about to see voluminous amounts
5 of information about Osama bin Laden or the World Trade
6 Center that make your client's one photo look *de minimus*?
7 And, if so, I want to go through with the government and all
8 counsel what that volume of information is.

10:01 9 So let's do that right now so we have clarity,
10 because there's a huge volume of information. So let's
11 start with Mr. Elhuzayel.

10:01 12 You told me in this omnibus motion and with this
13 flood of information that in the future I'm going to see
14 photographs of Osama bin Laden.

10:01 15 On whose account?

10:01 16 MS. ELIOT: It's Muhanad Badawi's iPhone.

10:01 17 THE COURT: Badawi's iPhone also?

10:01 18 So -- just a moment. So also on Badawi -- besides
19 the World Trade Center --

10:02 20 MS. ELIOT: Yes.

10:02 21 THE COURT: -- I'm going see an image of Osama
22 bin Laden or a discussion about Osama bin Laden?

10:02 23 MS. ELIOT: I believe there's two images. It may
24 be three.

10:02 25 THE COURT: Could I see those?

10:02 1 MS. ELIOT: Yes, Your Honor.

10:02 2 THE COURT: Now, Counsel, let's get this record
3 straight. In other words, this is coming to me as a huge
4 motion, and it's very confusing about who has what on each
5 iPhone.

10:02 6 So, so far, we know that Badawi has images of the
7 World Trade Center in 419, and it's on his iPhone.

10:02 8 Where do we get images of Osama bin Laden?

10:02 9 MS. ELIOT: It's in the 50 series.

10:02 10 THE COURT: I'm sorry?

10:02 11 MS. ELIOT: It's the 50 series. I'll get these
12 for the Court.

10:02 13 MR. LENGYEL-LEAHU: 52 and 53.

10:03 14 THE COURT: I'm going to joke. Both of you see
15 how much fun this is for --

10:03 16 MR. LENGYEL-LEAHU: 52 and --

10:03 17 THE COURT: -- wading through records?

10:03 18 *(Exhibit displayed.)*

10:03 19 THE COURT: That's why the volume doesn't impress
20 me. What I want to know is clarity: Where are these
21 images?

10:03 22 MS. ELIOT: Okay. On the image is Government's
23 Exhibit -- on the screen is Government's Exhibit 52.

10:03 24 THE COURT: Okay. Now, where -- and what exhibit
25 number is this?

10:03 1 MS. ELIOT: This is Exhibit 52.

10:03 2 THE COURT: 52. Is this from an iPhone?

10:03 3 MS. ELIOT: It's from Badawi's --

10:03 4 THE WITNESS: Is this from Badawi's iPhone?

10:03 5 MS. ELIOT: Yes, Your Honor.

10:03 6 THE COURT: Okay. Now, just a moment.

10:03 7 What was the other area that was causing a concern

8 about prejudice, from the defense? Let me start with

9 Ms. Corrigan.

10:03 10 You're objecting because normally you believe, if

11 it was a severed trial, that the images of the World Trade

12 Center would not come in; and you believe, if it was a

13 severed trial, the images of Osama bin Laden would not come

14 in.

10:04 15 But your counsel, Mr. Elhuzayel (*sic*), has a

16 different objection.

10:04 17 MS. CORRIGAN: Correct.

10:04 18 THE COURT: And his objection is that it's not

19 linked to this case because this was al-Qa'ida, which had

20 either morphed or not morphed -- a separate organization,

21 depending upon his objection.

10:04 22 And you don't have that same objection? In other

23 words, there's a little contradiction or disagreement about

24 the objection. So let's just come back to you.

10:04 25 Osama bin Laden, it's represented by the

1 government, is on your client's iPhone.

10:04 2 Is that correct?

10:04 3 MS. CORRIGAN: Yes, Your Honor.

10:04 4 THE COURT: Okay. Now, what else do you have, so
5 I'm not surprised, in terms of Mr. Badawi's iPhone? What
6 other prejudicial concerns would you -- or Ms. Corrigan --
7 raise if this was a severed trial? In other words, what
8 else are you going to flash up on the screen or attempt to
9 do so?

10:05 10 *(Exhibit displayed.)*

10:05 11 MS. ELIOT: Exhibit 53 is another image of Osama
12 bin Laden that was on Defendant Badawi's iPhone.

10:05 13 MS. CORRIGAN: That's correct, Your Honor.

10:05 14 THE COURT: Okay. What else?

10:05 15 MS. ELIOT: Exhibit --

10:05 16 THE COURT: Otherwise, that's the only images
17 you're putting up. There are no --

10:05 18 MS. ELIOT: Right.

10:05 19 THE COURT: -- surprises. You don't come back to
20 me later on and say, "Oh, golly gosh, here's a martyred
21 person" and, "I have an objection."

10:05 22 What else?

10:05 23 *(Exhibit displayed.)*

10:05 24 MS. ELIOT: Exhibit 54 is an image of Mohamed
25 Atta.

10:05 1 THE COURT: Mohamed Atta. Isn't he dead?

10:05 2 MS. ELIOT: He is dead. He's one of the --

10:05 3 THE COURT: Was he a drone strike?

10:05 4 MS. ELIOT: He was one of the 9/11 hijackers.

10:05 5 THE COURT: Oh, my apologies. Of course. I

6 apologize.

10:05 7 Mohamed Atta -- on Badawi's iPhone?

10:05 8 MS. ELIOT: Yes, Your Honor.

10:05 9 *(Exhibit displayed.)*

10:05 10 THE COURT: Who else?

10:05 11 MS. ELIOT: Image 55 is Anwar al-Awlaki, who is

12 connected to al-Qa'ida in the Arabian peninsula. He is

13 deceased.

10:06 14 THE COURT: Okay.

10:06 15 MS. ELIOT: And co-counsel has informed me, as

16 well, Your Honor, that Defendant Badawi discusses Anwar

17 Awlaki *(verbatim)*.

10:06 18 I know that also in --

10:06 19 THE COURT: Badawi discusses --

10:06 20 MS. ELIOT: Anwar Awlaki. *(Verbatim.)*

10:06 21 THE COURT: -- Awlaki.

10:06 22 MS. ELIOT: And --

10:06 23 THE COURT: With whom? Elhuzayel?

10:06 24 MS. ELIOT: No. An associate, Khalid Bahta.

10:06 25 THE COURT: Spell the last name.

10:06 1 MS. ELIOT: B-A-H-T-A.

10:06 2 THE COURT: C?

10:06 3 MS. ELIOT: No. B like boy, -A-H-T-A.

10:06 4 THE COURT: And how do you know that? Is it a
5 conversation that you're listening to?

10:06 6 MS. ELIOT: It's --

10:06 7 THE COURT: Is it an e-mail or Facebook?

10:06 8 MS. ELIOT: It's a conversation, a recording in a
9 car.

10:06 10 THE COURT: And what exhibit number's that?

10:06 11 MS. ELIOT: And -- excuse me?

10:07 12 THE COURT: What exhibit number?

10:07 13 MS. ELIOT: We'll get that for Your Honor.

10:07 14 There's also -- in that conversation, they play an
15 Anwar Awlaki (verbatim) tape called *The Battle For Hearts*
16 *And Minds*.

10:07 17 THE COURT: Okay. Now, what else -- so we hear
18 the totality of the concerns that Ms. Corrigan would have on
19 behalf of her client. And then we'll turn to Mr. Elhuzayel.

10:07 20 (Exhibit displayed.)

10:07 21 MS. ELIOT: Exhibit 50 on the screen, Your Honor,
22 is also found on Defendant Badawi's iPhone.

10:07 23 THE COURT: Okay. Now, let's stop for a moment.

10:07 24 It's so far clear, Ms. Corrigan, that your client
25 has a number of what you would perceive to be inflammatory

1 images.

10:07 2 MS. CORRIGAN: He does, Your Honor.

10:07 3 THE COURT: All right. I'm not granting a
4 severance at the present time based on that request.

10:08 5 MS. CORRIGAN: Understood.

10:08 6 THE COURT: Because if, in fact, the images were
7 only on Elhuzayel's iPhone, you'd have a stronger motion.
8 So you can renew that motion continually. I know you've
9 always wanted a severance. I'm going to continue to deny
10 that request since these are found on your client's iPhone.

10:08 11 Mr. Lengyel-Leahu?

10:08 12 I'm sorry. Ms. Corrigan?

10:08 13 MS. CORRIGAN: Your Honor, I'm sorry. I don't
14 mean to interrupt the Court.

10:08 15 But I think also we've got -- at this point, we've
16 heard a ton of information about what Mr. Badawi was putting
17 out there on Twitter. Now getting to Facebook. I think at
18 this point we are now getting into a cumulative stage of the
19 evidence by the government in that we've got -- it's
20 needlessly being presented. We're there -- in terms of what
21 they're trying to, uh, put on there. (*Verbatim.*) I think
22 we've got undue waste, uh -- waste of time at this point --

10:08 23 THE COURT: Not yet.

10:08 24 MS. CORRIGAN: -- and I'd ask the Court under 403
25 to --

10:08 1 THE COURT: Not yet. It may be getting close.
2 But I think the government's entitled to put on a
3 significant amount of evidence.

10:09 4 It's obvious they're not putting on all the
5 evidence. But the reason for that is they have to show the
6 state of mind of each defendant. And to do that, there's
7 been a significant amount of evidence with Elhuzayel
8 yesterday. And apparently they're putting on evidence now
9 directed at Mr. Badawi.

10:09 10 And I'm going to allow the government to continue.
11 This is not cumulative yet. It's not an undue consumption
12 of time. We'll eventually talk about the use of your expert
13 for a moment, but not now. Okay?

10:09 14 Now, let me turn to Mr. Lengyel-Leahu. You're
15 motion is different; and that is, *"Judge, al-Qa'ida was in*
16 *existence when 9/11 took place. The Islamic State was*
17 *not -- or ISIL, or ISIS."* And whether they morphed quickly
18 or were synonymous probably isn't critical for this motion.
19 And, *"Judge, in fact, eventually they were at war with each*
20 *other -- al-Qa'ida and the Islamic State."*

10:10 21 Why is that relevant in my making a ruling when
22 this is, once again, state of mind, and it is an intent by
23 the government to show that your client was willing to fight
24 for whatever organization existed, which turned out, by the
25 time of his alleged involvement, to be ISIS and ISIL?

10:10 1 **FURTHER ARGUMENT BY MR. LENGYEL-LEAHU**

10:10 2 MR. LENGYEL-LEAHU: I believe the relevance --

3 it's clear what the government's trying to do is to

4 prejudice the jury. By bringing in these particular images,

5 they're looking for a particular reaction. Because I can't

6 look at those pictures without remembering.

10:10 7 THE COURT: Well, then --

10:10 8 MR. LENGYEL-LEAHU: I can't --

10:10 9 THE COURT: Just a moment. Let me ask you a

10 couple questions, then.

10:10 11 Are these images found -- and I'm addressing this

12 to the government -- on Mr. Elhuzayel's phone or Facebook,

13 or images similar to this involving Osama bin Laden or 9/11;

14 or is there a discussion, whether images are found or not,

15 that takes place with Mr. Elhuzayel conversing with somebody

16 else? And it doesn't have to be Mr. Badawi.

10:11 17 MS. ELIOT: We don't have images like this related

18 to September 11 or Osama bin Laden on Elhuzayel's media.

10:11 19 However, Elhuzayel does discuss Aymen --

10:11 20 THE COURT: I can't hear you.

10:11 21 MS. ELIOT: My information from co-counsel, who

22 knows the phone recordings, is that Defendant Elhuzayel

23 discusses with Defendant Badawi information about Ayman

24 al-Zawahiri, who is the --

10:11 25 THE COURT: The planner, allegedly.

10:11 1 MS. ELIOT: -- and the current head of al-Qa'ida
2 after Osama bin Laden's death.

10:12 3 THE COURT: And what is that information? Is it
4 favorable? In other words, I don't know what that
5 information is.

10:12 6 MS. HEINZ: The two defendants in this case
7 discuss al-Qa'ida and al-Zawahiri and discuss it in a
8 favorable way, as if they think that al-Qa'ida is doing --
9 did a good job.

10:12 10 THE COURT: Now, let me be sure. Badawi and
11 Elhuzayel discuss in a favorable way that al-Qa'ida has done
12 a good job.

10:12 13 Is that discussion specifically related to 9/11 and
14 the plane?

10:12 15 MS. HEINZ: No. There's no discussion of 9/11.
16 Just a conversation about al-Qa'ida.

10:12 17 THE COURT: All right.

10:12 18 Counsel?

10:12 19 MR. LENGYEL-LEAHU: And, Your Honor, I think we
20 need to keep our eye on the ball that this is the Material
21 Support of a Foreign Terrorist Organization. Al-Qa'ida's
22 put on the list back in 1999. ISIS and ISIL weren't added
23 to the list until May of 2014. So, to keep the timelines
24 correct, that's what we're talking about.

10:13 25 They're not being accused of providing material

1 support to al-Qa'ida. That's not in the Indictment. It's
2 not part of this case. And I believe the images, based on
3 that alone, are more prejudicial than probative of the issue
4 in the case, which is the Material Support of a Foreign
5 Terrorist Organization.

10:13 6 THE COURT: Now, is this the appropriate time for
7 a limiting instruction? In other words, you haven't brought
8 conspiracy charges and, therefore, the argument that they're
9 co-conspirators might be raised. You don't have to formally
10 raise those charges -- or those allegations.

10:13 11 But -- I'm not concerned; I'm not ruling yet -- but
12 it's difficult from Mr. Elhuzayel's perspective to have
13 images that go back to al-Qa'ida, which would seem to be
14 Badawi, unless there is a conversation about 9/11 or Osama
15 bin Laden. Your argument back to the Court, apparently, is,
16 in good faith, Judge, they're talking about al-Qa'ida
17 generally, and its favorable; so, therefore, the jury should
18 suppose that an incident like 9/11 would be condoned and
19 acceptable to both parties because they're speaking
20 favorably about al-Qa'ida, and also that Osama bin Laden
21 should be referenced back. Maybe.

10:14 22 MS. ELIOT: And, Your Honor, you're exactly,
23 correct. We do note that we have a conspiracy charged, I
24 believe, in Count One. But it may be a proper subject of a
25 limiting instruction as to Defendant Elhuzayel for the

1 photograph.

10:14 2 THE COURT: Okay.

10:14 3 I think that would be the wise thing to do. I'd
4 rather be cautious at this point. It's a close ruling, but
5 I think it resolves any potential prejudice.

10:15 6 So, Counsel, if you'd be kind enough to step over
7 with the government -- with your cellphone; that's fine --
8 and would you draft, the two of you, a limiting instruction.
9 I'll sit here and wait.

10:15 10 And Ms. Corrigan, you can, of course, join. But
11 I'm waiting for the limiting instruction.

10:15 12 Counsel, that means, if you would be kind enough to
13 get out of your seat --

10:15 14 MR. LENGYEL-LEAHU: Oh.

10:15 15 THE COURT: Thank you.

10:15 16 If you would move towards the government, and bring
17 a pencil or pen with you. I'm giving you the option now of
18 drafting it so that I don't do that because I don't want to
19 hear an objection, other than my overruling your request and
20 overruling the request by Ms. Corrigan to sever; and also,
21 since you're joining in that, your request to sever.

10:15 22 So if you could be of help drafting it, so be it.
23 If not, I'll take a look at the government's draft.

10:16 24 Ms. Corrigan, if you'd like to participate, you're
25 welcome to.

10:16 1 MS. CORRIGAN: I'll take a look what the final
2 draft is, Your Honor.

10:19 3 THE COURT: And, Counsel, you can also start the
4 admonition with,

10:19 5 *"The Court is concerned about any*
6 *inflammatory evidence or potentially*
7 *inflammatory evidence and, therefore,*
8 *I'm giving you this instruction."*

10:19 9 Or you can just have me give 'em the instruction.

10:19 10 MR. LENGYEL-LEAHU: Could our clients take a
11 care-and-comfort break, Your Honor?

10:19 12 THE COURT: Not yet. You're drafting the
13 instruction now. And they're to be present at all times.

10:20 14 MR. LENGYEL-LEAHU: What was the word Your Honor
15 used? "Inflammatory"?

10:20 16 THE COURT: *"The Court's concerned about any*
17 *possible"* -- no. I don't like that. Just draft an
18 instruction. That presumes it is -- it's actually
19 prejudicial for the defense.

10:22 20 MS. ELIOT: Your Honor, may I add something?

10:22 21 THE COURT: Please.

10:22 22 MS. ELIOT: In rereading Exhibit 421, the
23 conversation on a Facebook account of Muhanad Badawi, as I
24 look further through the page, the person Badawi is
25 conversing with says, *"I've seen enough about them,"*

1 referring to Islamic State or ISIS, and then he goes on,
2 he's "*seen enough about them, Hamas, Hizbollah, al-Qa'ida*"
3 and the list goes on.

10:22 4 So there is a reference from al-Qa'ida, but it's
5 not from this defendant.

10:22 6 THE COURT: It's a reference back to this
7 defendant?

10:23 8 MS. ELIOT: Yes.

10:23 9 THE COURT: Okay.

10:23 10 MS. CORRIGAN: I'm familiar with those materials,
11 Your Honor.

10:24 12 THE COURT: Counsel, have we drafted that yet?
13 This is taking an excessive amount of time. I'm prepared to
14 make this, uh -- myself, unless we can get to this now.

10:25 15 MR. LENGYEL-LEAHU: I think I'm almost finished,
16 Your Honor.

10:25 17 THE COURT: All right. Finish it now.

10:25 18 Show that to Counsel.

10:25 19 MR. LENGYEL-LEAHU: I have a question. I'm not
20 sure what the limited purpose the Court would be willing
21 to -- or approve the evidence to come in.

10:25 22 THE COURT: State of mind. Intent. Knowledge.

10:25 23 MR. LENGYEL-LEAHU: Do you want me to write all of
24 those in?

10:25 25 THE COURT: It's up to you. This is your one

1 chance to control this admonition. Write 'em in. You're
2 almost done now. This is an excessive amount of time.

10:26 3 MR. LENGYEL-LEAHU: Sorry.

10:26 4 THE COURT: I think your co-counsel may be
5 objecting to that.

10:26 6 MR. LENGYEL-LEAHU: Yeah.

10:26 7 THE COURT: But take a look at that, Ms. Corrigan.
8 Government, take a look at whatever Mr. Lengyel-Leahu has
9 written. And if it's not satisfactory, then I will resolve
10 it for you. I'm just giving you an opportunity to shape
11 your own future here.

10:26 12 MR. LENGYEL-LEAHU: Would the Court permit me to
13 read it into the record so I have a record of my request.

10:26 14 THE COURT: All right. Let me turn to
15 Ms. Corrigan first because it really pertains to her client.

10:26 16 MS. CORRIGAN: Your Honor, I'm objecting to
17 anything that's beyond the Ninth Circuit model instruction
18 for this issue, which is -- I have -- we have a copy of 'em,
19 and they've been filed with the Court. It'd be Government's
20 Proposed Instruction No. 20. Obviously, we've edited it a
21 bit, but, um, I would request that it be limited to the
22 following, that,

10:27 23 *"You are about to hear evidence that*
24 *certain images were found on*
25 *Defendant Badawi's iPhone and Facebook*

1 account."

10:27 2 "Receipt" -- um, period.

10:27 3 "I instruct you that this evidence is
4 admitted as to Defendant Badawi only --
5 Defendant Badawi; therefore, you must
6 consider it only for that limited
7 purpose and not for any other purpose."

10:27 8 THE COURT: All right.

10:27 9 MS. CORRIGAN: The instruction that co-defendant's
10 counsel has written here -- and I'll just read it.

10:27 11 MR. LENGYEL-LEAHU: I can do that.

10:27 12 MS. CORRIGAN: I'm objecting to his version of it.
13 I think it's prejudicial to my client.

10:27 14 THE COURT: All right. Thank you.

10:27 15 Counsel?

10:28 16 MR. LENGYEL-LEAHU: My version of the instruction
17 should read:

10:28 18 "The government is about to introduce
19 images regarding the events and people
20 involved during 9/11. These images were
21 found only on Defendant Badawi's iPhone
22 and Facebook account. I instruct you
23 that this evidence is admitted for the
24 limited purpose of state of mind of
25 Mr. Badawi, and you must determine for

1 yourself what weight you give to it, and
2 you must consider it only for that
3 limited purpose."

10:28 4 THE COURT: That may be true. I just don't know
5 in the future if there's going to be an inference drawn that
6 the conversation about al-Qa'ida includes 9/11. In other
7 words, I'm a little cautious about that. Also, your
8 co-counsel has expressed an argument that it's prejudicial
9 to her client.

10:28 10 So I think we should just take the standard Ninth
11 Circuit instruction.

10:28 12 MS. CORRIGAN: I'm in agreement with that.

10:28 13 THE COURT: And would somebody draft that for me
14 at the bottom. And I'll preserve this page. And I will
15 simply read the standard Ninth Circuit instruction.

10:29 16 So, if you'd go back for just a moment, so I'm not
17 ad libbing when the jury comes in -- and while you're doing
18 that, Counsel, we'll give your clients a restroom break.

10:29 19 (To the marshals:) Take the gentlemen out for just
20 a moment.

10:29 21 And, Counsel, if you'd remain. Draft that
22 instruction from the Ninth Circuit verbatim for me. Okay?

10:29 23 MS. HEINZ: Thank you.

10:29 24 THE COURT: Thank you. That'll adequately
25 instruct.

10:29 1 MR. LENGYEL-LEAHU: Your Honor, we're going to
2 need -- because the Ninth Circuit instruction requires that
3 we describe the purpose -- the limited purpose that the
4 Court is entering it into. *(Verbatim.)*

10:29 5 THE COURT: State of mind, knowledge, and intent.

10:29 6 MR. LENGYEL-LEAHU: But it's the state of mind,
7 knowledge and intent of Mr. Badawi. Because the government
8 agrees my client didn't see these images, and it's not on
9 his electronic media. And that was the point that they made
10 earlier -- when they're talking about images -- that it's
11 coming in for Badawi and not for Elhuzayel. I think that's
12 an important distinction. I'm not gonna --

10:29 13 *(Court reporter requests clarification for the*
14 *record.)*

10:29 15 MR. LENGYEL-LEAHU: I'm sorry. I apologize.

10:29 16 I believe that's an important distinction and is
17 the limited purpose in this case. If -- if you're still
18 disposed to let it come in --

10:30 19 THE COURT: I am.

10:30 20 MR. LENGYEL-LEAHU: -- that, at a minimum, they
21 should be told that the limited purpose that you're allowing
22 it is for the state of mind of Mr. Badawi.

10:30 23 THE COURT: Okay. Now, we'll cease the discussion
24 for just a moment. You've got my instructions. Please do
25 it now. Thank you.

10:31 1 MS. ELIOT: Your Honor, may I use the restroom?

10:31 2 THE COURT: You can. We're going to be back in
3 session in five minutes.

10:34 4 *(Recess held at 10:31 a.m.)*

10:35 5 *(Proceedings resumed at 10:38 a.m.)*

10:38 6 THE COURT: All right. Then we're back on the
7 record. All counsel are present. The Court has a proposed
8 instruction.

10:38 9 Is this agreed to by the government?

10:38 10 MS. HEINZ: Yes, Your Honor.

10:38 11 THE COURT: Is this agreed to, Ms. Corrigan, on
12 you and your client's behalf?

10:38 13 MS. CORRIGAN: It is, Your Honor.

10:38 14 THE COURT: And, Mr. Lengyel-Leahu, you're
15 objecting to this instruction and requesting the prior
16 instruction that you proposed to the Court?

10:39 17 MR. LENGYEL-LEAHU: Or -- yes, I would request the
18 prior instruction. If the Court is not inclined to that
19 instruction, then to add the words regarding limited
20 purpose -- "*for the limited purpose of Mr. Badawi's state of*
21 *mind*" -- because I think that would accurately reflect what
22 the Ninth Circuit model instruction says because it would --
23 because that's the reason why the Court's admitting it.

10:39 24 THE COURT: Counsel?

10:39 25 MS. CORRIGAN: I object to that, Your Honor.

1 It's -- I don't believe that there's enough here to say that
2 it is to the state of mind. So far, we've just got evidence
3 that it's -- or I expect that it's just evidence that it was
4 on his phone and in his Facebook account. Period. End of
5 subject.

10:39 6 THE COURT: I'm gonna follow the model Ninth
7 Circuit instruction. The reason for that is I do believe
8 that adding "intent" or "state of mind" or "knowledge"
9 creates prejudice.

10:39 10 So, therefore, we'll follow the Ninth Circuit's
11 standard instruction.

10:39 12 *(To the clerk:)* Debbie, if you'd get the jury,
13 please.

10:39 14 MR. LENGYEL-LEAHU: And then, based on that
15 Your Honor, we would --

10:39 16 THE COURT: *(To the clerk:)* Get the jury, please.

10:39 17 MR. LENGYEL-LEAHU: We would renew our motion to
18 sever. As the Court indicated, we would have the stronger
19 argument of that in this situation.

10:40 20 THE COURT: All right. Thank you. Denied.

10:40 21 MR. LENGYEL-LEAHU: Thank you.

10:41 22 *(In the presence of the jury.)*

10:41 23 THE COURT: All right. Then we're back on the
24 record. The jury's present. The alternates are present.
25 All counsel are present. And the parties are present.

10:41 1 (Reading:)

10:41 2 "You're about to hear evidence that

3 certain images were found on

4 Defendant Badawi's iPhone and Facebook

5 account. I instruct you that this

6 evidence is admitted only as to

7 Defendant Badawi. Therefore, you must

8 consider it only for that limited

9 purpose and not for any other purpose."

10:42 10 Counsel, if you'd like to proceed on direct

11 examination.

10:42 12 **DIRECT EXAMINATION (resumed)**

10:42 13 BY MS. ELIOT:

10:42 14 Q. Special Agent Wales, do you have Exhibits 418 through

15 421 before you?

10:42 16 A. Yes, I do.

10:42 17 Q. If you could take a look at those and tell us if you

18 recognize them.

10:42 19 A. Yes. I recognize 'em as Facebook communications from

20 Facebook No. '0593.

10:42 21 Q. Is that Defendant Badawi's account?

10:42 22 A. Yes. That's correct.

10:42 23 MS. ELIOT: Your Honor, at this time the

24 government moves to admit Exhibits 418, 419, 420, and 421.

10:42 25 MS. CORRIGAN: No objection, Your Honor.

10:43 1 MR. LENGYEL-LEAHU: We renew our objection.

10:43 2 THE COURT: All right. It's overruled.

10:43 3 And 418, 419, 420 and 421 are received.

10:43 4 (Exhibit Nos. 418, 419, 420 and 421 received in
5 evidence.)

10:43 6 MS. ELIOT: Thank you, Your Honor.

10:43 7 BY MS. ELIOT:

10:43 8 Q. If you could take a look at Exhibit 418, please. Are
9 these communications on Muhanad Badawi's Facebook account?

10:43 10 A. That's correct.

10:43 11 Q. And does it appear to be a conversation with a man
12 named "Noureddin"?

10:43 13 A. Yes. These appear to be a conversation with three
14 individuals: Muhanad Badawi, Noureddin, and Ahmed Ishwait.

10:43 15 Q. In turning over to the second page marked "7707" at the
16 bottom.

10:43 17 (*Exhibit displayed.*)

10:43 18 BY MS. ELIOT:

10:43 19 Q. In the middle of the page, the conversation from
20 Defendant Badawi starting with "*There's a lot*" of (*sic*)
21 "*supporters in Jordan,*" can you read to the bottom of the
22 page indicating who the speaker is.

10:43 23 A. Yes. So Badawi states:

10:43 24 "*There's a lot*" of (*sic*) "*supporters in*
25 *Jordan and that's a fact.*"

10:44 1 *"Inshallah they will take over Jordan as*
2 *soon as they're don't (verbatim) with*
3 *Iraq and Syria."*

10:44 4 Noureddin replies:

10:44 5 *"And do what in Jordan?"*

10:44 6 *"Kill our families?"*

10:44 7 Q. And at the end of this page, and turning over to the
8 next, what is Muhanad Badawi's response to Noureddin?

10:44 9 *(Exhibit displayed.)*

10:44 10 THE WITNESS: Badawi states:

10:44 11 *"Implement sharia and have access to*
12 *israel."*

10:44 13 BY MS. ELIOT:

10:44 14 Q. On the following page No. "7709" -- page numbered at
15 the bottom -- three messages from the bottom, Muhanad Badawi
16 mentions *jihad*.

10:44 17 *(Exhibit displayed.)*

10:44 18 BY MS. ELIOT:

10:44 19 Q. Can you read that entry, please.

10:44 20 A. Yes.

10:44 21 Badawi says: *"There's a fiqh of jihad bro."*

10:44 22 *"Fiqh" is spelled F-I-Q-H.*

10:44 23 Q. Do you know what that term means?

10:44 24 A. *Fiqh* is like Islamic law. Islamic jurisprudence.

10:45 25 Q. What does Badawi say after he says, *"There's an"* --

1 Islamic law or jurisprudence -- *"of jihad bro"*?

10:45 2 A. (Reading:)

10:45 3 *"U have to study."*

10:45 4 *"There's a message to be sent and people*
5 *to call upon before every jihad."*

10:45 6 Q. Turning over two pages, skipping the next page, and
7 turning over to page No. 7711.

10:45 8 *(Exhibit displayed.)*

10:45 9 BY MS. ELIOT:

10:45 10 Q. In the middle of the page, Muhanad Badawi has a
11 reference to Christians. Can you read that, please.

10:45 12 A. Badawi says: *"Christians gonna pay jizyah."*

10:45 13 Q. And that term *jizyah*, do you understand what that
14 means?

10:45 15 A. Yeah. So *jizyah* is a compulsory tax. It's a tax that
16 are placed on non-Muslims.

10:45 17 Q. Non-Muslims living in Muslim controlled --

10:45 18 A. That's correct.

10:45 19 Q. -- territories?

10:45 20 And what is Nouredin's response when Muhanad Badawi
21 tells him Christians are going to pay this mandatory tax?

10:46 22 A. (Reading:) *"I'm done arguing wallah."*

10:46 23 Q. Why is he done arguing?

10:46 24 A. (Reading:) *"Cause this is plain wrong."*

10:46 25 Q. What does Muhanad Badawi respond?

10:46 1 A. (Reading:) *"And line under shariah."*

10:46 2 *"It's gonna happen bro."*

10:46 3 Q. At the top of the next page, Noureddin's response to

4 that?

10:46 5 A. Noureddin says: *"NO DEFENSE WAR"* equals *"NO JIHAD."*

10:46 6 Q. And what does Muhanad say back to him?

10:46 7 A. (Reading:) *"It's not wrong at all."*

10:46 8 Q. Turning over to the next page numbered "7713."

10:46 9 *(Exhibit displayed.)*

10:46 10 BY MS. ELIOT:

10:46 11 Q. Four entires down from the top, what does Badawi say

12 about his Islamic State campaign?

10:46 13 A. And just to be clear here, he is just in a one-way with

14 Ahmed Ishwait.

10:46 15 So Badawi states:

10:46 16 *"I started my islamic state campaign in*

17 *Orange County. You are welcome to join*

18 *anytime."*

10:47 19 Q. Turning over to page 7715. Is there a reference to a

20 video that Badawi has sent Achmed (*sic*)?

10:47 21 A. (*No response.*)

10:47 22 Q. About in the middle of the page, starting with "BTW."

10:47 23 A. Yes. (*Reading:*)

10:47 24 *"btw, the video you sent of daesh in*

25 *Jordan is not true."*

10:47 1 Q. What -- do you understand the reference to *DAESH*?

10:47 2 A. So *DAESH* is an acronym that means Islamic State.

10:47 3 Q. So in this instance Achmed (*sic*) is referencing a video

4 that Muhanad Badawi sent regarding Islamic State?

10:47 5 A. That's correct.

10:47 6 Q. If you could turn over to the next page, please.

10:47 7 (*Exhibit displayed.*)

10:47 8 BY MS. ELIOT:

10:47 9 Q. Beginning at the top of that conversation, what does

10 Muhanad Badawi say about Jordanians supporting Islamic

11 State?

10:48 12 A. Badawi says:

10:48 13 *"These are Jordanians supporting islamic*

14 *state. This video doesn't say these are*

15 *islamic state fighters."*

10:48 16 Q. And, continuing on, "I think."

10:48 17 A. (*Reading:*)

10:48 18 *"I think there will be change in the*

19 *Jordanian regime without even islamic*

20 *state intervine (verbatim)."*

10:48 21 (*Spellings above kept consistent with exhibit.*)

11:09 22 BY MS. ELIOT:

10:48 23 Q. And can you continue on, please.

10:48 24 A. (*Reading:*)

10:48 25 *"Allah knows best."*

10:48 1 *"Jordan has a lot of Salafi cleric like*
2 *abu Muhammad almaqdasi."*
10:48 3 *(Spellings above kept consistent with exhibit.)*
11:09 4 BY MS. ELIOT:
10:48 5 Q. And what does Muhanad Badawi say about al-Maqdisi and
6 potential support of Islamic State?
10:48 7 A. *(Reading:)*
10:48 8 *"That will support islamic state if*
9 *there ever an uprising." (Verbatim.)*
10:48 10 Q. And that's concerning a potential uprising in the
11 country of Jordan?
10:48 12 A. That's correct.
10:48 13 Q. What is Ahmed's reply?
10:48 14 A. *(Reading:)*
10:48 15 *"Listen from a Jordanian guy, real*
16 *Jordanian like me, Daesh if they tray to*
17 *enter Jordan, 'In history books daesh*
18 *will have there last chapter ending in*
19 *Jordan.'"*
10:49 20 *(Spellings and punctuation above kept consistent*
21 *with exhibit.)*
11:09 22 BY MS. ELIOT:
10:49 23 Q. And again the reference to DAESH is --
10:49 24 A. It's ISIS.
10:49 25 Q. -- Islamic --

10:49 1 A. That's correct.

10:49 2 Q. And skipping down -- that next entry, skipping that
3 one -- what is Muhanad Badawi's reply to Achmed when he
4 defends Jordan?

10:49 5 A. (Reading:)

10:49 6 *"That's true. I agree with that. But*
7 *Allah is the most high and powerful no*
8 *military can stop islam."*

10:49 9 *(Spellings and punctuation above kept consistent*
10 *with exhibit.)*

11:09 11 BY MS. ELIOT:

10:49 12 Q. If you could turn over to Exhibit 419. What is the
13 entry besides "Album Name"?

10:49 14 A. "Tagged photos."

10:49 15 Q. And is this Muhanad Badawi's account?

10:49 16 A. That's correct.

10:49 17 *(Exhibit displayed.)*

10:49 18 BY MS. ELIOT:

10:49 19 Q. On the second page, is there a title of a tagged photo
20 on this exhibit?

10:50 21 A. Yes. The title is *"Watch hidden secret behind 9-11-01*
22 *attack and Japan Tsunami on 3-10-11 at"* -- and a link is
23 posted.

10:50 24 Q. And is there a photograph associated with that?

10:50 25 A. Yes, there is.

10:50 1 Q. If you could turn over to Exhibit 420, please. In your
2 review of Facebook materials, did you see a conversation
3 regarding a video showing members of the Iraqi army being
4 killed by the Islamic State?

10:51 5 A. Yes.

10:51 6 Q. Is Exhibit 420 continued materials from Badawi's
7 Facebook?

10:51 8 A. That's correct.

10:51 9 *(Exhibit displayed.)*

10:51 10 BY MS. ELIOT:

10:51 11 Q. Starting in the middle of the page, Badawi appears to
12 have a conversation with Nouredin. Can you read from,
13 *"Dude are you sensitive?"* on.

10:51 14 A. Yes.

10:51 15 So Badawi says:

10:51 16 *"Dude are you sensitive? about seeing*
17 *bad shit?"*

10:51 18 Nouredin says: *"Nah Why?"*

10:51 19 Badawi posts a YouTube link.

10:51 20 Nouredin responds:

10:51 21 *"Whos the people getting killed?"*

10:51 22 And Badawi says: *"The Iraqi army."*

10:51 23 *(Spellings and punctuation above kept consistent*
24 *with exhibit.)*

25

11:09 1 BY MS. ELIOT:

10:51 2 Q. Can you continue on the top half of the next page,
3 please.

10:51 4 A. Noureddin replies:

10:51 5 *"And whos killing them? I'm getting*
6 *lost lol."*

10:51 7 Badawi responds:

10:51 8 *"They were killing and raping women."*

10:51 9 *"The new state."*

10:51 10 Noureddin says: *"Ohhhhh. Ok."*

10:51 11 *"Ok now I get -- it."*

10:51 12 I believe -- well, it says I-Y.

10:52 13 *"Now I get iy."*

10:52 14 And then Noureddin says: *"It,"* and, *"Wow."*

10:52 15 And Badawi says: *"That guy was crying man."*

10:52 16 And Noureddin says: *"I know I saw it."*

10:52 17 *(Spellings and punctuation above kept consistent*
18 *with exhibit.)*

11:09 19 BY MS. ELIOT:

10:52 20 Q. Next.

10:52 21 A. Badawi says:

10:52 22 *"What if that was u?"*

10:52 23 *"What would u do?"*

10:52 24 Q. Turn over to Exhibit 421, please.

10:52 25 Who are the participants in this conversation here?

10:52 1 A. This is Badawi and Ashraf Ismail.

10:52 2 Q. And the second entry at the top, what does Badawi ask
3 Ashraf?

10:52 4 A. *(Reading:)*
10:52 5 *"Wat u think of abubakr albaghdadi n*
6 *aldawla?"*
10:53 7 *(Spellings kept consistent with exhibit.)*

10:53 8 BY MS. ELIOT:

10:53 9 Q. And what is the reference to al-Dawla mean?

10:53 10 A. It's an alias for the Islamic State of Iraq and Levant
11 *(verbatim).*

10:53 12 *(Court reporter requests clarification for the*
13 *record.)*

10:53 14 THE WITNESS: It's an alias for the Islamic State
15 of Iraq and the Levant. In this case, *"al-Dawla"* means "the
16 state."

10:53 17 Q. And what is Ashraf's reply?

10:53 18 A. *(Reading:)* *"ISIS?"* Question mark.

10:53 19 Q. And can you continue on, please.

10:53 20 A. Badawi says: *"I guess."*
10:53 21 And Ashraf replies: *"Daesh right?"*
10:53 22 Badawi: *"Yea."*
10:53 23 Ashraf asks:
10:53 24 *"Do you need an emotional or islamically*
25 *academic POV?"*

10:53 1 Q. What do you understand "POV" to mean?

10:53 2 A. Point of view.

10:53 3 Q. And the reference to *DAESH*, is that also a reference to

10:53 4 Islamic State?

10:53 5 A. That's correct.

10:53 6 Q. If you turn over to the next page, the bottom entry.

10:53 7 *(Exhibit displayed.)*

10:54 8 BY MS. ELIOT:

10:54 9 Q. What does Muhanad Badawi ask Ashraf?

10:54 10 A. *(Reading:)*

10:54 11 *"Have you seen albaghdadi first*

10:54 12 *appearance."*

10:54 13 *(Spellings kept consistent with exhibit.)*

10:54 14 BY MS. ELIOT:

10:54 15 Q. And what's date of this communication?

10:54 16 A. This is dated August 21st, 2014.

10:54 17 Q. And is that after al-Baghdadi declared the caliphate?

10:54 18 A. That's correct.

10:54 19 Q. After Muhanad Badawi asks Ashraf if he's seen

10:54 20 al-Baghdadi's first appearance -- turning over to the next

10:54 21 page -- do you see an entry for a YouTube video?

10:54 22 A. That's correct. Badawi sends Ashraf a YouTube video

10:54 23 link.

10:54 24 Q. What does Ashraf say in reply?

10:54 25 A. *(Reading:)*

10:54 1 *"I'm sorry bro I'm not gonna watch it."*

10:54 2 *"I've seen enough about them, Hamas*

3 *Hizbullah, Al-qaeeda and the list goes*

4 *on."*

10:54 5 *(Spellings and punctuation above kept consistent*

6 *with exhibit.)*

10:54 7 BY MS. ELIOT:

10:54 8 Q. And the final entry of Ashraf on the bottom of the

9 page, *"Maybe when there's something"* -- what does he say to

10 Mr. Badawi?

10:55 11 A. *(Reading:)*

10:55 12 *"Maybe when there's something more real*

13 *and beneficial to the ummah, I'd join*

14 *you."*

10:55 15 Q. In the course of this investigation, did you also

16 receive records containing Twitter communications between

17 Defendant Elhuzayel and others?

10:55 18 A. Yes.

10:55 19 Q. Did you obtain those records pursuant to lawful court

20 process?

10:55 21 A. Yes, I did.

10:55 22 Q. When you received the records from Twitter, are they

23 separated by conversation?

10:55 24 A. No. So when you get the records from Twitter, they're

25 basically -- they're not in chronological order. They're

1 just a big file with all the communications together.

10:55 2 Q. And for purposes of your appearance, did you prepare
3 exhibits setting forth particular conversations so that it
4 would be easier to follow?

10:55 5 A. Yes.

10:55 6 Q. And did you take those Twitter conversations from the
7 records that Twitter provided you directly?

10:55 8 A. Directly from the records.

10:55 9 MS. ELIOT: If we could place before the witness
10 what has been marked as government's Exhibits 450 and 451.

10:56 11 *(Documents provided to the witness.)*

10:56 12 BY MS. ELIOT:

10:56 13 Q. Do you recognize these exhibits?

10:56 14 A. Yes. These are the spreadsheets that I created that
15 contain Twitter communications for Elhuzayel's accounts.

10:56 16 MS. ELIOT: Your Honor, the government moves to
17 admit Exhibits 450 and 451 into evidence.

10:56 18 MR. LENGYEL-LEAHU: No objection, Your Honor.

10:56 19 MS. CORRIGAN: No objection, Your Honor.

10:56 20 THE COURT: Received 450, 451 are received.

10:57 21 *(Exhibit Nos. 450 and 451 received in evidence.)*

10:57 22 MS. ELIOT: Thank you, Your Honor.

10:57 23 BY MS. ELIOT:

10:57 24 Q. Beginning with Exhibit 450, please can you explain what
25 information you included on your chart.

10:57 1 A. Yes. So the information that was provided, um, and is
2 included here is the text, the sender ID, the receiver,
3 Twitter ID number, the date and time.

10:57 4 And what is added on the left column is the handle name
5 that corresponds to the user ID for Elhuzayel's account.

10:57 6 Q. Are all of the Twitter accounts listed on the left-hand
7 side by handle -- do those all belong to
8 Defendant Elhuzayel?

10:57 9 A. Yes, they do.

10:57 10 Q. Under the column marked "sender," did you have a way on
11 your chart of indicating which messages are sent by
12 Elhuzayel?

10:57 13 A. Yes. It's a little hard to see on the screen, but I
14 indicated -- um, I -- basically, I highlighted them in gray
15 under the "sender" column if they were sent by the defendant
16 Elhuzayel.

10:58 17 Q. And if the "sender" column is not highlighted, does
18 that indicate that Elhuzayel received the message?

10:58 19 A. That's correct.

10:58 20 Q. The first conversation listed there under
21 "*ShariahIsJustice*," what does Elhuzayel say about a
22 potential attack in Israel?

10:58 23 A. Yeah. He -- so he says:

10:58 24 *"ISIS is getting ready to attack Israel*
25 *now?"* question mark. *"This is*

1 *exciting."*

10:58 2 *"Looking forward to see some yahoodi*
3 *heads rolling."*

10:58 4 *"Or dead bodies carrying their own*
5 *yahoodi heads."*

10:58 6 *"And jihadi john doing this stance on*
7 *them."*

10:58 8 *(Spellings above kept consistent with exhibit.)*

10:58 9 THE WITNESS: And then a photograph is attached.

10:58 10 MR. LENGYEL-LEAHU: Your Honor, I'm gonna
11 interpose an objection at this time.

10:58 12 The witness testified that this chart is a summary
13 of what he just testified to for a couple of hours
14 yesterday. He's just merely repeating what he's already
15 testified to.

10:59 16 MS. ELIOT: Your Honor, the following
17 conversations are not something the witness has testified
18 to.

10:59 19 THE COURT: Just this conversation?

10:59 20 MS. ELIOT: Yes. I should just add --

10:59 21 THE COURT: I'll overrule the objection with that
22 representation. But this is redundant, Counsel.

10:59 23 MS. ELIOT: Okay. Thank you, Your Honor.

10:59 24 BY MS. ELIOT:

10:59 25 Q. The next conversation there, does it appear that a

1 person who is in Nigeria is messaging --

10:59 2 A. That's correct.

10:59 3 Q. -- Defendant Elhuzayel?

10:59 4 A. Yes.

10:59 5 Q. Do you see an entry where the person says where he's
6 from?

10:59 7 A. Yes. *(Reading:)*

10:59 8 *"I'm from Nigeria" --*

10:59 9 *"I'm fine Alhamdulillah. I'm from*
10 *Nigeria. And you?"*

10:59 11 Q. The Arabic phrase you said, do you know what that
12 means?

10:59 13 A. *Alhamdulillah.* I'm not sure. I would -- I'm not -- I
14 don't recall that one offhand.

10:59 15 Q. After the person says he's from Nigeria, what does
16 Elhuzayel respond?

11:00 17 A. He responds: *"I was born in America."*

11:00 18 Q. And what does the other person in the conversation say?

11:00 19 A. *(Reading:)*

11:00 20 *"Masha'Allah. Our brother is there in*
21 *jail. May (sic) Allah hasten his*
22 *release."*

11:00 23 *(Spellings above kept consistent with exhibit.)*

11:00 24 BY MS. ELIOT:

11:00 25 Q. What does Elhuzayel respond?

11:00 1 A. *(Reading:) "Ameen which one?"*

11:00 2 Q. Can you continue, please.

11:00 3 A. Yes. *(Reading:) "Umar farouq."* And then a sad face
4 or -- you know, a semicolon and parentheses, indicating a
5 sad face.

11:00 6 *(Spelling above kept consistent with exhibit.)*

11:00 7 THE WITNESS: And *"alhamdulillah,"* by the way, it
8 just escaped my memory at the point, but it means "thanks be
9 to God."

11:00 10 BY MS. ELIOT:

11:00 11 Q. So when the person from Nigeria says, *"Our brother is*
12 *there in jail,"* indicating in America, and references Umar
13 Farouk, do you know would that person is?

11:00 14 A. Um, "Umar Farouk" is a reference to the "Underwear
15 Bomber," as he's commonly known.

11:01 16 Q. And is he currently imprisoned in the United States?

11:01 17 A. Yes.

11:01 18 Q. And what is Defendant Elhuzayel's response to the
19 mention of Umar Farouk, who's currently in prison?

11:01 20 A. His response is:

11:01 21 *"May Allah hasten his release this is an*
22 *oppressive regime."*

11:01 23 *(Punctuation kept consistent with exhibit.)*

11:01 24 BY MS. ELIOT:

11:01 25 Q. And what does the person from Nigeria say about

1 Elhuzayel's Twitter handle *ShariaIsJustice*, starting with
2 *"So your handle"*?

11:01 3 A. (Reading:)

11:01 4 *"So your handle's sending a message to*
5 *the Americans? lol. Sharia is coming*
6 *to everywhere insha'Allah."*

11:01 7 *(Spellings above kept consistent with exhibit.)*

11:01 8 BY MS. ELIOT:

11:01 9 Q. And what is Elhuzayel's response?

11:01 10 A. (Reading:) *"LOL inshallah."*

11:01 11 Q. And again, what does *"inshallah"* mean?

11:01 12 A. *"Inshallah"* means God willing.

11:01 13 Q. The last conversation on that page, when the other
14 person says that he or she is from Saudi Arabia, the last
15 two entries, what does Elhuzayel say about Saudi Arabia?

11:02 16 A. He says, (reading:)

11:02 17 *"Saudi Arabia is beautiful."*

11:02 18 *"May Allah make IS conquer it."*

11:02 19 Q. Turning over to the next page.

11:02 20 *(Exhibit displayed.)*

11:02 21 BY MS. ELIOT:

11:02 22 Q. That first conversation there, does the defendant,
23 Defendant Elhuzayel, identify himself?

11:02 24 A. Yes. So he says, um:

11:02 25 *"Lol my first name is Nader."*

11:02 1 *"My kunya is Abu muhammed."*

11:02 2 A *"kunya"* is a nickname. And he says:

11:02 3 *"My fathers name is Salem."*

11:02 4 BY MS. ELIOT:

11:02 5 Q. In the next conversation, can you explain what the

6 discussion is about an operation?

11:02 7 A. Yeah. So it's a discussion about a hacking operation

8 and an individual requesting that Elhuzayel advertise for

9 this hacking operation.

11:03 10 Q. And the next conversation -- I think maybe we did this

11 one yesterday, so I'll move on. Thank you.

11:03 12 The conversation on the last part of the page, beginning

13 with, *"Those Kufar have a lot of pain coming to them,"* can

14 you explain the conversation and the particular words of

15 Elhuzayel?

11:03 16 A. Yes. So, they're -- they're talking about the Islamic

17 State spreading and conquering Rome, and, um -- and

18 basically how blessed they are to be living in this day of

19 the -- of the establishment of the *caliphate* or the

20 *khalifah*.

11:03 21 And he says -- Elhuzayel says:

11:03 22 *"In shaa Allah alhamdulillah we*

23 *witnessed the re establishment of the*

24 *khilafa."*

11:04 25 *(Spellings above kept consistent with exhibit.)*

11:04 1 BY MS. ELIOT:

11:04 2 Q. And does he say, *"Those Kufar have a lot of pain coming*

3 *to them"*?

11:04 4 A. Yes.

11:04 5 Q. Turn over to Exhibit 451, please. In the course of

6 this investigation, did you learn that Defendant Elhuzayel

7 had been communicating online with a woman in Palestine?

11:04 8 A. Yes.

11:04 9 Q. Did you ask Defendant Elhuzayel about the Palestinian

10 woman during his post-arrest interview?

11:04 11 A. We did.

11:04 12 Q. Did Elhuzayel tell you her name?

11:04 13 A. Yes. He said her first name is Enas.

11:04 14 Q. Did he tell you approximately how long he had known

15 her?

11:04 16 A. He said he had known Enas for approximately two months.

11:04 17 Q. Was this an internet relationship?

11:04 18 A. Yes.

11:04 19 Q. Did Elhuzayel tell you if he knew her last name?

11:04 20 A. He said he did not know her last name.

11:04 21 Q. Did Elhuzayel tell you anything about Enas being

22 arrested and put in jail in the past?

11:05 23 A. Yes. He said she had -- she had been arrested for

24 trying to go and join ISIL.

11:05 25 Q. And did she refer to ISIL as *"DAESH"* or *"Dawla"*?

11:05 1 A. Yes.

11:05 2 MR. LENGYEL-LEAHU: Objection, Your Honor. I
3 think the question was "Did she refer."

11:05 4 THE COURT: It was, "Did she."

11:05 5 I'm sorry.

11:05 6 BY MS. ELIOT:

11:05 7 Q. And in the direct -- the Twitter conversations on your
8 chart, did you see references where Enas used the word
9 "DAESH" or "Dawla"?

11:05 10 A. That's correct.

11:05 11 Q. So -- okay. That's fine.

11:05 12 Had Elhuzayel told Enas that he would marry her?

11:05 13 A. Yes, he did.

11:05 14 Q. In the post-arrest interview, did Elhuzayel tell you
15 that he was going to Israel to get married?

11:05 16 A. Yes, he did. He told us that almost immediately in the
17 interview.

11:05 18 Q. At the beginning of the interview?

11:05 19 A. That's correct -- within the first couple of minutes.

11:06 20 Q. At the beginning of the interview, did Elhuzayel admit
21 that those Twitter accounts were his?

11:06 22 A. No. So, initially, when we showed him the list that
23 we've previously looked at, he said those were not his
24 Twitter accounts.

11:06 25 Q. And he admitted those were his accounts later in the

1 interview?

11:06 2 A. That's correct.

11:06 3 Q. In a later portion of the post-arrest interview, did
4 Elhuzayel tell you if he really planned to marry Enas and
5 travel overseas to see her?

11:06 6 A. He told us -- again, later on in the interview, he said
7 his -- he -- his plan was to not continue his flight on to
8 Tel Aviv; and, instead, he was gonna get off the airplane in
9 Istanbul. And he decided he was not going to marry Enas,
10 and he was going to travel into Syria without going to marry
11 her.

11:06 12 *(Court reporter requests clarification for the*
13 *record.)*

11:06 14 THE WITNESS: Enas is spelled E-N-A-S.

11:06 15 BY MS. ELIOT:

11:06 16 Q. Did Elhuzayel tell you that he wasn't coming back to
17 the United States?

11:07 18 A. Yes. He said he was planning on traveling over and --
19 forever.

11:07 20 Q. Did Elhuzayel tell you that Enas would have to find
21 another husband?

11:07 22 A. Yes.

11:07 23 Q. Turning now to Exhibit 451, does this exhibit include
24 conversations between Elhuzayel and Enas?

11:07 25 A. Yes. That's -- the whole spreadsheet is -- basically,

1 the whole exhibit, um -- these are conversations between
2 Elhuzayel and Enas. And they're broken up, if -- they are
3 not in chronological order. This is just a portion of the
4 conversations.

11:07 5 Q. In the middle of the page, starting with, *"Well, I*
6 *heard you're in Palestine,"* can you read us that and tell us
7 who is the person who sent the message.

11:07 8 A. So Elhuzayel says,

11:07 9 *"We'll I heard you're in Palestine*
10 *Ramallah."*

11:07 11 MR. LENGYEL-LEAHU: Objection, Your Honor.
12 Objection. Forgive me.

11:08 13 I was under the impression that this was a complete
14 list of their Twitter conversations. This is the first I
15 heard that there's excerpts.

11:08 16 THE COURT: Under 106, you can play the remainder
17 or any portion you'd like.

11:08 18 MR. LENGYEL-LEAHU: Well, it's the Twitter
19 communications that were -- this is a chart that this agent
20 put together. And I was under the impression it was a
21 complete chart of the conversations. I was not aware of --
22 as he just testified, that it's not a complete --

11:08 23 THE COURT: Well, just a moment.

11:08 24 I thought discovery had been completed between both
25 of you?

11:08 1 MS. ELIOT: It has been, Your Honor.

11:08 2 THE COURT: Has the defense received the complete
3 Twitter?

11:08 4 MS. ELIOT: Yes, of course.

11:08 5 THE COURT: Counsel, you have the complete
6 Twitter. You're more than welcome to play any portion under
7 106.

11:08 8 MR. LENGYEL-LEAHU: My apologies, Your Honor. I
9 was just under the impression that this was a complete
10 chart. I mean, that's the way it was represented to me.

11:08 11 MS. ELIOT: I don't believe that's accurate,
12 Your Honor.

11:09 13 THE COURT: Well, regardless, you have received
14 the complete Twitter; is that correct?

11:09 15 MR. LENGYEL-LEAHU: That's correct.

11:09 16 THE COURT: Did you compare that complete Twitter
17 to 451?

11:09 18 MR. LENGYEL-LEAHU: I don't think I did it
19 communication-by-communication, no, Your Honor.

11:09 20 THE COURT: All right.

11:09 21 Please continue, Counsel.

11:09 22 MS. ELIOT: Okay.

11:09 23 BY MS. ELIOT:

11:09 24 Q. Starting with the entry in the middle of the page, from
25 the -- these regard, um, conversations either directed to or

1 replied by "MayAllahAccept."

11:09 2 Can you read with, starting with, *"Well, I heard you're*
3 *in Palestine."*

11:09 4 A. Yes. So Elhuzayel writes:

11:09 5 *"Well, I heard you're in Palestine*
6 *Ramallah so it's kind of far from where*
7 *I am at the moment, but indhallah I'll*
8 *be going back there soon and,"*

11:09 9 *"Meet your wali."*

11:09 10 *(Spellings above kept consistent with exhibit.)*

11:09 11 BY MS. ELIOT:

11:09 12 Q. And at the bottom, the last -- the last three entries,
13 starting with *"Well, one thing is for sure."*

11:10 14 A. So Elhuzayel writes:

11:10 15 *"Well, one thing is for sure, I'm not*
16 *coming back to America lol."*

11:10 17 Enas writes:

11:10 18 *"Good also I don't live in ramallah i*
19 *live near Ramallah."*

11:10 20 And Elhuzayel responds:

11:10 21 *"Oh that's okay."*

11:10 22 *(Spellings and punctuation kept consistent with*
23 *exhibit.)*

11:09 24 BY MS. ELIOT:

11:10 25 Q. Turning over to the next page, please.

11:10 1 *(Exhibit displayed.)*

11:10 2 BY MS. ELIOT:

11:10 3 Q. At the top, can you explain the conversation starting

4 with, *"You do know if you marry me"*?

11:10 5 A. Yeah. So the conversation -- basically, she's saying

6 you're -- she wants to let Elhuzayel know that there's gonna

7 be some issues if they are to get married, and --

11:10 8 Q. You can just read, maybe.

11:10 9 A. Oh. Go ahead and read?

11:10 10 Q. Uh-huh.

11:10 11 A. So Enas says:

11:10 12 *"You do know if you marry me there might*

13 *be some problems."*

11:10 14 And Elhuzayel writes:

11:10 15 *"Well, for every problem there's a*

16 *solution Inshallah."*

11:10 17 *"But what did you have in mind?"*

11:10 18 Enas writes:

11:11 19 *"Idk if Ibn Sabeel told you but I was*

20 *arrested a couple months ago so the*

21 *Mukhabart do check up on me time to*

22 *time."*

11:11 23 *(Spellings kept consistent with exhibit.)*

11:09 24 BY MS. ELIOT:

11:11 25 Q. And who, in your understanding, are the *"Mukhabarat"*?

11:11 1 A. The "Mukhabarat" are the intelligence -- it's the
2 intelligence agency in Palestine.

11:11 3 Q. And what -- does Enas continue, "Also everyone"?

11:11 4 A. (Reading:)

11:11 5 *"Also everyone and I mean everyone knows*
6 *who I support here. They all know I*
7 *tried to join Dawla so if we do get*
8 *married you will hear things."*

11:11 9 Q. What is Elhuzayel's response?

11:11 10 A. Elhuzayel responds:

11:11 11 *"I don't care about that, I'm ready for*
12 *these risks even when I stand alone*
13 *because I have the same beliefs and the*
14 *same goals."*

11:11 15 Q. Further down on that same conversation, is there
16 discussion about having a "daeshi" family?

11:11 17 A. Yes.

11:11 18 Q. Can you read, starting with "lol."

11:11 19 A. Elhuzayel writes:

11:11 20 *"lol yeah Insha'allah we will (verbatim)*
21 *have a daeshi family."*

11:12 22 *"Coco's probably will makes a sign in*
23 *the road that says 'beware of the*
24 *daeshi's'"*

11:12 25 And Enas responds:

11:12 1 *"lol got daeshi names too like Jihad and*
2 *Mujahid and Shaheed and Abu Bakr*
3 *al-Baghdadi LOOOL."*
11:12 4 *(Spellings above kept consistent with exhibit.)*
11:09 5 BY MS. ELIOT:
11:12 6 Q. And are these -- from your understanding of the
7 conversations, these are potential names for children they
8 would have?
11:12 9 A. That's correct.
11:12 10 Q. And what again does *"Mujahid"* mean?
11:12 11 A. Fighter.
11:12 12 Q. And *"Shaheed"*?
11:12 13 A. Martyr.
11:12 14 Q. Abu Bakr al-Baghdadi is who?
11:12 15 A. Is the current leader of the Islamic State of Iraq and
16 the Levant.
11:12 17 Q. And what does Elhuzayel respond about an arrow pointing
18 to their house?
11:12 19 A. He says:
11:12 20 *"Arrow pointing to our house and a*
21 *picture of a Dawlah flag lol beware I*
22 *think a lot of them would be scared*
23 *lol."*
11:12 24 *(Spellings kept consistent with exhibit.)*
25

11:09 1 BY MS. ELIOT:

11:12 2 Q. Turning over to the next page, please. The
3 conversation at the top.

11:13 4 *(Exhibit displayed.)*

11:13 5 BY MS. ELIOT:

11:13 6 Q. Is this a discussion that Elhuzayel is having about his
7 family in Palestine?

11:13 8 A. Yes.

11:13 9 Q. What does he say?

11:13 10 A. He says that they don't know about his goals and that
11 once they found out they'll basically spread the news.

11:13 12 Q. And does he call himself "*pro-Dawla*"?

11:13 13 A. Yes, he does.

11:13 14 Q. What does Elhuzayel say about what he's planning on
15 doing to keep it down low?

11:13 16 A. He says:

11:13 17 *"So I'm planning on keeping it on the*
18 *downlow as long as allah wills.*

11:13 19 *"But I know it can't be avoided. I'll*
20 *probably be known as a daeshi."*

11:13 21 *(Spellings above kept consistent with exhibit.)*

11:09 22 BY MS. ELIOT:

11:13 23 Q. What does Enas say about what her family found out?

11:14 24 A. *(Reading:)*

11:14 25 *"My family found out when I was arrested*

1 *now I openly say I'm Dawla."*

11:14 2 Q. In the latter part of the conversation, does Elhuzayel
3 identify his family name?

11:14 4 A. Yes. He identifies the tribe as "*Elhuzayel tribe*" and
5 that it's both his family name and the tribe name.

11:14 6 Q. The second conversation on that page, is there a
7 discussion with Enas about a man named "Tsarnaev"? Could
8 you read that, please.

11:14 9 A. So Enas writes:

11:14 10 *"Dzhokhar Tsarnaev found guilty and a*
11 *brother in Falasten" --*

11:14 12 *"F-A-L-A-S-T-E-N.*

11:14 13 *-- "stabbed two Israelis and was shot in*
14 *the head and killed."*

11:14 15 Q. Do you know who Tsarnaev is?

11:14 16 A. Dzhokhar Tsarnaev is one of the brothers that conducted
17 the Boston marathon bombing.

11:14 18 Q. And do you know what the reference to "*Falasten*" is?

11:14 19 A. "*Falasten*" is Palestine.

11:15 20 Q. With regard to the "*brother in Falasten that stabbed*
21 *two Israelis and was shot and killed,*" moving down to "*May*
22 *Allah grant,*" what was Elhuzayel's response?

11:15 23 A. Elhuzayel says:

11:15 24 *"May Allah grant that brother shaheed."*

11:15 25 Q. And what does Elhuzayel say about Jewish people?

11:15 1 A. *(Reading:) "And may Allah destroy the jews."*

11:15 2 Q. Turn over to the next page, please.

11:15 3 *(Exhibit displayed.)*

11:15 4 BY MS. ELIOT:

11:15 5 Q. The second conversation beginning, *"Can't believe,"* in
6 this conversation does it appear that Enas has -- is in need
7 of some reassurance about defendant's intentions?

11:15 8 MR. LENGYEL-LEAHU: Objection. Calls for
9 speculation.

11:15 10 THE COURT: Sustained.

11:15 11 Counsel, you can just ask about --

11:15 12 MS. ELIOT: Yes. Thank you, Your Honor.

11:15 13 BY MS. ELIOT:

11:15 14 Q. Can you read what was said beginning with *"Can't*
15 *believe you."*

11:16 16 A. *(Reading:)*
17 *"Can't believe you thought I didn't want*
18 *to talk to you.*
19 *"How can I not want to talk to the one I*
20 *want to marry."*

11:16 21 Q. And what does Enas reply?

11:16 22 A. She replies:
23 *"I thought you might have changed your*
24 *min (verbatim) about marrying me."*
11:16 25 And then says, *"mind."*

11:16 1 Q. And what does Elhuzayel reply?

11:16 2 A. *(Reading:) "My mind is set on marrying you."*

11:16 3 Q. In that last conversation on that page, about halfway
4 through, beginning with the list *"Jihad, Mujahid, Shaheed,"*
5 can you read that entry, please.

11:16 6 A. Enas writes:

11:16 7 *"Jihad, Mujahid, Shaheed, Jannah,*
8 *Muhammad, Bilal, Umar, Khalid. Are just*
9 *some of the names I've picked."*

11:16 10 *(Punctuation kept consistent with exhibit.)*

11:09 11 BY MS. ELIOT:

11:16 12 Q. Do you understand that to be a reference to future
13 children?

11:16 14 A. That's right.

11:16 15 Q. If you could turn to the next page, please.

11:17 16 *(Exhibit displayed.)*

11:17 17 BY MS. ELIOT:

11:17 18 Q. About four entries down, *"So why were you in prison?"*
19 Can you read from that and then explain the discussion,
20 please?

11:17 21 A. Yeah.

11:17 22 So Elhuzayel asks: *"So why were you in prison?"*

11:17 23 Enas says: *"Guess."*

11:17 24 And Elhuzayel states: *"Supporting Islamic State?"*
25 Question mark.

11:17 1 "No try again," Enas writes.

11:17 2 Elhuzayel asks: *"Assaulting a Jew? Lol."*

11:17 3 Enas writes: *"L-O-O-O-l no." (Verbatim.)*

11:17 4 Elhuzayel: *"Lol I honestly have no idea."*

11:17 5 Enas writes:

11:17 6 *"I was caught trying to make hijra to*

11:17 7 *Dawlah."*

11:17 8 *(Spellings and punctuation kept consistent with*

11:17 9 *exhibit.)*

11:17 10 THE WITNESS: Probably worth explaining that *hijra*

11:17 11 is a word that's used for traveling or migrating from --

11:17 12 and, typically, it's from the land of the disbelievers to

11:17 13 the land of Islam. So that's the -- that's what *hijra*

11:17 14 means.

11:18 15 So, *(Reading:)*

11:18 16 *"I was caught trying to make hijra to*

11:18 17 *Dawlah."*

11:18 18 And Elhuzayel states: *"Nice lol."*

11:18 19 *"Why didn't I guess that."*

11:18 20 *"Tell me the details." (Verbatim.)*

11:18 21 Q. And what does Enas say about being found guilty on

11:18 22 charges?

11:18 23 A. *(No response.)*

11:18 24 Q. After *"Tell me the details."*

11:18 25 A. Enas says:

11:18 1 *"I was found guilty on the charges of*
2 *causing fitna in Falasteen by*
3 *propagating Dawlah."*

11:18 4 Q. And what is your understanding of what it means *"to*
5 *propagate Dawlah"*?

11:18 6 A. To try to recruit for the Islamic State.

11:18 7 Q. Going on in the conversation where Enas says she *"took*
8 *the chance,"* could you read those entries, please.

11:18 9 A. *(Reading:)*

11:18 10 *"I took the chance and left. But my*
11 *passport was expired."*

11:19 12 *"Renewed my passport, but by the time I*
13 *got to the border of Jordan and*
14 *Falasteen my name was on the computers*
15 *and I was stopped and arrested."*

11:19 16 Q. Does Enas say further on in the conversation that the
17 others with her in the group made it to *Dawlah*?

11:19 18 A. That's right.

11:19 19 Q. In the last two entries there, what does Elhuzayel tell
20 her?

11:19 21 A. *(Reading:)*

11:19 22 *"We have the same goals lol.*
11:19 23 *"And you know your stuff pretty well I*
24 *really can't wait to marry you."*

11:19 25 *(Punctuation kept consistent with exhibit.)*

11:09 1 BY MS. ELIOT:

11:19 2 Q. Continuing on the next page, please.

11:19 3 *(Exhibit displayed.)*

11:19 4 BY MS. ELIOT:

11:19 5 Q. In the middle of the page, there's a discussion "*Who*

6 *influenced you to become the way (sic) you are now.*" Can

7 you start with the phrase, "*I remember speaking.*"

11:19 8 A. Enas writes:

11:19 9 *"I remember speaking to Sheik Ahmad Musa*

10 *Jibril and I will never forget when he*

11 *asked me 'who influenced you to become*

12 *who you are now.'*"

11:20 13 Elhuzayel responds:

11:20 14 *"Lol Masha'Allah what was your answer."*

11:20 15 *(Court reporter requests clarification for the*

16 *record.)*

11:20 17 MS. ELIOT: Your Honor, may I have a moment to

18 consult with defense counsel, please?

11:20 19 THE COURT: You may.

11:20 20 MS. ELIOT: Thank you.

11:20 21 *(Counsel confer.)*

11:20 22 BY MS. ELIOT:

11:20 23 Q. Okay. You may continue, please.

11:20 24 A. *(Reading:)*

11:20 25 *"Lol the truth. I told him it was Imam*

1 Anwar and his lectures that helped me
2 become guided again. I went from
3 apostate to Muslim."

11:20 4 Q. And Elhuzayel's reply, beginning with "May Allah"?

11:20 5 A. Elhuzayel replies:

11:20 6 "May Allah have mercy on Anwar Awlaki."

11:20 7 "His khutbas are so inspiring."

11:20 8 Q. And is "Anwar Awlaki" the reference that Enas says to
9 "Imam Anwar"?

11:21 10 A. That's correct.

11:21 11 Q. And in the next conversation, what does Elhuzayel say
12 about the need for money? -- the last two entries.

11:21 13 A. Elhuzayel says:

11:21 14 "I have to come up with the money and
15 plus my family is sort of dependent on
16 me."

11:21 17 And Enas says:

11:21 18 "So it's mostly the money part? What do
19 you mean by dependent."

11:21 20 Q. Turning over to the next page.

11:21 21 (Exhibit displayed.)

11:21 22 BY MS. ELIOT:

11:21 23 Q. The first conversation, the last entry there beginning
24 with "filthy," what does Elhuzayel say?

11:21 25 A. (Reading:) "Filthy jews may Allah destroy them."

11:21 1 Q. And in the next conversation, what request does Enas
2 have of Elhuzayel?

11:21 3 A. She's asking him to provide her with like, um, verses
4 from the Quran or from the *hadith*, the sayings of the
5 prophet --

11:21 6 Q. And what does --

11:21 7 A. -- regarding *jihad*.

11:22 8 Q. Does she say what kind of mood she's in?

11:22 9 A. She said, *(Reading:)*
11:22 10 *"I'm in a jihad mood and can't calm*
11 *myself down."*

11:22 12 Q. Does there appear to be a response in terms of a link?

11:22 13 A. Yes. So Elhuzayel provides a Twitter -- it could be a
14 link to a -- most likely an image.

11:22 15 Q. But just something was provided?

11:22 16 A. Exactly.

11:22 17 Q. And can you go on? What does Elhuzayel say after that?

11:22 18 A. *(Reading:)*
11:22 19 *"Easy now.*
11:22 20 *"Don't kill too many jews.*
11:22 21 *"Leave some for me."*

11:22 22 Q. And the bottom entry beginning with "Haq"?

11:22 23 A. Elhuzayel writes:
11:22 24 *"Haq is haq. Where at war with these*
25 *pigs."*

11:22 1 *(Spellings kept consistent with exhibit.)*

11:09 2 BY MS. ELIOT:

11:22 3 Q. And what does "*haq*" mean?

11:22 4 A. "*Haq*" means truth.

11:22 5 Q. And in that last conversation on that page, is there a

6 conversation about Enas being an American citizen

7 originally?

11:22 8 A. That's right.

11:23 9 Q. And when she says that she was born in America and now

10 is in "*Felesteen*," what is Elhuzayel's comment about America

11 on that last page? Last entry.

11:23 12 A. Last entry, Elhuzayel says:

11:23 13 *"lol so that's why you were so*

14 *(verbatim) depressed."*

11:23 15 *"Lol so that's why you were depressed.*

16 *This county is poison."*

11:23 17 Q. Turning over to the next page.

11:23 18 *(Exhibit displayed.)*

11:23 19 BY MS. ELIOT:

11:23 20 Q. Is this the conversations where Enas provides her name

21 to Elhuzayel?

11:23 22 A. Yes.

11:23 23 Q. So Elhuzayel -- um, do you see the entry, "*It's funny I*

24 *never got your name."*

11:23 25 A. That's -- yes, I do see that.

11:23 1 Q. And then three entries from the bottom, what is the
2 name that Elhuzayel learns?

11:23 3 A. *(Reading:) "Enas huh?"*

11:23 4 Q. Turning over to the next page, please.
5 *(Exhibit displayed.)*

11:23 6 BY MS. ELIOT:

11:23 7 Q. The second conversation on the page about being careful
8 about the tweets --

11:24 9 A. Yes.

11:24 10 Q. -- can you read that and then -- just read that,
11 please.

11:24 12 A. The whole, um, grouping?

11:24 13 Q. Yes. Thank you.

11:24 14 A. Okay.

11:24 15 So Elhuzayel writes:
16 *"Be careful though tweets like this get*
17 *the kuffar excited."*

11:24 18 Q. Who are the "kuffar"?

11:24 19 A. The disbelievers.

11:24 20 And Enas responds:
21 *"Salam brother what about Mutawakil*
22 *brother."*

11:24 23 Elhuzayel says:
24 *"Waalaykum assalam wa rahmatallah*
25 *insha'allah shaheed."*

11:24 1 Q. What does the word "*shaheed*" mean?

11:24 2 A. Martyr.

11:24 3 Q. And do you understand the reference from this

4 conversation to Mutawakil?

11:24 5 A. That is Elton Simpson, one of the Garland, Texas,

6 shooters.

11:24 7 Q. And can you continue with "very sad."

11:24 8 A. Enas says:

11:24 9 *"Very sad, but he achived goal may Allah*

10 *accept."*

11:25 11 And Elhuzayel says:

11:25 12 *"Allahuma ameen and may Allah allow us*

13 *to meet him."*

11:25 14 And Enas finally -- or she replies:

11:25 15 *"Aameen insha'Allah when hapnd it I just*

16 *saw his tweet."*

11:25 17 And finally, Elhuzayel says:

11:25 18 *"Around two and a half hours ago."*

11:25 19 *(Spellings and punctuation kept consistent with*

20 *exhibit.)*

11:09 21 BY MS. ELIOT:

11:25 22 Q. And on the last page of your chart here, does Enas

23 describe why her family is embarrassed by her?

11:25 24 *(Exhibit displayed.)*

25

11:25 1 BY MS. ELIOT:

11:25 2 Q. Starting --

11:25 3 A. Yes.

11:25 4 Q. -- with "embarrassed her because," could you read.

11:25 5 A. *(Reading:)*

11:25 6 *"Embarrassed her because I love Daesh*

7 *and tried to join them and refuse to*

8 *speak ill of them and sill praise them."*

11:25 9 Q. And when Enas says, "embarrassed her," from the

10 conversation above, do you understand that she's talking

11 about her mother?

11:25 12 A. That's right.

11:25 13 Q. Can you continue, please.

11:25 14 A. She continues, saying:

11:25 15 *"Not trying to diminish my feelings for*

16 *you but it's why I was willing to marry*

17 *you I didn't really wanna marry a Pali."*

11:26 18 *"But I thought that it was the only*

19 *way -- only to --"*

11:26 20 *"But I thought that it was the only to*

21 *be with someone who thought like me."*

22 *(Verbatim.)*

11:26 23 Q. And what does she say about pro ISIS -- or "pro IS

24 accounts"?

11:26 25 A. She said:

11:26 1 *"Share this with pro IS accounts through*
2 *(verbatim) DM."*

11:26 3 And then provides a link.

11:26 4 Q. And the final conversation that's included on your
5 chart beginning, "I'm kind of worried," could you read that,
6 please.

11:26 7 A. Yes. Enas writes:

11:26 8 *"I'm kind of worried if you just send me*
9 *a message that would make me less*
10 *worried.*

11:26 11 *"A reply would be appreciated.*

11:26 12 And Elhuzayel responds:

11:26 13 *"Sorry habibi (sic) I'm okay I'll be*
14 *there soon in shaa Allah.*

11:26 15 *"I love you."*

11:26 16 And Enas writes:

11:26 17 *"I love you too. Just message me when*
18 *you get to Falasteen habibi."*

11:27 19 Q. Now, you mention that another Special Agent interviewed
20 the defendant with you?

11:27 21 A. That's correct.

11:27 22 Q. And what is his name?

11:27 23 A. Special Agent Jason Ghetian. Last name spelled
24 G-H-E-T-I-A-N.

11:27 25 Q. And when you and Special Agent Ghetian interviewed

1 Defendant Elhuzayel, was the interview videotaped?

11:27 2 A. Yes. It was both, uh, video and audio.

11:27 3 Q. Did anyone check or test the video recording equipment
4 before the interview began?

11:27 5 A. I did. I tested the equipment we used.

11:27 6 Q. Was the recording equipment working properly?

11:27 7 A. Yes, it was.

11:27 8 Q. And what happened to the videotape after the end of the
9 video?

11:27 10 A. I booked it into evidence.

11:27 11 Q. Have you had an opportunity to review the entire video
12 recording of Defendant Elhuzayel's interview?

11:27 13 A. I have.

11:27 14 Q. Did the video recording fairly and accurately reflect
15 the interview of Defendant Elhuzayel you conducted with
16 Special Agent Ghetian?

11:28 17 A. Yes.

11:28 18 Q. Did you see and recognize Defendant Elhuzayel in the
19 video?

11:28 20 A. I did.

11:28 21 Q. Did you also recognize your voice and that of the other
22 agent with you?

11:28 23 A. Yes.

11:28 24 Q. And for purposes of your appearance today, were
25 excerpts of that video recording prepared and marked as

1 exhibits?

11:28 2 A. Yes.

11:28 3 MS. ELIOT: If we can now place before the witness
4 what has been marked as Government's Exhibits 1016, 1017,
5 1018, and 1020, please.

11:28 6 *(Exhibits provided to the witness.)*

11:28 7 BY MS. ELIOT:

11:28 8 Q. Do you recognize these exhibits?

11:28 9 A. There were four; correct?

11:29 10 Q. 1016, '17, '18 and '20?

11:29 11 A. '20. Yes, I do.

11:29 12 Q. Okay. What are they?

11:29 13 A. So these are discs that contain the excerpts of the
14 post-arrest interview of Nader Elhuzayel.

11:29 15 Q. And do these discs have any initials on them?

11:29 16 A. They do.

11:29 17 Q. Whose are they?

11:29 18 A. I initialed them and dated them when I reviewed them
19 for accuracy.

11:29 20 Q. Have you had an opportunity to compare the excerpts
21 that you just discussed, marked as Government's Exhibits
22 1016 through 1018, and 1020, with the complete recording of
23 Defendant Elhuzayel's interview?

11:29 24 A. Yes.

11:29 25 Q. Are the excerpts true and accurate portions of the

1 complete video?

11:29 2 A. Yes, they are.

11:30 3 Q. Do these excerpts contain statements the defendant made
4 during the course of interviewing him after his arrest?

11:30 5 A. Yes.

11:30 6 MS. ELIOT: Your Honor, the government moves to
7 admit Exhibits 1016, 1017, 1018, and 1020.

11:30 8 MS. CORRIGAN: No objection, Your Honor.

11:30 9 MR. LENGYEL-LEAHU: No, Your Honor.

11:30 10 THE COURT: Received.

11:30 11 *(Exhibit Nos. 1016, 1017, 1018 and 1020 received*
12 *in evidence.)*

11:30 13 BY MS. ELIOT:

11:30 14 Q. Was a transcript of the entire video recording
15 prepared?

11:30 16 A. Yes.

11:30 17 Q. And did you have an opportunity to review the
18 transcript?

11:30 19 A. I did.

11:30 20 Q. Did the transcript fairly and accurately reflect what
21 was said during the interview?

11:30 22 A. Yes, it did.

11:30 23 Q. And for your testimony today, have portions of the
24 transcript which correspond to those video excerpts been
25 marked as exhibits?

11:30 1 A. Yes.

11:30 2 MS. ELIOT: If we could place before the witness
3 what has been marked as 1016-A, 1017-A, 1018-A and 1020-A.

11:31 4 *(Exhibits provided to the witness.)*

11:31 5 BY MS. ELIOT:

11:31 6 Q. Do you recognize these exhibits?

11:31 7 A. Yes. These are the portions of the transcript that
8 correspond with the excerpts of the post-arrest interview.

11:31 9 Q. And do these transcript excerpts fairly and accurately
10 represent what was said during the portions of the interview
11 that are on the excerpted video?

11:31 12 A. Yes, they do.

11:31 13 Q. And have these transcript excerpts been loaded into the
14 computer so they'll be visible on the screen while the
15 excerpts are being played?

11:31 16 A. Yes, they have.

11:31 17 Q. And on the video excerpts, who do you see on camera?

11:31 18 A. The defendant, Nader Elhuzayel.

11:31 19 Q. And are the other voices heard on the video either
20 yours or Special Agent Ghetian's?

11:31 21 A. Yes.

11:31 22 Q. In the first video excerpt, does it concern whether
23 Elhuzayel admitted whether he intended to marry Enas?

11:32 24 A. That's correct.

11:32 25 Q. When does this segment occur in relation to when

1 Elhuzayel told you that he was flying to Israel to marry --
2 to get married?

11:32 3 A. This excerpt comes later -- much later in the
4 interview, after he -- after -- like you mentioned, after he
5 told us that he -- initially, he told us he planned on going
6 to marry her; and then, later on in the interview, he
7 recanted and told -- and that's what this excerpt will show.

11:32 8 MS. ELIOT: We're now going to play the video
9 excerpt, please, marked as Government's Exhibit 1017.

11:32 10 *(Video recording played, not reported.)*

11:34 11 BY MS. ELIOT:

11:34 12 Q. Did you also ask Elhuzayel why he didn't just buy a
13 plane ticket to Turkey if he planned to get off the plane in
14 Istanbul?

11:35 15 A. Yes.

11:35 16 MS. ELIOT: If we can now play the video excerpt
17 marked and admitted as Government's Exhibit 1018.

11:35 18 *(Equipment failure.)*

11:35 19 MS. ELIOT: Your Honor, I believe the computer is
20 frozen. I could move on and perhaps come back to this
21 later.

11:35 22 THE COURT: All right.

11:35 23 MS. ELIOT: Thank you.

11:35 24 BY MS. ELIOT:

11:35 25 Q. At the end of the interview, did you --

11:35 1 THE COURT: Counsel, I think something just came
2 up.

11:35 3 MS. ELIOT: Oh, okay.

11:36 4 *(Continued equipment failure.)*

11:36 5 MS. ELIOT: I'm sorry, Your Honor.

11:36 6 BY MS. ELIOT:

11:36 7 Q. At the end of the interview, did you go through
8 Defendant Elhuzayel's wallet?

11:36 9 A. Yes.

11:36 10 Q. Did you find any credit cards or ATM cards in there?

11:36 11 A. Yeah, there were -- there were -- yes, we did.

11:36 12 Q. If we could place before the witness what has been
13 marked as Government's Exhibits 620, 621, and 622, please.

11:36 14 *(Exhibits provided to the witness.)*

11:37 15 BY MS. ELIOT:

11:37 16 Q. Do you recognize these exhibits?

11:37 17 A. Yes, I do.

11:37 18 Q. What are they?

11:37 19 A. So these are credit cards that were found in the wallet
20 that was on the person of Nader Elhuzayel at the time of the
21 arrest.

11:37 22 MS. ELIOT: Your Honor, the government moves to
23 admit Exhibits 620, 621, and 622, please.

11:37 24 MS. CORRIGAN: No objection.

11:37 25 MR. LENGYEL-LEAHU: No objection.

11:37 1 THE COURT: Received.

11:37 2 (*Exhibit Nos. 620, 621 and 622 received in*

3 *evidence.*)

11:37 4 MS. ELIOT: Your Honor, I think we have fixed the

5 problem.

11:37 6 THE COURT: So what exhibit are you going back to?

11:37 7 MS. ELIOT: Going back to Exhibit 1018, please.

11:37 8 THE COURT: 1018.

11:37 9 MS. ELIOT: Thank you, Your Honor.

11:37 10 THE COURT: Thank you.

11:37 11 MS. ELIOT: If we could play that.

11:37 12 (*Video recording played, not reported.*)

11:38 13 BY MS. ELIOT:

11:38 14 Q. Turning back to Exhibit 620 before you, can you tell

15 what bank issued the card and whose name is on the card?

11:38 16 A. On Exhibit No. 620, this is a Wells Fargo card and the,

17 uh -- it is under the name "Wells Fargo Customer."

11:39 18 Q. And what about Exhibit 621? Can you identify the bank

19 and the name on the card?

11:39 20 A. This is also a Wells Fargo card. And again the name is

21 "Wells Fargo Customer."

11:39 22 Q. And what bank issued card -- the card marked as

23 Exhibit 622?

11:39 24 A. This card is issued by Wells Fargo Bank as well with

25 the name "Nader Salem Elhuzayel."

11:39 1 Q. Now, turning your attention to the arrest of the
2 Defendant Muhanad Badawi, did you have an opportunity to
3 review evidence found on his iPhone?

11:39 4 A. Yes, I did.

11:39 5 Q. If we could place before you Government's Exhibit 601
6 in evidence.

11:40 7 *(Exhibit provided to the witness)*

11:40 8 BY MS. ELIOT:

11:40 9 Q. Do you recognize this exhibit?

11:40 10 A. I do.

11:40 11 Q. And how do you recognize it?

11:40 12 A. This is the iPhone 5 that was on Badawi's person at the
13 time of his arrest.

11:40 14 Q. And did you, on one occasion, pick it up from the
15 Orange County Regional Computer Forensic Lab?

11:40 16 A. That's correct. At the end of the forensic
17 examination, I picked it up from the lab.

11:40 18 MS. ELIOT: If we could place before the witness
19 what has been marked as Government's Exhibit 69, just for
20 identification.

11:40 21 *(Exhibit provided to the witness.)*

11:40 22 BY MS. ELIOT:

11:40 23 Q. Do you recognize this exhibit?

11:40 24 A. Yes. So this is the disc that I picked up along with
25 the iPhone 5 at the same time from the forensic laboratory.

11:41 1 Q. Did you prepare exhibits of certain materials found on
2 Defendant Badawi's iPhone?

11:41 3 A. Yes, I did.

11:41 4 Q. How did you make the exhibits?

11:41 5 A. I printed them off. (*Verbatim.*)

11:41 6 Q. What did you print them from?

11:41 7 A. From the lab disc that was provided to me.

11:41 8 Q. And is that the lab disc that was prepared by forensic
9 examiner Terry Hom?

11:41 10 A. That's correct.

11:41 11 Q. And are those exhibits from Badawi's iPhone marked as
12 Government's Exhibits 3 through 68-A?

11:41 13 A. Yes.

11:41 14 MS. ELIOT: And, Your Honor, since it's such a
15 large number, we would plan to take them in smaller chunks.

11:41 16 THE COURT: I can't hear you.

11:41 17 MS. ELIOT: Since it's such a large number, we'll
18 just take them in smaller chunks and move to admit them in
19 sequence. Thank you.

11:41 20 BY MS. ELIOT:

11:41 21 Q. Are the exhibits marked as Government's Exhibits 3
22 through 68-A -- are they true and accurate copies of items
23 that are contained in the forensic report before you?

11:42 24 A. Yes. I've reviewed those, and they are.

11:42 25 Q. And did you also have an opportunity to review English

1 translations of exhibits from the Badawi iPhone that
2 contained Arabic writing?

11:42 3 A. Yes.

11:42 4 Q. And are those English translations of the Arabic
5 writing marked as Government's Exhibits 3-A through 25-A,
6 40-A and 68-A? And, again, those will be discussed in time
7 but --

11:42 8 A. Yes --

11:42 9 Q. -- in general --

11:42 10 A. -- that's correct. The English translations are marked
11 that -- that way.

11:43 12 MS. ELIOT: If we could place before the witness
13 what has been marked as Government's Exhibit 5, Exhibit 5-A,
14 Exhibit 6 and Exhibit 6-A.

11:43 15 Q. Do you recognize that's exhibits?

11:43 16 A. I do. These are from the iPhone of Mr. Badawi.

11:43 17 MS. ELIOT: Your Honor, the government moves to
18 admit Exhibits 5, Exhibit 5-A, Exhibit 6, and Exhibit 6-A.

11:43 19 MS. CORRIGAN: No objection, Your Honor.

11:43 20 MR. LENGYEL-LEAHU: *(No response.)*

11:43 21 THE COURT: 5, 5-A, 6, and 6-A are received.

11:43 22 *(Exhibit Nos. 5, 5-A, 6 and 6-A received in*
23 *evidence.)*

11:44 24 BY MS. ELIOT:

11:44 25 Q. If you could look at Exhibit 5, please.

11:44 1 *(Exhibit displayed.)*

11:44 2 BY MS. ELIOT:

11:44 3 Q. Do you recognize the person depicted on the photograph?

11:44 4 A. Yes. This is Abu Bakr al-Baghdadi.

11:44 5 Q. And in the English translation that is marked as

6 Exhibit 5-A, can you read the English words there, please.

11:44 7 A. *(Reading:)*

11:44 8 *"Muslims Caliph."*

11:44 9 *"Commander of the Faithful."*

11:44 10 *"Abu Bakr Ibn Ibrahim Ibn Awad al-Badri*

11 *al-Baghdadi."*

11:44 12 MR. LENGYEL-LEAHU: Your Honor, could the jury be

13 reminded this is coming in for the same limited purpose that

14 the previous exhibit we talked -- discussed.

11:45 15 THE COURT: Once again, as to the information that

16 you're receiving from Badawi's iPhone, allegedly, let me

17 repeat:

11:45 18 *"You're about to hear certain images or*

19 *information from Mr. Badawi's iPhone and*

20 *Facebook account. I instruct you that*

21 *this evidence is admitted only as to*

22 *Defendant Badawi; and, therefore, you*

23 *must continue -- consider it only for*

24 *that limited purpose and not for any*

25 *other purpose."*

11:45 1 THE COURT: Okay. Counsel.

11:45 2 BY MS. ELIOT:

11:45 3 Q. If you could look at Exhibit 6 along with Exhibit 6-A,
4 the translation.

11:45 5 *(Exhibit displayed.)*

11:45 6 BY MS. ELIOT:

11:45 7 Q. Do you recognize the person in that picture?

11:45 8 A. Yes. That is Abu Bakr al-Baghdadi.

11:46 9 Q. And can you read the translation on Exhibit 6-A,
10 please.

11:46 11 A. *(Reading:)*

11:46 12 *"One day, the Muslim will walk*
13 *everywhere as a respectable and generous*
14 *master, holding his head high, his*
15 *dignity preserved and anyone who*
16 *ventures against him will be disciplined*
17 *and any hand that will extend to him*
18 *with ill intention will be amputated."*

11:46 19 *(Punctuation above kept consistent with exhibit.)*

11:09 20 BY MS. ELIOT:

11:46 21 Q. And does it say who is the creator of the design?

11:46 22 A. *"Zarqawi."*

11:46 23 Q. And do you understand that reference?

11:46 24 A. At least, the name here -- I recognize *"Zarqawi"* as a
25 previous leader of the same group.

11:46 1 Q. If you could turn over -- let's see. I'm sorry.

11:46 2 MS. ELIOT: If we could place before the witness

3 Government's Exhibit 8, Exhibit 8-A, Exhibit 7 and 7-A.

11:46 4 *(Exhibits provided to the witness.)*

11:47 5 BY MS. ELIOT:

11:47 6 Q. And do you recognize --

11:47 7 THE COURT: You said 8 --

11:47 8 MS. ELIOT: I'm sorry.

11:47 9 THE COURT: -- and 8-A? And the next one was 7

10 and 7-A?

11:47 11 MS. ELIOT: Yes, Your Honor.

11:47 12 THE COURT: Are you requesting that these be

13 received?

11:47 14 MS. ELIOT: Yes, Your Honor.

11:47 15 BY MS. ELIOT:

11:47 16 Q. Do you recognize these exhibits?

11:47 17 A. Yes. They are -- these came from Badawi's iPhone as

18 well as the English translations provided by the translator.

11:47 19 MS. ELIOT: Your Honor, the government does move

20 to admit Government's Exhibit 8, Exhibit 8-A, Exhibit 7 and

21 7-A.

11:47 22 MS. CORRIGAN: No objection.

11:47 23 MR. LENGYEL-LEAHU: No objection.

11:47 24 THE COURT: Each of those are received.

11:47 25 *(Exhibit Nos. 7, 7-A, 8 and 8-A received in*

1 evidence.)

11:47 2 MS. ELIOT: Thank you, Your Honor.

11:47 3 BY MS. ELIOT:

11:47 4 Q. If you could turn to Exhibit 8, along with 8-A, the
5 translation.

11:48 6 *(Exhibit displayed.)*

11:48 7 BY MS. ELIOT:

11:48 8 Q. What's the message that is tweeted?

11:48 9 A. *(Reading:)*

11:48 10 *"Today Sheikh Abu Bakr will speak in*

11 11 *Furqan media."*

11:48 12 Hashtag, *"#ISIS"*

11:48 13 Hashtag, *"Islamic State."*

11:48 14 Q. And on the translation, what is the translation into
15 English for the word *Furqan*?

11:48 16 A. *(Reading:)*

11:48 17 *"Qur'an. One of the Qur'an's names."*

11:48 18 Q. Turning over to Exhibit 7, along with the translation
19 Exhibit 7-A.

11:48 20 *(Exhibit displayed.)*

11:48 21 BY MS. ELIOT:

11:48 22 Q. On Defendant Badawi's iPhone, can you read the
23 translation, please.

11:48 24 A. Yes. *(As read:)*

11:48 25 *"So let the world know that we are*

1 *living today in a new era, those who are*
2 *not paying attention should be alert --*
3 *those who are shocked that Muslims have*
4 *a say should take heed for Muslims have*
5 *a loud voice and a (sic) heavy feet."*

11:49 6 *"Muslims have a statement that will*
7 *cause the world to hear and understand*
8 *the meaning of terrorism. Boots that*
9 *will trample the idol of nationalism and*
10 *destroy the idol of democracy and expose*
11 *its fakeness. Hear, Hear, O nation of*
12 *Islam, listen and pay attention, walk up*
13 *and rise up. The time has come to break*
14 *the chains of weakness, and to stand up*
15 *in the face of tyranny, and the*
16 *treacherous rulers who are agents of*
17 *Crusaders and atheists and protectors of*
18 *Jews.*

11:49 19 *"The Commander of the Faithful, the*
20 *Caliph, Ibrahim al-badri, may God save*
21 *him."*

11:49 22 *(Spellings and punctuation above kept consistent*
23 *with exhibit.)*

11:50 24 MS. ELIOT: If we could place before the witness
25 what has been marked as Government's Exhibit 33, Exhibit 34

1 and Exhibit 35.

11:50 2 *(Exhibits provided to the witness.)*

11:50 3 BY MS. ELIOT:

11:50 4 Q. Do you recognize these as well?

11:50 5 A. I do. These came from Badawi's iPhone.

11:50 6 MS. ELIOT: Your Honor, the government moves to
7 admit Exhibit 33, Exhibit 34, and Exhibit 35.

11:50 8 MS. CORRIGAN: No objection.

11:50 9 THE COURT: 33, 34 and 35 are received.

11:50 10 MR. LENGYEL-LEAHU: *(No response.)*

11:50 11 THE COURT: Received.

11:50 12 *(Exhibit Nos. 33, 34 and 35 received in*
13 *evidence.)*

11:50 14 BY MS. ELIOT:

11:50 15 Q. Turning to Exhibit 33, do you recognize the image of
16 the person there?

11:50 17 A. It's Abu Bakr al-Baghdadi.

11:50 18 Q. And to the left, can you describe the graphic?

11:50 19 A. Yes. It says, "*Islamic caliphate State*," and it's a
20 picture of the world with the ISIL flag on each continent,
21 roughly.

11:51 22 Q. Turning to Exhibit 35 -- excuse me -- 34.

11:51 23 Well, to move along here, are Exhibits 34 and 35 also
24 pictures of al-Baghdadi?

11:51 25 A. Yes, they are.

11:51 1 MS. ELIOT: If we could place before the witness
2 Government's Exhibit 19, 19-A, Exhibit 17, 17-A, Exhibit 18.

11:51 3 *(Exhibits provided to the witness.)*

11:52 4 BY MS. ELIOT:

11:52 5 Q. Do you recognize these exhibits?

11:52 6 A. Yes, I do. They come from Badawi's iPhone, as well as
7 the corresponding English language translations.

11:52 8 MS. ELIOT: Your Honor, the government moves to
9 admit Exhibit 19, 19-A, Exhibit 17, 17-A, and Exhibit 18.

11:52 10 MS. CORRIGAN: No objection, Your Honor.

11:52 11 MR. LENGYEL-LEAHU: *(No response.)*

11:52 12 THE COURT: 19, 19-A, 17, 17-A and 18 are
13 received.

11:52 14 *(Exhibit Nos. 17, 17-A, 18, 19 and 19-A received*
15 *in evidence.)*

11:52 16 MS. ELIOT: Thank you, Your Honor.

11:52 17 BY MS. ELIOT:

11:52 18 Q. If you could turn to Exhibit 19 and 19-A, the
19 translation.

11:53 20 *(Exhibit displayed.)*

11:53 21 BY MS. ELIOT:

11:53 22 Q. Generally, can you describe what these Twitter
23 conversations concern?

11:53 24 A. This is going back -- it's related to the Garland,
25 Texas, attack.

11:53 1 Q. And in the middle, is that Abu Hussain al-Britani's
2 Twitter handle and profile picture?

11:53 3 A. Yes.

11:53 4 Q. Turning to 19-A, the translation, what is the
5 translation for the word "*bay'ah*"?

11:53 6 A. *(Reading:) "Allegiance."*

11:53 7 Q. Okay. And this is in reference to the tweet:

11:53 8 *"The bro with me and myself have given*
9 *bay'ah."*

11:53 10 And what is the translation for "*jannah*"?

11:53 11 A. *(Reading:) "Paradise."*

11:53 12 Q. And the "Commander of the Faithful," what is the Arabic
13 word for that?

11:53 14 A. *(Reading:) "Amirul Mu'mineen."*

11:54 15 Q. Does Exhibit 17 appear to be Twitter communications
16 from Abu Hussain al-Britani?

11:54 17 A. Yes.

11:54 18 Q. Turning over to Exhibit 18.

11:54 19 *(Exhibit displayed.)*

11:54 20 BY MS. ELIOT:

11:54 21 Q. Are these additional Twitter conversations or Twitter
22 messages from Abu Hussain al-Britani about the Garland,
23 Texas attack?

11:54 24 A. That's correct.

11:54 25 MS. ELIOT: If we could place before the witness

1 Exhibit 16, Exhibit 15, and Exhibit 15-A, please.

11:54 2 *(Exhibits provided to the witness.)*

11:54 3 BY MS. ELIOT:

11:54 4 Q. Do you recognize these exhibits?

11:54 5 A. I do. Again, these come from Badawi's iPhone and, uh,
6 the corresponding English translations.

11:55 7 MS. ELIOT: Your Honor, the government moves to
8 admit Exhibit 16, Exhibit 15, and Exhibit 15-A.

11:55 9 MS. CORRIGAN: No objection.

11:55 10 MR. LENGYEL-LEAHU: *(No response.)*

11:55 11 THE COURT: All right. 16 is received, 15 and
12 15-A are received.

11:55 13 *(Exhibit Nos. 15, 15-A and 16 received in*
14 *evidence.)*

11:55 15 BY THE COURT:

11:55 16 Q. Special Agent Wales, are all these Twitter messages --
17 the majority of them -- regarding Abu Hussain al-Britani's
18 tweets about hashtag, "*#garlandshooting*," hashtag,
19 "*#TexasAttack*"?

11:55 20 A. That's correct.

11:55 21 MS. ELIOT: If we could place before the witness
22 what has been marked as Government's Exhibit 4, Exhibit 4-A,
23 Exhibit 21, and Exhibit 21-A, please.

11:56 24 *(Exhibits provided to the witness.)*

25

11:56 1 BY MS. ELIOT:

11:56 2 Q. Do you recognize these exhibits?

11:56 3 A. Yes. These are -- come from Badawi's iPhone, and the
4 corresponding English language translations.

11:56 5 MS. ELIOT: Your Honor, the government moves to
6 admit Exhibit 4, 4-A, 21 and 21-A, please.

11:56 7 MS. CORRIGAN: No objection.

11:56 8 MR. LENGYEL-LEAHU: *(No response.)*

11:56 9 THE COURT: 4, 4-A, 20 and 21 are received.
11:56 10 *(Court reporter requests clarification for the*
11 *record.)*

11:56 12

11:56 13 THE COURT: 4, 4-A, 20 and 21 are received -- I'm
14 sorry -- 21 and 21-A are received.

11:56 15 MS. CORRIGAN: Thank you, Your Honor.

11:56 16 MS. ELIOT: Thank you, Your Honor.

11:56 17 *(Exhibit Nos. 4, 4-A, 21 and 21-A received in*
18 *evidence.)*

11:56 19 BY MS. ELIOT:

11:56 20 Q. If you could turn to Exhibit 4 with the corresponding
21 transcript 4-A.

11:57 22 A. Okay.

11:57 23 *(Exhibit displayed.)*

11:57 24 BY MS. ELIOT:

11:57 25 Q. Starting with the translation on Exhibit 4-A, what is

1 the message that's communicated here?

11:57 2 A. So just read the translation?

11:57 3 Q. Where there's an Arabic word, if you could read the
4 translation and --

11:57 5 A. Sure.

11:57 6 Q. -- in English, just the English word, please.

11:57 7 A. Okay. No problem.

11:57 8 *"Peace, mercy and blessings of God be*
9 *upon you."*

11:57 10 *"Guess whose back."*

11:57 11 *"Spread the word."*

11:57 12 *"Make dua for the Ummah"* -- or, make supplication
13 of prayer for the Ummah.

11:57 14 *"Kill a"* -- infidel.

11:57 15 Hashtag, *"#IS."*

11:57 16 Q. What is the date of this message found on
17 Defendant Badawi's iPhone?

11:57 18 A. May 13, 2015.

11:57 19 Q. Turning over to Exhibit 21, please, with the
20 corresponding transcript 21-A.

11:58 21 *(Exhibit displayed.)*

11:58 22 BY MS. ELIOT:

11:58 23 Q. Can you read us the message that is on Badawi's iPhone
24 as of May 11, 2015?

11:58 25 A. Yes. So an Arabic phrase that expresses appreciation:

11:58 1 *"Masha'Allah the life we live in this*
2 *state is too beautiful to describe."*
11:58 3 Praise be to Allah.
11:58 4 *"Our" -- Muslim leader -- "provides us*
5 *with everything we need."*
11:58 6 Q. And what Arabic word is used for Arabic leader?
11:58 7 A. *"Khalifah."*
11:58 8 Q. If we could place before the witness Exhibit 22,
9 Exhibit 22-A, Exhibit 23, and Exhibit 23-A, please.
11:58 10 *(Exhibits provided to the witness.)*
11:59 11 BY MS. ELIOT:
11:59 12 Q. Do you recognize these exhibits?
11:59 13 A. Yes, I do. These come from Badawi's iPhone and the
14 corresponding English language translations.
11:59 15 MS. ELIOT: Your Honor, the government moves to
16 admit Exhibit 22, 22-A, 23, and 23-A, please.
11:59 17 MS. CORRIGAN: No objection.
11:59 18 MR. LENGYEL-LEAHU: *(No response.)*
11:59 19 THE COURT: 22, 22-A, 23 and 23-A are received.
11:59 20 *(Exhibit Nos. 22, 22-A, 23 and 23-A received in*
21 *evidence.)*
11:59 22 MS. ELIOT: Thank you, Your Honor.
11:59 23 *(Exhibit displayed.)*
11:59 24 BY MS. ELIOT:
11:59 25 Q. Can you read the first tweet marked as Exhibit 22,

1 please.

11:59 2 A. *(Reading:)*

11:59 3 *"All Muslims under Allah and his law*
4 *against united nations of kuffr."*

11:59 5 *(Spellings above kept consistent with exhibit.)*

12:00 6 BY MS. ELIOT:

12:00 7 Q. And on Exhibit 22-A, the translation -- the Arabic
8 characters before the handle "*darrulislam*," whose name is
9 that?

12:00 10 A. Muhanad.

12:00 11 Q. And when Muhanad Badawi says, "*united nations of*
12 *kuffr*," what does "*kuffr*" refer to?

12:00 13 A. Disbeliever.

12:00 14 Q. Turning to Exhibit 23, please, and the corresponding
15 transcript, 23-A.

12:00 16 *(Exhibit displayed.)*

12:00 17 BY MS. ELIOT:

12:00 18 Q. Are these the messages that we saw yesterday from
19 Defendant Elhuzayel about Elton Simpson and the Garland,
20 Texas, shooting?

12:00 21 A. Yes, that's correct.

12:00 22 Q. And this exhibit, however, was found on the
23 Defendant Badawi's phone; is that correct?

12:00 24 A. Yes, that's correct.

12:00 25 Q. And on the translation, on 23-A, the Arabic characters

1 above the *Victory4ALLah* Twitter handle, what is the name?

12:01 2 A. Abu Mohammed.

12:01 3 Q. And is that the *kunya* that Defendant Elhuzayel
4 identified in his conversation with Enas?

12:01 5 A. That's correct.

12:01 6 Q. And the literal translation at the bottom for "*jannat*
7 *al ferdaus*"?

12:01 8 A. Is "gardens of paradise."

12:01 9 MS. ELIOT: If we could place before the witness
10 what has been marked as Government's Exhibits 24, 24-A, and
11 Exhibit 27, please.

12:01 12 (*Exhibits provided to the witness.*)

12:01 13 BY MS. ELIOT:

12:01 14 Q. Do you recognize these exhibits?

12:01 15 A. Yes.

12:01 16 Q. And where were they found?

12:01 17 A. These were found on Badawi's iPhone. And there is a
18 corresponding English language translation.

12:02 19 MS. ELIOT: Your Honor, the government moves to
20 admit Exhibit 24, 24-A, and Exhibit 27, please.

12:02 21 MS. CORRIGAN: No objection.

12:02 22 MR. LENGYEL-LEAHU: (*No response.*)

12:02 23 THE COURT: 24, 24-A and 27 are received.

12:02 24 (*Exhibit Nos. 24, 24-A and 27 received in*
25 *evidence.*)

12:02 1 BY MS. ELIOT:

12:02 2 Q. Turning to be Exhibit 24 and the corresponding
3 transcript, please.

12:02 4 *(Exhibit displayed.)*

12:02 5 BY MS. ELIOT:

12:02 6 Q. Is the translation above *Victory4ALLah* again Abu
7 Mohammed?

12:02 8 A. Yes.

12:02 9 Q. And do these Twitter messages concern the Garland,
10 Texas, shooting?

12:02 11 A. That's correct.

12:02 12 Q. Okay. So these are previous ones we spoke about
13 yesterday, however, they're found on Defendant Badawi's
14 phone?

12:02 15 A. That's correct.

12:02 16 Q. Turning to Exhibit 27, please.

12:02 17 *(Exhibit displayed.)*

12:03 18 BY MS. ELIOT:

12:03 19 Q. Do you -- could you identify the photograph of the
20 person depicted here?

12:03 21 A. Yes. They're -- both pictures are Defendant Muhanad
22 Badawi.

12:03 23 MS. ELIOT: Your Honor, we apologize. The
24 screen -- our computer is not cooperating.

12:03 25 Okay.

12:03 1 *(Exhibit displayed.)*

12:03 2 MS. ELIOT: Could we place before the witness what
3 has been marked as Exhibit 30, Exhibit 31, Exhibit 32.

12:03 4 *(Exhibits provided to the witness.)*

12:04 5 BY MS. ELIOT:

12:04 6 Q. Do you recognize those exhibits?

12:04 7 A. Yes, I do.

12:04 8 Q. Where were they found?

12:04 9 A. Again, these were found on the Badawi iPhone.

12:04 10 MS. ELIOT: Your Honor, the government moves to
11 admit Government's Exhibit 30, 31, and 32, please.

12:04 12 MS. CORRIGAN: No objection.

12:04 13 MR. LENGYEL-LEAHU: *(No response.)*

12:04 14 THE COURT: 30, 31 and 32 are received.

12:04 15 *(Exhibit Nos. 30, 31 and 32 received in*
16 *evidence.)*

12:04 17 BY MS. ELIOT:

12:04 18 Q. Turning to Exhibit 30.

12:04 19 *(Exhibit displayed.)*

12:04 20 BY MS. ELIOT:

12:04 21 Q. Can you describe what Twitter account this message is
22 sent to -- or what Twitter account received this message?

12:04 23 A. Yes. So --

12:04 24 Q. Actually, just tell us what you know about this Twitter
25 account, please.

12:04 1 A. This -- so the Twitter account that appears to have
2 sent this is "*nasrshahada*." I think that's -- I don't think
3 it was necessarily sent to anyone. It was just accessed.

12:05 4 Q. And this appeared on Defendant Badawi's phone?

12:05 5 A. That's correct.

12:05 6 Q. And what is the message?

12:05 7 A. (Reading:)

12:05 8 *"#Zahran__Alloush Leader of Jihad in*
9 *Shaam"* -- which is Syria.

12:05 10 *"#JaishAlislam The Religion of Allah*
11 *cannot be established through*
12 *democracy."*

12:05 13 And then, this is a video -- a YouTube video that is
14 attached. And it's entitled, *"Islam Army and the West*
15 *double standards."*

12:05 16 Q. Turning over to Exhibit 31, please.

12:05 17 *(Exhibit displayed.)*

12:05 18 BY MS. ELIOT:

12:05 19 Q. What is the message there? And can you describe what's
20 depicted in the photographs?

12:05 21 A. Yes. So the message is:

12:06 22 *"And some entertainment for the next*
23 *generation of Mujaheddin."*

12:06 24 Hashtag, *"#ISIS."*

12:06 25 *(Spellings above kept consistent with exhibit.)*

12:06 1 THE WITNESS: And then there are two photos: One
2 of a doll that's dressed in orange clothing and what looks
3 like a minor child with a knife. And the next photograph is
4 a severed doll head on top of the doll's body, with the
5 knife -- and the ISIL flag in the background.

12:06 6 BY MS. ELIOT:

12:06 7 Q. And turning to Exhibit 32, what is the message
8 regarding crusader jets?

12:06 9 A. *(Reading:)*

12:06 10 *"Crusader jets bombed IS positions in*
11 *Aleppo, and the Nusra-occupied positions*
12 *yelled Takbir."*

12:06 13 MS. ELIOT: If we could place before the witness
14 Exhibit 40 --

12:07 15 THE COURT: If you're starting a new series, why
16 don't we take a recess for lunch now.

12:07 17 MS. ELIOT: Certainly, Your Honor.

12:07 18 THE COURT: Okay.

12:07 19 *(To the jury:)* All right. Then you're admonished
20 not to form or express any opinion concerning the case.
21 We'll see you at 1:15. Have a nice lunch.

12:07 22 *(Jury recesses for lunch at 12:07 p.m.)*

12:07 23 *(Outside the presence of the jury.)*

12:07 24 THE COURT: All right.

12:07 25 Counsel, do you want to go over the exhibits or are

1 you satisfied that the exhibits are in order from this
2 morning in terms of the receipt of those exhibits?

12:07 3 MS. CORRIGAN: I'm satisfied.

12:07 4 MR. LENGYEL-LEAHU: Satisfied for now, Your Honor.

12:07 5 MS. ELIOT: We're satisfied, Your Honor. Thank
6 you.

12:07 7 THE COURT: Well, I don't know what that means.

12:07 8 All right. Let's go over the exhibits.

12:08 9 **EXHIBITS REVIEWED**

12:08 10 THE COURT: All right.

12:08 11 Counsel, 210, 211, 212 and 213 I have as received.

12:08 12 MS. CORRIGAN: Correct.

12:08 13 THE COURT: I have 422, 423, 424 as received.

12:08 14 I have 430, 431, 432 as received.

12:08 15 And this is on the continued direct examination.

12:08 16 Is that correct so far?

12:08 17 MS. CORRIGAN: Yes, Your Honor.

12:08 18 MS. HEINZ: Yes, Your Honor.

12:09 19 MR. LENGYEL-LEAHU: Yes, Your Honor.

12:09 20 THE COURT: Okay.

12:09 21 401, 402, 403, 404, 405, 406, 407, 408, 409, 410,
22 411, 412, 413, 414, 415 I have as received.

12:09 23 MS. HEINZ: Correct, Your Honor.

12:09 24 MS. CORRIGAN: Correct.

12:09 25 MR. LENGYEL-LEAHU: Correct.

12:09 1 THE COURT: 418, 419, 420, 421 I have as received.
12:09 2 MS. CORRIGAN: Correct.
12:09 3 MS. HEINZ: Correct.
12:09 4 MR. LENGYEL-LEAHU: Correct.
12:09 5 THE COURT: 450, 451 I have as received.
12:09 6 MS. HEINZ: Correct.
12:09 7 MR. LENGYEL-LEAHU: Correct.
12:09 8 MS. CORRIGAN: *(No audible response.)*
12:09 9 THE COURT: 1016, 1017, 1018 and 2019 I have as
10 received.
12:09 11 MS. HEINZ: Correct.
12:09 12 MS. CORRIGAN: Correct.
12:09 13 MR. LENGYEL-LEAHU: Correct.
12:09 14 THE COURT: 620, 621, 622 I have as received.
12:09 15 MS. HEINZ: Correct.
12:09 16 MS. CORRIGAN: Correct.
12:09 17 MR. LENGYEL-LEAHU: Correct.
12:09 18 THE COURT: 5, 5-A, 6, 6A, 8, 8-A, 7, 7-A I have
19 as received.
12:09 20 COUNSEL IN UNISON: Correct.
12:09 21 THE COURT: 33, 34, 35, I have as received.
12:10 22 COUNSEL IN UNISON: Correct.
12:10 23 THE COURT: 19, 19-A 17, 17-A and 18 I have as
24 received.
12:10 25 COUNSEL IN UNISON: Correct.

12:10 1 THE COURT: 16, 15, 15-A I have as received.

12:10 2 COUNSEL IN UNISON: Correct.

12:10 3 THE COURT: 4, 4-A, 21, 21-A, 22, 22-A, 23, 23-A,
4 I have as received.

12:10 5 COUNSEL IN UNISON: Correct.

12:10 6 THE COURT: 24, 24-A, 27, 30, 31 and 32 I have as
7 received.

12:10 8 COUNSEL IN UNISON: Correct.

12:10 9 THE COURT: Now, is that an accurate record from
10 this morning? Or are there other exhibits that you offered
11 that the Court did not consider?

12:10 12 MS. HEINZ: Your Honor, I have a couple of A's --
13 "A" ones -- exhibits.

12:10 14 My records show that 401-A, 402-A, 403-A and
15 404-A --

12:11 16 MS. CORRIGAN: Correct.

12:11 17 MS. HEINZ: -- also came in.

12:11 18 THE CLERK: Correct.

12:11 19 MS. CORRIGAN: Those are my records as well,
20 Your Honor.

12:11 21 THE COURT: My apologies.

12:11 22 And, Counsel, would you repeat those. 401-A?

12:11 23 MS. ELIOT: 402-A.

12:11 24 THE COURT: 402-A.

12:11 25 MS. ELIOT: 403-A.

12:11 1 THE COURT: 4030A.

12:11 2 MS. ELIOT: And 404-A.

12:11 3 THE COURT: And 404-A.

12:11 4 My apologies. You're absolutely right.

12:11 5 Counsel, is that accurate?

12:11 6 MS. CORRIGAN: Yes, Your Honor.

12:11 7 THE COURT: Okay.

12:11 8 MR. LENGYEL-LEAHU: Yes, Your Honor.

12:11 9 THE COURT: Any others?

12:11 10 MS. HEINZ: No, Your Honor.

12:11 11 Well, we have two transcripts from -- but -- which

12 are -- I mean, this is the issue where we said the

13 transcripts would remain in the record, but would not go

14 back to the jury, so --

12:11 15 THE COURT: So they're simply marked. They're not

16 received.

12:11 17 MS. HEINZ: Well, we want them to be in the record

18 for purposes of the Circuit.

12:11 19 So that would be 1016-A and 1017-A. So we would

20 like them to be received, but not sent back to the jury.

12:12 21 MS. CORRIGAN: That is correct, Your Honor. That

22 was the agreement.

12:12 23 THE COURT: All right.

12:12 24 So 1016-A and 1017-A are received.

12:12 25 *(Exhibit Nos. 1016-A and 1017-A received in*

1 evidence.)

12:12 2 THE COURT: But they're not to be sent back to the
3 jury?

12:12 4 MS. HEINZ: Correct, Your Honor.

12:12 5 MS. CORRIGAN: Yes.

12:12 6 THE COURT: Acceptable?

12:12 7 MR. LENGYEL-LEAHU: That's acceptable, Your Honor.

12:12 8 THE COURT: Now, you'll have to help Debbie
9 remember that. In other words, we're going to have a number
10 of received items, and she's not going to be responsible for
11 distinguishing those.

12:12 12 MS. HEINZ: Exactly, Your Honor. Yes.

12:12 13 THE COURT: Okay. Anything else?

12:12 14 MS. HEINZ: Nothing further from the government.

12:12 15 MS. CORRIGAN: No, Your Honor.

12:12 16 MR. LENGYEL-LEAHU: No. Thank you.

12:12 17 THE COURT: All right.

12:12 18 Then 1:15, Counsel. Thank you.

12:12 19 MS. CORRIGAN: Thank you, Your Honor.

12:12 20 *(Lunch recess held at 12:12 p.m.)*

12:12 21 *(Further proceedings reported by Deborah Parker*
22 *in Volume II.)*

12:12 23 -oOo-

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25

12:12 1 -oOo-

12:12 2
12:12 3 CERTIFICATE

12:12 4
12:12 5 I hereby certify that pursuant to Section 753,
12:12 6 Title 28, United States Code, the foregoing is a true and
12:12 7 correct transcript of the stenographically reported
12:12 8 proceedings held in the above-entitled matter and that the
12:12 9 transcript page format is in conformance with the
12:12 10 regulations of the Judicial Conference of the United States.

12:12 11
12:12 12 Date: March 28, 2017

12:12 13
12:12 14 /s/ Debbie Gale

12:12 15
12:12 16 DEBBIE GALE, U.S. COURT REPORTER
12:12 17 CSR NO. 9472, RPR, CCRR

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DEBBIE GALE, U.S. COURT REPORTER