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

- - - - -

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

CERTIFIED
No. 8:15-CR-0060-DOC
Day 10 Verdict

REPORTER'S TRANSCRIPT OF PROCEEDINGS
Jury Trial
Santa Ana, California
Tuesday, June 21, 2016

Debbie Gale, CSR 9472, RPR, CCRR
Federal Official Court Reporter
United States District Court
411 West 4th Street, Room 1-053
Santa Ana, California 92701
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12 Joshua Hopps (assisting Mr. Lengyel-Leahu)

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I N D E X

Jury Trial - Day 10

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1 **SANTA ANA, CALIFORNIA, TUESDAY, JUNE 21, 2016**

2 **Day 10 Verdict**

3 (11:14 a.m.)

11:13 4 *(Outside the presence of the jury.)*

11:14 5 THE COURT: All right. Then we're on the record
6 in the matter of Mr. Elhuzayel and Mr. Badawi.

11:14 7 The government's present. Defense counsel are
8 present. The defendants are present.

11:14 9 Counsel, the jury -- we received Juror Note No. 1.
10 It states, "*The jury has reached a unanimous verdict,*"
11 signed by the foreperson.

11:14 12 Is there any legal reason or cause why the Court
13 should not summon the jury at this time?

11:14 14 MS. HEINZ: No, Your Honor.

11:14 15 MS. CORRIGAN: No, your Honor.

11:14 16 MR. LENGYEL-LEAHU: No, Your Honor.

11:14 17 THE COURT: The second issue, before we summon the
18 jury, is the forfeiture question.

11:14 19 Would Counsel tell the Court how -- Debbie
20 informally told me that there was some kind of an agreement
21 that the Court make that determination and that the jury was
22 not to determine that issue, if there was a guilty verdict.

11:15 23 Is that correct, Counsel?

11:15 24 MS. HEINZ: Yes, Your Honor.

11:15 25 THE COURT: And is there additional evidence that

DEBBIE GALE, U.S. COURT REPORTER

1 you'd be seeking to present on behalf of the government, or
2 would this be a matter submitted to the Court based upon the
3 evidence that I've heard?

11:15 4 MS. HEINZ: Yes, Your Honor, that's the case: It
5 would be based on the evidence you've heard.

11:15 6 THE COURT: All right. Let me turn to
7 Mr. Lengyel-Leahu.

11:15 8 Is this matter to be submitted to the Court or is
9 it to be returned to the same jury for consideration?

11:15 10 MR. LENGYEL-LEAHU: Submitted to the Court,
11 Your Honor.

11:15 12 THE COURT: And is there additional evidence that
13 you'd like to present or will you be resting on the evidence
14 that's before the Court?

11:15 15 MR. LENGYEL-LEAHU: Resting on the evidence,
16 Your Honor.

11:15 17 THE COURT: Let me turn to Ms. Corrigan.

11:15 18 Ms. Corrigan, the same question; and that is, are
19 you submitting this to the Court?

11:15 20 MS. CORRIGAN: Your Honor, this doesn't apply to
21 my client.

11:15 22 THE COURT: That's correct. My apologies. It
23 does not apply at all.

11:15 24 Then we'll summon the jury at this time. But
25 before we do so, I wanted to ask counsel the following: We

1 started with six alternates; we have four alternates left.
2 I would propose -- they're in the cafeteria -- that we take
3 one more moment, and with your acquiescence and agreement, I
4 think it would just be courteous if they were here when the
5 jury (*sic*) was read.

11:16 6 MS. HEINZ: Yes, Your Honor.

11:16 7 THE COURT: Would that be acceptable?

11:16 8 MS. CORRIGAN: Yes, Your Honor.

11:16 9 MS. HEINZ: Yes, Your Honor.

11:16 10 THE COURT: I didn't want to be presumptuous and
11 bring them up. But they sat through these proceedings. And
12 I'm wondering if they could be seated in the same chairs
13 that they previously occupied. Obviously, we'd know who
14 Juror No. 1 through 12 is.

11:16 15 Would that be acceptable, Mr. Lengyel-Leahu?

11:16 16 MR. LENGYEL-LEAHU: Yes, sir.

11:16 17 THE COURT: Ms. Corrigan?

11:16 18 MS. CORRIGAN: Yes, Your Honor.

11:16 19 THE COURT: The government?

11:16 20 MS. HEINZ: Yes, Your Honor.

11:16 21 THE COURT: The third thing is that, um -- well,
22 let's wait and see what the result is.

11:16 23 (*To the clerk:*) Would you be kind enough to go
24 down to the cafeteria. I'm going to get off the bench for
25 just a few moments, and why don't we bring the alternates

1 up, have them seated first, and then we'll bring the jury in
2 after they're seated.

11:17 3 I'll be right back with you.

11:17 4 *(Pause in the proceedings at 11:17 a.m.)*

11:21 5 *(Proceedings resumed at 11:21 a.m.)*

11:21 6 *(In the presence of the jury and alternates.)*

11:21 7 THE COURT: Once again, all the counsel are
8 present. The defendants are present. The jury's now
9 present.

11:21 10 We received a note that the jury had reached a
11 unanimous verdict.

11:21 12 If this is true, for the twelve sitting jurors,
13 would you signify by saying, "yes." So I will ask you as a
14 collective body: Say you one, say you all, have you reached
15 a unanimous verdict on these matters?

11:22 16 JURORS IN UNISON: Yes.

11:22 17 THE COURT: All right. Now, we've also invited
18 the alternates to come back. That's rather extraordinary;
19 oftentimes, they're excluded.

11:22 20 *(To the alternates:)* But you sat through the
21 trial. The jury's going to render a verdict in a few
22 moments. We don't want any comment. In other words, these
23 are the 12 sitting jurors. But we thought, as a courtesy
24 because of the time you've spent, as members of the public,
25 that it would be appropriate to have you here.

11:22 1 Would the jury foreperson sign -- or hand the
2 signed verdict forms to the Court Security Officer.

11:22 3 JURY FOREPERSON: *(Complies.)*

11:22 4 *(Court Security Officer provides verdict to the*
5 *Court.)*

11:22 6 THE COURT: Thank you very much.

11:22 7 Case No. SA 15-0060, entitled United States of
8 America, Plaintiff, v. Nader Elhuzayel and Muhanad Badawi.

11:22 9 **JURY VERDICT RE DEFENDANT ELHUZAYEL**

11:22 10 THE COURT: *(Reading:)*

11:22 11 *"Verdict form for Nader Salem Elhuzayel.*

11:23 12 *"Count One, Conspiracy to Provide*
13 *Material Support and Resources to a*
14 *Designated Foreign Terrorist*
15 *Organization, pursuant to 18 U.S.C.,*
16 *Section 2339B.*

11:23 17 *"With respect to the offense charged in*
18 *Count One of the Indictment, we, the*
19 *jury in the above-entitled action,*
20 *hereby unanimously find Defendant Nader*
21 *Elhuzayel: Guilty."*

11:23 22 *"Count Two, Attempting to Provide*
23 *Material Support and Resources to a*
24 *Designated Foreign Terrorist*
25 *Organization, pursuant to 18 U.S.C.,*

1 Section 2339B.

11:23

2 "*With respect to the offense charged in*
3 *Count Two of the Indictment, we, the*
4 *jury in the above-entitled action,*
5 *hereby unanimously find Defendant Nader*
6 *Elhuzayel: Guilty.*"

11:23

7 "*Counts Four through Twenty-nine, Bank*
8 *Fraud, pursuant to 18 U.S.C.,*
9 *Section 1344(2).*

11:24

10 "*With respect to the offenses charged in*
11 *Counts Four through Twenty-nine of the*
12 *Indictment, we, the jury in the*
13 *above-entitled action, hereby*
14 *unanimously find Defendant Nader*
15 *Elhuzayel:*

11:24

16 "*As to Count Four: Guilty.*

11:24

17 "*As to Count Five: Guilty.*

11:24

18 "*As to Count Six: Guilty.*

11:24

19 "*As to Count Seven: Guilty.*

11:24

20 "*As to Count Eight: Guilty.*

11:24

21 "*As to Count Nine: Guilty.*

11:24

22 "*As to Count Ten: Guilty.*

11:24

23 "*As to Count Eleven. Guilty.*

11:24

24 "*As to Count Twelve: Guilty.*

11:24

25 "*As to Count Thirteen: Guilty.*

11:24 1 "As to Count Fourteen. Guilty.
11:24 2 "As to Count Fifteen: Guilty.
11:24 3 "As to Count Sixteen: Guilty.
11:24 4 "As to Count Seventeen: Guilty.
11:24 5 "As to Count Eighteen. Guilty.
11:24 6 "As to Count Nineteen: Guilty.
11:24 7 "As to Count Twenty: Guilty.
11:25 8 "As to Count Twenty-one: Guilty.
11:25 9 "As to Count Twenty-two: Guilty.
11:25 10 "As to Count Twenty-three: Guilty.
11:25 11 "As to Count Twenty-four: Guilty.
11:25 12 "As to Count Twenty-five: Guilty.
11:25 13 "As to Count Twenty-six: Guilty.
11:25 14 "As to Count Twenty-seven: Guilty.
11:25 15 "As to Count Twenty-eight: Guilty.
11:25 16 "As to Count Twenty-nine: Guilty."
11:25 17 Signed by the foreperson on today's date:
18 June 21st, 2016.

JURY VERDICTS RE DEFENDANT BADAWI

11:25 19 THE COURT: Pertaining to the verdict forms for
11:25 20 Defendant Muhanad Badawi. (Reading:)
11:25 21 "Count One, Conspiracy to Provide
22 Material Support and Resources to a
23 Designated Foreign Terrorist
24 Organization, 18 U.S.C., Section 2339B.
25

11:25 1 *"With respect to the offense charged in*
2 *Count One of the Indictment, we, the*
3 *jury in the above-entitled action,*
4 *hereby unanimously find Defendant*
5 *Muhanad Badawi: Guilty.*

11:26 6 *"Count Three: Aiding and Abetting an*
7 *Attempt to Provide Material Support and*
8 *Resources to a Designated Foreign*
9 *Terrorist Organization, pursuant to*
10 *18 U.S.C., Sections 2339B, 2.*

11:26 11 *"With respect to the offense charged in*
12 *Count Three of the Indictment, we, the*
13 *jury in the above-entitled action,*
14 *hereby unanimously find Defendant*
15 *Muhanad Badawi: Guilty."*

11:26 16 As to Count Thirty, Financial Aid fraud -- strike
17 that -- Financial Aid Fraud, 20 U.S.C., Section 1097(a).

11:26 18 *"With respect to the offense charged in*
19 *Count Thirty of the Indictment, we, the*
20 *jury in the above-entitled action,*
21 *hereby unanimously find Defendant*
22 *Muhanad Badawi: Guilty."*

11:26 23 Signed by the foreperson on today's date:
24 "June 21st, 2016."

11:27 25 Let me first turn to Lengyel-Leahu on behalf of

1 your client, Mr. Elhuzayel.

11:27 2 Would you like the jury individually polled as to
3 any one or more counts?

11:27 4 MR. LENGYEL-LEAHU: No. Thank you, Your Honor.

11:27 5 THE COURT: Are you waiving that polling?

11:27 6 MR. LENGYEL-LEAHU: We'll waive the poll.

11:27 7 THE COURT: Let me turn to Ms. Corrigan, on behalf
8 of Mr. Badawi.

11:27 9 Would you like the jury polled as to any one or
10 more counts?

11:27 11 MS. CORRIGAN: No. Thank you, Your Honor.

11:27 12 THE COURT: You're waiving the polling?

11:27 13 MS. CORRIGAN: I am.

11:27 14 THE COURT: Is there any reason, then, at the
15 present time and with the record before us that the Court
16 should not order the recording of the verdicts through the
17 clerk?

11:27 18 Mr. Elhuzayel --

11:27 19 MR. LENGYEL-LEAHU: No, sir.

11:27 20 THE COURT: -- I'm sorry. Mr. Lengyel-Leahu? My
21 apologies.

11:27 22 MR. LENGYEL-LEAHU: No, sir.

11:27 23 THE COURT: Ms. Corrigan?

11:27 24 MS. CORRIGAN: No, Your Honor.

11:27 25 THE COURT: The government?

11:27 1 MS. HEINZ: No, Your Honor.

11:27 2 THE COURT: I'll order the clerk to record the
3 verdicts.

11:27 4 Is there anything further, any business before
5 this Court for this jury, or may I discharge them at this
6 time?

11:27 7 On behalf of the government?

11:27 8 MS. HEINZ: No further business, Your Honor.

11:27 9 THE COURT: Mr. Lengyel-Leahu, on behalf of
10 Mr. Elhuzayel?

11:27 11 MR. LENGYEL-LEAHU: Nothing further, Your Honor.

11:27 12 THE COURT: Ms. Corrigan, on behalf of Mr. Badawi?

11:27 13 MS. CORRIGAN: No, Your Honor. Thank you.

11:27 14 **JURY DISCHARGED**

11:27 15 THE COURT: *(To the jury:)* I want to thank you.
11:28 16 I'm amazed where we find the American public. And
17 on behalf of all counsel, your service is extraordinary and
18 very much appreciated.

11:28 19 I think we started with 244 jurors. We got down
20 to about 120. And you're the pool that was selected. I
21 think you've seen and heard things that are of a, let's say,
22 troubling nature. And I'd ask you from this point forward
23 to do your best to go about and live your normal everyday
24 lives. But you've been exposed to things that the American
25 public usually isn't exposed to.

11:28 1 You're free to talk to anybody about the case.
2 All those restrictions in terms of sequestering and talking
3 to your loved ones -- you can tell them "where" and "what"
4 you were doing. You can speak to anybody or no one.

11:28 5 I would love to visit with you for a few moments
6 in chambers, if you wouldn't mind. I'd like to show you a
7 little bit about this tremendous courthouse that you, the
8 taxpayers, built. And if you'd spend a few moments with me,
9 it'd be very much appreciated, before you leave.

11:29 10 I'm going to ask the alternates to join the
11 sitting jury, if you'd like to. You're free to go, by the
12 way. But if you'd like to, we'll assemble in chambers in
13 just a few moments.

11:29 14 This jury is discharged.

11:29 15 Counsel, thank you.

11:29 16 *(To the clerk:)* Debbie, you can take them into
17 chambers, if they'd like.

11:29 18 Counsel, if you would remain for just a moment.

11:29 19 *(Outside the presence of the jury.)*

11:29 20 **SENTENCING DATES SCHEDULED**

11:29 21 THE COURT: Counsel, I propose to set dates based
22 upon your schedule, and those dates do not need to be the
23 same for each defendant. They can be separate dates. They
24 can be coordinated dates, if you'd like.

11:29 25 But if the government would please stand for just

1 a moment and move towards the defense, and if the defense
2 would move toward the government -- dependent upon your
3 calendars.

11:30 4 MS. CORRIGAN: May I approach your clerk one
5 moment?

11:30 6 THE COURT: *(Nods.)*

11:30 7 And, Counsel, what are your suggested dates? And
8 then I'll check the Court calendar.

11:30 9 MS. CORRIGAN: Your Honor, for Mr. Badawi, the
10 government and I would propose September 19th, which is a
11 Monday. And I believe it may be a clear date with the
12 Court. And I'm open all day.

11:31 13 THE COURT: Would you like 7:30 in the morning or
14 1:30 in the afternoon? Or it can be at 3:00 o'clock. I
15 just don't know what the afternoon calendar looks like and I
16 don't want you sitting through other matters.

11:31 17 MS. CORRIGAN: Understood. Maybe I can --

11:31 18 THE COURT: 7:30?

11:31 19 MS. CORRIGAN: Sure. That'd be fine -- or 1:30 so
20 the family could be here.

11:31 21 THE COURT: Let's do that in the afternoon so the
22 family can be here. I think that would be a nice courtesy.

11:31 23 Why don't we set it for 2:00 o'clock. I may work
24 through lunch. That way -- with the rest of the criminal
25 calendar -- so I'm not inconveniencing you.

11:31 1 All right. Is this an agreeable day; and that is,
2 September 19th at 2:00 o'clock in the morning (*sic*)?

11:31 3 Mr. Lengyel-Leahu?

11:31 4 MR. LENGYEL-LEAHU: Actually, we were gonna do
5 ours on September 26th, if --

11:31 6 THE COURT: Okay.

11:31 7 MR. LENGYEL-LEAHU: -- that was available to the
8 Court.

11:31 9 THE COURT: I'd like you either together or to
10 reverse that order. But I'm wondering -- I think my
11 preference is to resolve Mr. Elhuzayel's matter before
12 Mr. Badawi's matter, or --

11:32 13 MR. LENGYEL-LEAHU: Then can we have --

11:32 14 THE COURT: -- or jointly together.

11:32 15 MS. CORRIGAN: Your Honor, I can switch to the
16 26th. I mean, that's fine with me. If that's open for the
17 government.

11:32 18 THE COURT: Is the 19th open for you?

11:32 19 MR. LENGYEL-LEAHU: The 19th and 26th are open to
20 me.

11:32 21 THE COURT: Okay. Now, do you want this held
22 jointly on the 19th, jointly on the 26th -- with that
23 request by the Court -- or do you want Mr. Elhuzayel to be
24 sentenced on the 19th and Mr. Badawi to follow on the 26th?

11:32 25 MS. CORRIGAN: I would prefer the latter.

11:32 1 MR. LENGYEL-LEAHU: That's fine with us,
2 Your Honor.

11:32 3 THE COURT: All right.
11:32 4 Counsel for the government?

11:32 5 MS. HEINZ: That would be fine with the
6 government.

11:32 7 THE COURT: Then we'll set Mr. Elhuzayel's matter
8 for sentencing on September 19th at 2:00 o'clock in the
9 afternoon.

11:32 10 And have you checked with the family? I think
11 family members are here. And just make sure that that's
12 convenient for them.

11:32 13 Counsel, you want to just talk to the family for a
14 moment.

11:33 15 MR. LENGYEL-LEAHU: Yes.

11:33 16 MS. CORRIGAN: I'm clear on that day, Your Honor.

11:33 17 THE COURT: Have you been able to talk with the
18 family?

11:33 19 MS. CORRIGAN: I've been communicating with the
20 brother.

11:33 21 THE COURT: Just a nice courtesy.
11:33 22 Mr. Lengyel-Leahu, is that acceptable?

11:33 23 MR. LENGYEL-LEAHU: Yes, Your Honor. They're
24 available.

11:33 25 THE COURT: All right. 2:00 o'clock on

1 September 19th, sentencing for Mr. Elhuzayel.

11:33 2 For Mr. Badawi, it will be at 2:00 o'clock on
3 September 26th.

11:33 4 **DISCUSSION RE FORFEITURE**

11:33 5 THE COURT: Now, that leaves the forfeiture
6 matter. And I would appreciate briefing on that -- points
7 and authorities, et cetera -- why you believe that the Court
8 should "sustain," from the government's position, as well as
9 the appropriate burden of proof, and a response by the
10 defense with any findings of fact, conclusions of law,
11 et cetera, and why they believe, in oral argument, that --
12 or in written argument that the Court should not reach the
13 jury -- or the verdict that the government's requesting.

11:33 14 I want to give you an appropriate period of time,
15 so guide me in terms of the government's ability to respond.

11:34 16 Tomorrow at 12:00? I'm just kidding you, Counsel.

11:34 17 *(Laughter in the courtroom.)*

11:34 18 THE COURT: Give me an appropriate time.

11:34 19 MS. HEINZ: Your Honor, the government would like
20 to file its brief at the end of July, if that would be
21 acceptable.

11:34 22 THE COURT: Let me check with the defense.

11:34 23 Mr. Lengyel-Leahu, what's your schedule look like?
24 Because I want to have, obviously, an adequate opportunity
25 for you to respond, if you care to.

11:34 1 MR. LENGYEL-LEAHU: We could respond perhaps by
2 the 22nd of August.

11:34 3 THE COURT: Would that be acceptable to the
4 government?

11:34 5 MS. HEINZ: Yes, Your Honor.

11:34 6 THE COURT: And then is there going to be a reply
7 to the defense, or -- I would think that this is not a
8 situation for a reply. I would think that this is a
9 situation for briefing on the findings of fact, conclusions
10 of law, the appropriate burden, et cetera -- that there's no
11 need for a reply.

11:35 12 MS. HEINZ: No reply, Your Honor.

11:35 13 THE COURT: Okay.

11:35 14 Mr. Lengyel-Leahu?

11:35 15 MR. LENGYEL-LEAHU: That makes sense, Your Honor.

11:35 16 THE COURT: Then can we also set that forfeiture
17 for the same date as the substantive sentencing on the
18 criminal matter? That saves an extra appearance on all
19 counsel's part. Although, I'm available earlier, if you'd
20 like.

11:35 21 Government?

11:35 22 MS. HEINZ: Yes, Your Honor, that would be fine
23 with the government.

11:35 24 THE COURT: Mr. Lengyel-Leahu?

11:35 25 MR. LENGYEL-LEAHU: That seems prudent,

1 Your Honor.

11:35 2 THE COURT: All right.

11:35 3 Now, Mr. Badawi, let me talk to you one last
4 time -- 'cause I'm not going to visit with you -- for a
5 moment.

11:35 6 There have been occasions where you've taken
7 action voluntarily that was harmful to you; in other words,
8 not eating. You've heard the jury verdict. By the same
9 token, I'm still imploring you please eat. Okay? Keep
10 yourself healthy. And I don't wanna see any different kind
11 of conduct, because you've regained your health.

11:35 12 But in the interim period of time, I'm concerned.
13 I'm concerned about your health. I'm concerned about your
14 well-being. And I'm concerned that something will come into
15 your reasoning process that causes this starvation effort
16 again. Then I've got to take action, and I don't want to.
17 I do not want to force-feed you. That's only occurred one
18 time. But let me remind you: I'm gonna have to. And I'd
19 have to move you to MDC.

11:36 20 I'm trying to keep you in Santa Ana in this period
21 of time so your family can visit, so they can be of support
22 to you.

11:36 23 Do you understand that?

11:36 24 DEFENDANT BADAWI: Yeah.

11:36 25 THE COURT: All right.

11:36 1 Then, Counsel, is there anything further?
11:36 2 MS. HEINZ: Nothing further from the government.
11:36 3 MS. CORRIGAN: No, Your Honor. Thank you.
11:36 4 MR. LENGYEL-LEAHU: No. Thank you.
11:36 5 THE COURT: All right. Thank you very much,
6 Counsel.
11:36 7 We're in recess.
11:36 8 *(Trial concluded at 11:36 p.m.)*
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CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Date: March 9, 2017

/s/ Debbie Gale

DEBBIE GALE, U.S. COURT REPORTER
CSR NO. 9472, RPR, CCRR

DEBBIE GALE, U.S. COURT REPORTER