



1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

3 UNITED STATES OF AMERICA,) Docket No. 03 CR 978
4)
5 Plaintiff,)
6)
7 vs.)
8)
9 ABDELHALEEM HASAN ABDELRAZIQ ASHQAR,) Chicago, Illinois
10) November 8, 2007
11)
12 Defendant.) 2:05 o'clock p.m.

13
14
15 TRANSCRIPT OF PROCEEDINGS - SENTENCING
16 BEFORE THE HONORABLE AMY J. ST. EVE

17 APPEARANCES:

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25 For Deft. Ashqar: MR. WILLIAM MOFFITT
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Also Present: S/A JILL PETTORELLI, FBI
MS. KELLY RICE, Probation
Court Reporter: MR. JOSEPH RICKHOFF
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24 PROCEEDINGS RECORDED BY
25 MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED BY COMPUTER



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THE CLERK: 03 CR 978, U.S. vs. Abdelhaleem Ashqar.

THE COURT: Mr. Moffitt, are you ready?

MR. MOFFITT: Yes, ma'am.

You may continue.

MR. MOFFITT: Okay.

DAVID BRAY, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

CROSS-EXAMINATION - Resumed

BY MR. MOFFITT:

Q. I don't want to talk about, I believe, Jamal Said anymore, okay?

A. Yes, sir.

Q. All right.

And I'm going to try to short-circuit this a little bit, but I want to talk to you about "Anan El-Karmi."

Do you see that?

THE COURT: Is that No. 21?

MR. MOFFITT: 21.

BY THE WITNESS:

A. Yes, sir.

BY MR. MOFFITT:

Q. All right.

And his resident city was listed as Chicago, correct?

A. That is correct.

Q. And there was a phone number for him?

A. Yes, sir.



1 Q. Did you talk to him?

2 A. I did not talk to him.

3 Q. Did anybody talk to him?

4 A. I don't recall. Again, he's similar to one of the other
5 individuals on the list. The name is very familiar to me from
6 early on in an investigation. I would have to go back and
7 look to see whether or not we attempted to locate him, whether

8 any attempts were made to contact him. I personally do not
9 ever recall trying to talk to him or talking to him.

10 Q. And he most assuredly was not subpoenaed before the grand
11 jury, correct?

12 A. Not to my knowledge.

13 Q. All right.

14 And, of course, we know who Muhammad Salah is, right?

15 A. Yes, sir.

16 Q. And his phone number is not even on here, correct?

17 A. Correct. And neither is there a city for him, as well.

18 Q. There's not a city for him, either?

19 A. Correct.

20 Q. All right.

21 I'd like to go -- I'll go through a couple of them
22 here. I want to talk to you about collectively No. 23, which
23 is "Ayman Saraj El-Dien"; No. 24, "Ahmed Agha"; I'm going to
24 pass 25 because I would like to talk to you separately about
25 him; and, I'd like to talk about 26, 27, 28, 29, 30, 31; I



1 want to pass 32, and I want to pass 33; and, I want to go to
2 34, and I want to pass 35. Okay?

3 Do you have in your head who we're talking about?

4 A. (No response.)

5 Q. After "Muhammad Salah," "Ayman Saraj El-Dien," right?

6 A. Yes, sir.

7 Q. Any -- did you do anything with Ayman --

8 A. Not that -- not that I recall, sir, no.

9 Q. Any impediment that you're aware of?

10 A. None that I'm aware of, sir.

11 Q. All right.

12 Again, No. 24, did you -- Ahmed Agha?

13 A. Again, no, not that I'm aware of.

14 Q. Any impediment you're aware of?

15 A. None that I'm aware of.

16 Q. Okay.

17 I want to skip to No. 26, okay?

18 A. Yes, sir.

19 Q. "Akram El-Kharobe." Did you talk to him?

20 A. No, sir.

21 Q. Any impediment that you're aware of?

22 A. No.

23 Q. All right.

24 27, Walid Abu Shakaray (phonetic) or Shakar

25 (phonetic)?



- 1 A. "Sharakh."
2 Yeah, no.
- 3 Q. Did you talk to him?
4 A. Not that I recall, no.
- 5 Q. Any impediment?
6 A. Not that I'm aware of.
- 7 Q. Walid Renno?
-
- 8 A. No, sir.
- 9 Q. Any impediment that you're aware of?
10 A. Not that I'm aware of, sir, no.
- 11 Q. 29 is in Canada. I'll pass him, okay?
12 A. Yes, sir.
- 13 Q. 30, "Hazem El-Eshe." Do you see that? L.A.?
14 A. Yes, sir.
- 15 Q. Talk to him?
16 A. No, sir.
- 17 Q. Any impediment that you're aware of?
18 A. I'm not sure if that's one of the El-Eshes that may have
19 been involved in either -- what I mentioned before, the
20 InfoCom.
- 21 Q. All right.
22 Well, there's two El-Eshes. One's spelled with an
23 "E," one spelled with an "A," 30 and 31?
24 A. Correct.
- 25 Q. How do the people at InfoCom spell theirs?



1 A. Well, as you can see from No. 8, they're spelled
2 differently.

3 Q. All right.

4 Now, you --

5 A. I know that there is a group that is related that their
6 last name is El-Elashi (phonetic). Like I said, I don't know
7 if these are just the same individuals. Sometimes --

8 Q. Well, do you --

9 A. -- their names are spelled -- like Muhammad, it's spelled
10 different. I don't know if -- if that's what this case is
11 here. They're both L.A.

12 Q. Well, here, 30 is E-l-e; 31 is E-l-a?

13 A. Correct.

14 Q. All right.

15 And as you said, up at the top it's spelled
16 E-l-dash-A and with an apostrophe S-h-e, right?

17 A. Correct.

18 Q. So, there are three different spellings here?

19 A. Correct.

20 Q. And your assumption was that this was Dr. -- a list that
21 Dr. Ashqar had possessed, correct? This was taken from his
22 home?

23 A. Yes.

24 Q. All right.

25 So, he would know the Arabic, right? He --



1 A. Again, I don't know who --

2 Q. Well, did you --

3 A. -- created --

4 Q. -- ever talk to any of these -- those two people?

5 A. No. 30 and 31?

6 Q. Yes.

7 A. No, not that I'm -- not that I recall.

8 Q. All right.

9 And you're not aware of any impediment as you sit
10 there?

11 A. Again, as I tried to describe earlier, I'm not sure if
12 they are -- I don't know.

13 Q. Okay. All right.

14 34, "Nabeel El-Sadoon." Talk to him?

15 A. I don't think so.

16 Q. Aware of any impediment?

17 A. No.

18 Q. Okay.

19 Let's go back to No. 25 --

20 MR. FERGUSON: Could I have a sidebar? I'm sorry, we
21 need to re-raise the issue that was discussed at the prior
22 sidebar.

23 MR. MOFFITT: If it is, if you want to put it on the
24 record right now --

25 MR. FERGUSON: Yeah.



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MR. MOFFITT: -- that's fine.

THE COURT: Okay.

(Proceedings had at sidebar, consisting of Pages 135 through 137, were ordered sealed by the Court.)



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(Proceedings had in open court:)

MR. MOFFITT: We're talking about -- can I go?

THE COURT: You may.

MR. MOFFITT: We're talking about 25, 32 and 33?

THE COURT: Correct.

MR. MOFFITT: Okay. Just so I know.

THE COURT: Correct.

BY MR. MOFFITT:

Q. No. 35 is "Muhammad El-Hanouti"?

A. Yes, sir.

Q. All right.

Do you know who he is?

A. I hate to keep repeating this. His name is familiar to me.

Q. Does it refresh your recollection that he --

A. Again, his name is familiar to me. More so than some of the other ones that we've gone over. But as I sit here right now, I would have to go back and look to see where I'm getting that from.

Q. Let me see if this helps you.

Did you know that he is the Grand Mufti of Washington, D.C., a religious figure?

A. He may be.

Q. Okay.

Your answer to me is that he may be; you don't know?



1 A. I -- no, I could not tell you for a fact that I know that.
2 Yes.

3 Q. Did you ever talk to him?

4 A. No.

5 Q. And I'm particularly interested in the years 2002 to 2004,
6 when your grand jury was going -- was ongoing.

7 Now, you said some things earlier about monitoring
8 Muhammad Salah's expenditures of money, correct?

9 A. Yes, sir.

10 Q. When -- what year was it that Muhammad Salah was declared
11 or was designated?

12 A. 1995.

13 Q. All right.

14 So, Muhammad Salah was designated two years after
15 this list was taken from Dr. Ashqar's residence?

16 A. Approximately two years. It was probably a little less
17 than that.

18 Q. And the phone records that you had regarding Dr. Ashqar's
19 contacts with Muhammad Salah, you had no phone records that
20 indicated that Dr. Ashqar had any contact with Muhammad Salah
21 after Muhammad Salah had been designated, right?

22 A. That is correct.

23 Q. All right.

24 And yet you thought that Mr. -- or Dr. -- Ashqar
25 could give you information about how Muhammad Salah was



1 spending his money after he had been designated, correct?

2 A. (No response.)

3 Q. Remember testifying on --

4 A. Yes, sir.

5 Q. -- direct today --

6 A. Yeah. If you could repeat your question for me again,

7 please?

8 Q. Sure.

9 Do you remember testifying on direct that you were
10 interested in how Muhammad Salah was spending his money after
11 he had been designated?

12 A. Yes, sir.

13 Q. And you remember saying that you thought that Dr. Ashqar
14 would have information concerning how Muhammad Salah was
15 spending his money after he had been designated?

16 MR. FERGUSON: Judge, I think that mischaracterizes
17 the testimony.

18 THE COURT: I cannot hear you, Mr. Ferguson.

19 MR. FERGUSON: That mischaracterizes the testimony.

20 MR. MOFFITT: All right. Well, let me do it this
21 way.

22 BY MR. MOFFITT:

23 Q. You were interested in that. You talked about that this
24 morning, right?

25 A. Interested in financial transactions with Muhammad Salah



1 after his designation?

2 Q. Yes.

3 A. Yes, sir.

4 Q. You have no information that indicated that Dr. Ashqar was
5 in communication with Muhammad Salah after he was designated,
6 right?

7 A. None that I recall, no. That's correct.

8 Q. Okay.

9 Now, the grand jury that was investigating, you
10 called members of Muhammad Salah's family to determine how he
11 was spending his money, correct?

12 A. I don't know that -- to determine how he was spending his
13 money. Whether or not he was given money by people.

14 Q. Right.

15 So, you were talking directly -- you had information
16 from members of his family about the information about
17 Muhammad Salah and his sources of income?

18 A. Yes. Certain members of his families were -- did appear
19 before the grand jury and asked questions concerning whether
20 or not they give him money.

21 Q. How many certain members of his family?

22 A. I remember at least two, possibly three.

23 Q. Okay.

24 So, you could call people other than Dr. Ashqar to
25 find that information out, right?



1 A. Correct, certainly.

2 Q. Okay. Thank you.

3 Now, you talked about USAR. Remember that?

4 A. Yes, sir.

5 Q. And what was USAR?

6 A. UASR?

7 Q. UASR. I'm sorry.

8 A. That's all right, no.

9 United Association for Studies and Research.

10 Q. And you said that both Dr. Ashqar and Muhammad Salah had
11 worked there?

12 A. Correct.

13 Q. All right.

14 And how did you know that?

15 A. I believe Dr. Ashqar said in the grand jury that he worked
16 there.

17 Q. All right.

18 He said -- what year did Dr. Ashqar work there?

19 A. I don't specifically recall the year. I think it was
20 obviously after he had moved from Mississippi to Virginia.

21 Q. Well, what year --

22 A. That would have --

23 Q. Well, he was --

24 A. Sometime during the latter part of the 1990s.

25 Q. All right.



1 When he was called before the grand jury, he was no
2 longer working at UASR, right?

3 A. That is correct.

4 Q. He was working where when he was called before the grand
5 jury?

6 A. I believe he was working at Howard University, Washington,
7 D.C.

8 Q. He was a professor?

9 A. Yes, sir.

10 Q. Okay.

11 How long did he work at UASR?

12 A. Off the top of my head, I don't recall.

13 Q. Do you know whether he was working there at the same time
14 allegedly Mr. Salah was working there?

15 A. I would not think he would have been, no.

16 Q. Okay.

17 And who was it that was the principal of UASR
18 initially?

19 A. Both Mousa Abu Marzook and Yousif Saleh.

20 Q. Okay.

21 And where was Yousif Saleh in 2002?

22 A. In Virginia.

23 Q. I see.

24 Did you call Yousif Saleh before your grand jury?

25 A. No.



1 Q. Okay.

2 And, of course, Mr. Marzook was -- had left the
3 country by then?

4 A. Yes, sir.

5 Q. He -- did you talk to Yousif Saleh?

6 A. No, sir.

7 Q. Okay.

8 And how long had Yusif Saleh been involved with UASR?

9 A. Since its inception.

10 Q. And when was that?

11 A. Around 1990.

12 Q. And, so, by 2002, when you began your investigation,
13 Yousif Saleh had had 12 years of a relationship with this
14 entity, correct?

15 A. Yes.

16 Q. And how long a duration was allegedly Dr. Ashqar's
17 relationship with this entity?

18 A. Again, I don't know the period of time that he worked for
19 UASR.

20 Q. It certainly wasn't 12 years, right?

21 A. No, sir, I don't believe so.

22 Q. All right.

23 And he certainly was not the originator of UASR,
24 right?

25 A. Correct.



1 Q. And you were aware of who that person was?

2 A. Yes, sir.

3 Q. You were aware of the nature of the relationship between
4 that person and UASR, correct?

5 A. Yes.

6 Q. And if you wanted information about UASR, he's a likely
7 candidate to give you information, correct? The person who

8 originated it and had been there for 12 years?

9 A. Yes.

10 Q. But you didn't call him?

11 A. That is correct.

12 Q. All right.

13 MR. MOFFITT: Bear with me a second.

14 THE WITNESS: Yes, sir.

15 THE COURT: Certainly.

16 (Brief pause.)

17 BY MR. MOFFITT:

18 Q. You talked about Mr. Al-Khatib; is that right?

19 A. Yes, sir.

20 Q. What was his full name?

21 A. Nasser. I believe Nasser Al-Khatib.

22 Q. All right.

23 And where was Nasser Al-Khatib in 2002?

24 A. I don't specifically recall.

25 Q. Was he in the United States?



- 1 A. I'm not sure.
- 2 Q. Did you call Nasser Al-Khatib?
- 3 A. No.
- 4 Q. Now, he -- am I right, your belief was he was Mousa Abu
- 5 Marzook's secretary at one point?
- 6 A. Well, he -- he -- yes. Assistant, secretary.
- 7 Q. But that would mean that there was a -- it was his
- 8 assistant. What do you mean by his assistant?
- 9 A. Well, it seemed like he helped him in his affairs --
- 10 financial affairs. He shows up on bank records.
- 11 Q. Shows up on bank records?
- 12 A. Bank accounts.
- 13 Q. Checks?
- 14 A. Yes.
- 15 Q. Accounts, correct?
- 16 A. Yes, sir.
- 17 Q. Did you make any effort to call him in front of the grand
- 18 jury?
- 19 A. I do not believe we did, no.
- 20 Q. Now, he would have been pretty close to Mr. Marzook,
- 21 right?
- 22 A. Absolutely.
- 23 Q. And inasmuch as he was writing checks and doing things
- 24 like that, he would have been a great source of information
- 25 for you, right?



1 A. Yes.

2 Q. Okay.

3 Do you know where he is today?

4 A. No.

5 Q. You're the case agent in this case and this grand jury
6 investigation?

7 A. I was the case agent.

8 Q. Oh, okay, you were.

9 Now, we talked about Mr. El-Barasse, right?

10 A. Yes, sir.

11 Q. All right.

12 Were you aware of Mr. El-Barasse in 2002?

13 A. Yes, sir.

14 Q. In fact, his home had been searched, correct?

15 A. His home was searched not in 2002, but in 2004.

16 Q. In 2004.

17 Was it searched before or after your investigation
18 had ended?

19 A. I'm sorry?

20 Q. Was it searched before or after your investigation had
21 ended?

22 A. During the time of our investigation.

23 Q. So, your investigation was going on at the same time there
24 was a search of Mr. El-Barasse's home?

25 A. Correct.



1 Q. And I'm sure -- and under whose auspices was Mr.
2 El-Barasse's home searched? I mean, was it a particular
3 agency and a particular place?

4 A. It was a court-authorized search warrant. The FBI
5 conducted the search.

6 Q. The same FBI that you're a member of?

7 A. The one and the same.

8 Q. Okay.

9 And were you aware at the time of the search during
10 the course of your investigation that the search was going to
11 go on?

12 A. Yes, sir.

13 Q. So, you knew before the end of your investigation and
14 before the search went on that El-Barasse's home was going to
15 be searched, right?

16 A. I knew his home was going to be searched, yes.

17 Q. Now, when it was searched, there was information that was
18 a product of that search, right? Stuff was seized?

19 A. Yes, sir.

20 Q. And, of course, you had a chance to look at the stuff that
21 was seized, correct?

22 A. Yes, sir.

23 Q. And because it was seized from his home, it was available
24 to you to confront Mr. El-Barasse with it, correct?

25 A. Yes, sir.



1 Q. Was Mr. El-Barasse called to the grand jury?

2 A. I remember a material witness warrant was served for
3 Mr. El-Barasse. I don't think -- he -- I don't recall he ever
4 appeared before the grand jury.

5 Q. Well, was he served with a material witness warrant?

6 A. Yes, sir.

7 Q. All right.

8 Was he held as a material witness?

9 A. I don't know if he was held.

10 Q. All right.

11 Well, was he placed on bond --

12 A. I don't --

13 Q. -- as a material witness?

14 A. I don't recall.

15 Q. Was he called before your grand jury?

16 A. Not that I recall.

17 Q. Was he confronted with the materials that you had obtained
18 from his home?

19 A. No.

20 Q. You described him as an archivist?

21 A. Yes, sir.

22 Q. Of Hamas, correct?

23 A. Yes, sir.

24 Q. That is the same role that Dr. Ashqar was described as
25 having been in his trial, correct?



1 A. Correct.

2 Q. Now, where was Mr. El-Barasse in 2004?

3 A. Virginia and Maryland.

4 Q. And you knew where he was?

5 A. Not until he was arrested.

6 Q. And when was he arrested?

7 A. I think it was the day after our indictment.

8 Q. Well, let me see if I understand it. His home was
9 searched before your indictment was returned?

10 A. No, it was not searched before our indictment was
11 returned.

12 Q. When was it?

13 A. Several days after our indictment was returned.

14 Q. I see.

15 You knew of Mr. El-Barasse before your indictment was
16 returned, didn't you?

17 A. Yes, sir.

18 Q. What efforts did you make to subpoena him before your
19 grand jury before your indictment was returned?

20 A. Again, I think back at the time, we -- I was under the
21 impression he was not in the United States.

22 Q. Well, where did you get that impression?

23 A. At the top -- I don't recall.

24 Q. All right.

25 Now, you talked about two gentlemen that was



1 subpoenaed that had problems with recollection, correct?

2 A. Yes, sir.

3 Q. All right.

4 Who were they, again, please? And let's talk about
5 them individually, one by one.

6 A. Anwar Hamdan.

7 Q. Uh-huh.

8 A. Who was in Louisiana.

9 Q. All right.

10 Let's talk about Mr. Hamdan. Mr. Hamdan came and
11 actually appeared before your grand jury?

12 A. No.

13 Q. Oh, he wasn't called to appear before your grand jury?

14 A. Not that I recall. I know we went -- another agent went
15 to interview him.

16 Q. I see.

17 Went to interview him?

18 A. And I don't recall if they served him with a grand jury
19 subpoena at the time or not.

20 Q. All right.

21 Do you know whether he appeared before your grand
22 jury?

23 A. No.

24 Q. And when the agent went to visit him, did the agent have
25 an interview with him?



1 A. I believe so, yes.

2 Q. And it was in the course of that interview that you said
3 he had a failure of recollection?

4 A. Yes, among other things.

5 Q. All right.

6 Now, lying to a federal agent is a violation of 18
7 U.S.C. 1001; is it not?

8 A. Yes.

9 Q. And you believed that he was lying when he said he had a
10 failure of recollection, correct?

11 A. I believe so, yes.

12 Q. All right.

13 But you never called him before the grand jury to see
14 if a grand jury subpoena would loosen his tongue, correct?

15 A. I know he left the country.

16 Q. You never called him before a grand jury to see if a grand
17 jury subpoena would loosen his tongue, correct?

18 A. Again, I wasn't the agent handling that aspect. So, I
19 don't know if he was served with a federal grand jury subpoena
20 and called to appear, had an appearance date later and left
21 the country --

22 Q. Oh, you mean --

23 A. -- in lieu of appearing. I just don't recall whether or
24 not the grand jury subpoena was given to him.

25 Q. But you're here as the case agent.



1 A. I'm not -- I was the case agent during a time.

2 Q. And you actually knew today -- because you went over this
3 testimony with my colleague here (indicating) who didn't want
4 to steal my thunder, Mr. Ferguson, you knew today he was going
5 to ask you about this gentleman, correct?

6 A. I knew he was going to ask me about other people that --

7 Q. You knew --

8 A. -- we --

9 Q. -- he was going to ask about this particular gentleman,
10 right?

11 A. Yes.

12 Q. And you didn't determine whether or not he was ever called
13 before the grand jury? You didn't go look?

14 A. No.

15 Q. And you also knew that somebody like me was going to
16 cross-examine you, right?

17 A. Yes, sir.

18 Q. Okay.

19 But you didn't look about this particular gentleman?

20 A. That is correct.

21 Q. All right.

22 Now, it is fair to say that he was not the first
23 human being who when interviewed by the FBI didn't remember
24 something or said that they didn't remember, right?

25 A. That is correct.



1 Q. That happens in investigations all the time?

2 A. Yes, sir.

3 Q. And a lot of times after that happens, people then get
4 issued grand jury subpoenas, correct?

5 A. Correct.

6 Q. Okay.

7 Who is the other person that you talked about who had
8 gotten a grand jury subpoena that you had a problem -- let me
9 finish with this -- the first gentleman.

10 What was his name, again?

11 A. Anwar Hamdan.

12 Q. Hamdan. All right.

13 Was Anwar Hamdan indicted, because of his failure of
14 recollection, for obstruction of justice?

15 A. No.

16 Q. Now, who is the next gentleman that we were talking about?
17 Is that Mr. Alwan?

18 A. Sharif Alwan?

19 Q. Yeah, is that the other person?

20 Who else did you say? You said two people.

21 A. We mentioned Sharif Alwan. I mean, I've mentioned a lot
22 of people. I'm not --

23 Q. You don't remember what you said this morning?

24 A. No, I remember. That's not what I said. I said I've
25 mentioned a lot of people. You said I mentioned two people.



1 Q. Well, I'm talking about people that were subpoenaed before
2 the grand jury that had failures of recollection. I believe
3 that was my question.

4 A. Yes, sir. And since you phrased it that way, I now
5 remember.

6 Q. Okay. I'm glad I could help.

7 A. Thank you.

8 Q. Who was that second person?

9 A. Mohammad Jarad.

10 Q. Mohammad Jarad. Okay.

11 Now, where did Mr. Jarad live?

12 A. Where did he live?

13 Q. Yes.

14 A. Chicago.

15 Q. So, he was right down the street, huh?

16 A. Yes, sir.

17 Q. Okay.

18 And he was called before the grand jury?

19 A. Yes, sir.

20 Q. And he had a failure of recollection?

21 A. What appeared to me, reading the transcripts of the grand
22 jury, to be a failure of memory, yes.

23 Q. All right.

24 But he was called and had this failure of memory.

25 Did you have any discussions with anybody about the fact that



1 he had had this failure of memory?

2 A. Yes.

3 Q. Did you make an effort to determine whether people thought
4 it was a real failure of memory or whether he was still hiding
5 something?

6 A. Yes.

7 Q. All right.

8 And what was the consensus?

9 A. That he was deliberately being evasive.

10 Q. All right.

11 And was he indicted for obstruction of justice
12 because of his deliberate evasion?

13 A. No, he was not.

14 Q. So, you thought he was lying, right?

15 A. Yes.

16 Q. Okay.

17 He didn't just remain silent, he actually
18 affirmatively lied to you?

19 A. Yes. Well, not to me.

20 Q. Well, to the grand jury?

21 A. Yes.

22 Q. Because lying to you is one thing; lying to a grand jury
23 is a much bigger thing, right?

24 A. Yes.

25 Q. Okay.



1 Now, you talked about Mr. Boulus, right?

2 A. Yes, Jawad Boulus -- Boulus.

3 Q. Now, Jawad Boulus -- and you help me if I'm wrong -- he is
4 a lawyer in Israel, right?

5 A. Yes, sir.

6 Q. Okay.

7 And you are aware, certainly, that he has represented
8 people in Israel regarding Hamas who were alleged to have been
9 Hamas members in Israel?

10 A. Yes.

11 Q. Has Mr. Boulus ever been to the United States?

12 A. I believe he may have.

13 Q. Do you remember when?

14 A. Not exactly. It may have been early 2000.

15 Q. Okay. Early 2000.

16 But certainly before your investigation began?

17 A. It may have been after the investigation began.

18 Q. Okay.

19 A. I don't -- I don't recall for sure.

20 Q. If it was after the investigation began, did you attempt
21 to serve a subpoena on him?

22 A. Not that I recall, no.

23 Q. And did you get any information from the Israelis
24 regarding Mr. Boulus? And I mean in the course of your
25 investigation, not just you personally.



1 A. Not that I recall. I don't know if he was mentioned in
2 any confessions that were obtained by Israeli authorities. It
3 wasn't like they -- I don't recall ever them providing me
4 specifically directly with information.

5 Q. Were you exchanging information with the Israelis?

6 A. To a degree, yes.

7 Q. Okay.

8 Now, you do know that the first time anybody had any
9 contact with Dr. Ashqar was when from the FBI?

10 A. That would have been in the early 1990s. 19- -- I don't
11 know if it was as early as 1992/'93 time period.

12 Q. And what was Dr. Ashqar -- what was happening in
13 Dr. Ashqar's life when he was contacted by the FBI?

14 A. He was a student at the University of Mississippi.

15 Q. And you are aware that the first people that were
16 contacted regarding Dr. Ashqar were people in the Foreign
17 Student Office at the University of Mississippi, correct?

18 A. First people contacting him?

19 Q. Yes.

20 Do you remember a woman named Nancy Rogers?

21 A. Yes.

22 Q. And she, in fact, testified that the FBI had come to her
23 office and contacted her about Dr. Ashqar?

24 A. I wasn't here for her testimony; but, yes, I am familiar
25 with who she is.



1 Q. And you were aware that she testified under oath that when
2 asked about why the FBI was interested in Dr. Ashqar, she was
3 told because it was a result of the Israelis?

4 You're aware that she testified that?

5 A. No, I'm not.

6 Q. You mean these gentlemen here (indicating) sitting here,
7 and this young lady, didn't tell you about that?

8 A. No.

9 Q. Okay.

10 And you were aware also, I assume, that Dr. Ashqar
11 had continually expressed concern about providing information
12 that would be used by the Israelis?

13 A. Yes. I think that served as a basis for his refusal to
14 comply with the Judge's order --

15 Q. Were you aware --

16 A. -- to testify to the grand jury.

17 Q. Were you aware that Nancy Rogers had told Dr. Ashqar that
18 the FBI told him that they weren't interested in him, it was
19 the Israelis that were interested in him?

20 A. No.

21 Q. Okay.

22 Now, do you know as you sit there today what things
23 have happened to Dr. Ashqar and Dr. Ashqar's family as a
24 result of the Israelis' interest in him?

25 A. No.



1 Q. Do you know whether Dr. Ashqar or any members of his
2 family have been arrested or held by the Israelis?

3 A. No.

4 Q. So, you can't say of yourself whether he had a real fear
5 of information falling into the hands of the Israelis, can
6 you?

7 A. No, I can't say what's going on in his mind. He wouldn't
8 tell me.

9 Q. Now, you talked to us today about offering Dr. Ashqar the
10 Witness Protection Program, right?

11 A. I didn't use that term; but, yes, I know what you're
12 referring to.

13 Q. Well, whether you -- we were talking about the witness --
14 that's how you were going to protect him, right? If he made
15 any statements, he was going to have to go into the Witness
16 Protection Program, right?

17 A. That's one avenue.

18 Q. Well, tell me how else you were going to protect him.

19 A. I wouldn't tell you that.

20 Q. Well, you said you were going to protect him. You
21 testified. What were you going to do to protect him?

22 A. I --

23 MR. FERGUSON: Objection, Judge.

24 MR. MOFFITT: I don't -- I think this is fair. They
25 were the ones who opened this door.



1 MR. FERGUSON: The offer was made to him in the grand
2 jury. It wasn't made by this agent. And the agent's
3 disclosure of methods and means by which we would protect him,
4 it is privileged information.

5 THE COURT: Mr. Moffitt?

6 MR. MOFFITT: Well, I think -- the government made a
7 big deal out of that. He's got to be satisfied that he's
8 going to be, in fact, protected.

9 THE COURT: But I do not think this witness said he
10 would protect him. I mean, you are asking this witness to
11 testify --

12 MR. MOFFITT: I said, "How was he going to be
13 protected?"

14 THE COURT: That is not what you said.

15 Rephrase. Ask him your question.

16 MR. MOFFITT: I'm sorry.

17 BY MR. MOFFITT:

18 Q. How was he going to be protected?

19 MR. FERGUSON: Same objection, Judge.

20 THE COURT: Sustained.

21 BY MR. MOFFITT:

22 Q. Well, there was a discussion about witness protection,
23 wasn't there?

24 THE COURT: Where, Mr. Moffitt?

25 MR. MOFFITT: In the grand jury.



1 BY THE WITNESS:

2 A. There was discussions about permitting him to stay in the
3 United States. And there were discussions about, if he was
4 fearful for his personal safety and that of his family --

5 BY MR. MOFFITT:

6 Q. Okay.

7 A. -- that the U.S. government would assist --

8 Q. Let me see if I --

9 A. -- in ensuring his safety.

10 Q. Now, also, there were conversations about his protection
11 in Mississippi, weren't there?

12 THE COURT: In the grand jury or --

13 MR. MOFFITT: In Mississippi, in the early '90s, when
14 the FBI first came to the University of Mississippi and began
15 asking questions about Dr. Ashqar.

16 BY THE WITNESS:

17 A. I believe there were. I believe there were discussions
18 had about -- held about -- how if he decided to cooperate and
19 he was fearful of his personal safety and security.

20 BY MR. MOFFITT:

21 Q. Well, he wasn't just fearful of his personal safety. He
22 had family that was still in Israel or in the occupied
23 territories, correct?

24 A. I don't know that, but that would be logical, yes.

25 Q. It would be logical.



1 You don't -- this is a man you were pursuing. You
2 don't know anything about him and his personal life?

3 A. I don't know where his family members were physically
4 located in the early 1990s.

5 Q. In that place that's not in your computer, okay?

6 Did you ask him, did he have any siblings?

7 A. I didn't ask him anything.

8 Q. You never asked him anything. I thought you asked him
9 about where he was born.

10 A. I didn't ask him that.

11 Q. Oh.

12 I thought you said he told you that he was born in
13 Jordan.

14 A. The agent that was processing him for fingerprinting asked
15 him that.

16 Q. Well, you have no idea where his family was, correct?

17 A. Correct.

18 Q. Okay.

19 A. I have no -- again, I know what he said as far as what
20 village -- and I apologize if I'm mispronouncing it --
21 Tulkarim, something to that effect.

22 Q. But --

23 A. I don't know if that --

24 Q. That really -- that was the village that he was told to
25 say was in Jordan?



1 A. I don't know if his -- that's where his immediate family
2 still lives, lived at the time. That information, you are
3 correct, sir, I do not know.

4 Q. Okay.

5 Now, since we can talk about the Witness Protection
6 Program -- all right? -- that was one of the ways you would
7 protect somebody like Dr. Ashqar, right?

8 A. Yes.

9 MR. MOFFITT: Is there something that Mr. Ferguson
10 wanted to say to you that you couldn't say, you had to look at
11 him?

12 THE WITNESS: He stood up. That's why I looked at
13 him.

14 MR. FERGUSON: Stood up.

15 THE COURT: The record will reflect that he stood up.

16 BY MR. MOFFITT:

17 Q. They would change his identity, right? In the Witness
18 Protection Program, they change people's identity?

19 MR. FERGUSON: I'm going to object to the question as
20 relevant because the offer was made; he did not take up on the
21 offer; he did not pursue it in any way, shape or form. So,
22 what that offer would have been comprised of is completely
23 irrelevant here because he did not pursue it.

24 MR. MOFFITT: Well --

25 THE COURT: Mr. Moffitt --



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MR. MOFFITT: It is not irrelevant.

THE COURT: Mr. Moffitt, listen to my question first.

This is my question in terms of relevance: If something was conveyed to Dr. Ashqar in terms of what type of protection would be offered to him, I can see the relevance to that. But you are now asking about general protections that some program might afford, without any evidence that --

MR. MOFFITT: I'll lay a foundation.

THE COURT: -- such information was ever conveyed to Dr. Ashqar.

MR. MOFFITT: I'll lay a foundation.

THE COURT: Okay.

BY MR. MOFFITT:

Q. How many conversations did the FBI have with Dr. Ashqar in Mississippi?

A. I would say approximately a dozen.

Q. And from what years to what years?

A. Again, without looking at the reports, 1992/1993/1994 time frame.

Q. Okay.

And there were many topics that Dr. Ashqar had discussions with the FBI about where he had no problem giving them information, correct?

A. Correct.

Q. Discussed about the history of the Middle East, various



1 factions, correct?

2 A. Yes.

3 Q. All of those things.

4 There came a point where he began to be asked more
5 particular questions about people, correct?

6 A. I believe so. Generally, yes.

7 Q. Over the course of these 12 -- all right.

8 Are you aware of what, if any, offers were made to
9 Dr. Ashqar during the course of the discussions he had with
10 the FBI?

11 A. Again, in general terms that we have discussed, I recall
12 there being conversations with Dr. Ashqar about whether or not
13 he was fearful of his personal safety and security and that of
14 his family.

15 Q. All right.

16 But this is a family you don't know how far it
17 extended, right? You don't know whether he's talking about
18 his family here, whether he's talking about his family over
19 there, because you never inquired -- or it was never inquired
20 of -- what portion of his family that he was talking about,
21 right?

22 A. I don't know if it was ever inquired or not.

23 Q. All right.

24 Well, you certainly were aware of the interviews in
25 Mississippi, right?



1 A. Yes, sir.

2 Q. Did you talk to the agents down there?

3 A. I believe we talked with some because they were called as
4 witnesses at trial.

5 Q. Did you talk to an Assistant United States Attorney named
6 Hailman?

7 A. No.

8 Q. You know that Dr. Ashqar was interviewed by an Assistant
9 United States Attorney named Hailman?

10 A. Yes.

11 Q. Do you know what offers Mr. Hailman made regarding what
12 Dr. Ashqar's alternatives were?

13 A. Offers about what his alternatives were?

14 Q. Whether he could talk; if he didn't talk, what was going
15 to happen to him; what offers they made to him if he talked.

16 Were you aware of any of those?

17 A. I was aware there were general conversations along those
18 lines.

19 Q. Well, what did those general conversations that you're
20 aware of, what do you recall of them?

21 A. I know that AUSA Hailman talked to Dr. Ashqar. I can't --
22 it seems like there were conversations about potential
23 charges.

24 Q. That he might be charged?

25 A. That he might be charged, might be contemplated being



1 charged; whether or not Dr. Ashqar was willing to cooperate
2 with the U.S. government.

3 Q. And by that, you mean name names, right?

4 A. Provide information, name names.

5 Q. Well, he had provided information; had he not?

6 A. General. General information.

7 Q. He had no problem providing that information, correct?

8 A. No.

9 Q. But as early as that time, he told members of the FBI that
10 he was not going to name names, correct, from that -- as early
11 as that period of time?

12 A. I would say that's a good characterization, yes.

13 Q. All right.

14 And do you recall or do you know whether Mr. Hailman
15 offered the choice if he did not talk to them -- to the FBI or
16 so-called, as you say, cooperate -- that they would tell
17 people that he had cooperated and Hamas would hurt him?

18 A. I'm not aware of that.

19 Q. You're not aware of that.

20 Do you know whether Mr. Hailman offered him, if he
21 cooperated, a position in Yasir Arafat's government?

22 A. No.

23 Q. But you haven't talked to Mr. Hailman?

24 A. I haven't talked to Mr. Hailman, no.

25 Q. So, you don't know what Mr. Hailman might have offered



- 1 him?
- 2 A. Correct.
- 3 Q. Do you know that in that period of time that he was being
4 interviewed by -- in Mississippi, the investigation was being
5 moved to New York, right?
- 6 A. The investigation of Dr. Ashqar?
- 7 Q. The investigation of Hamas.
- 8 A. I don't know what you mean by that, sir.
- 9 Q. Well, somebody was investigating Dr. Ashqar or Hamas or
10 something in Mississippi, right?
- 11 A. Yes.
- 12 Q. Well, what were you investigating in Mississippi when you
13 were interviewing Dr. Ashqar on those dozen occasions?
- 14 A. Dr. Ashqar and his activities with Hamas.
- 15 Q. So, Dr. Ashqar was the target of that investigation?
- 16 A. The investigation in Mississippi?
- 17 Q. Uh-huh.
- 18 A. Yes.
- 19 Q. Was he ever told he was the target of that investigation?
- 20 A. I don't know.
- 21 Q. You don't know?
- 22 A. No.
- 23 Q. All right.
- 24 That investigation, however, ended, right?
- 25 A. No.



1 Q. Well, it got -- what happened to it, sir?

2 A. He moved to another territory.

3 Q. He moved to another ter- -- I thought New York was a
4 state?

5 A. Well, he didn't move to New York.

6 Q. Well, what territory of the United States did he move to?

7 A. Virginia.

8 Q. Oh, Virginia's a territory. I thought it was a
9 commonwealth?

10 A. Well, territory of the FBI. I know what you're saying.

11 Q. Okay.

12 Help me. So, a Mississippi federal investigation
13 can't investigate somebody who moved from Mississippi to
14 Virginia?

15 A. No, the federal government certainly can investigate
16 somebody that moves from Mississippi to Virginia.

17 Q. All right.

18 But you're saying the reason that that investigation
19 ended was because he moved?

20 A. I said the investigation did not end. You said it ended.
21 I said, no, it did not.

22 Q. All right.

23 Well, what happened to the Mississippi investigation
24 when he moved, and why are we quibbling over this?

25 A. That investigation moved with him.



1 Q. And where did that investigation move?

2 A. Washington field office.

3 Q. All right. Okay.

4 And did Washington field office have any additional
5 interviews with Dr. Ashqar after the dozen interviews it had
6 undertaken in Mississippi?

7 A. I do not believe so, no.

8 Q. All right.

9 And did that investigation move, again?

10 A. Yes.

11 Q. And when did it move, again?

12 A. 2003/2004 time period.

13 Q. All right.

14 Well, wasn't there an investigation in New York, sir?

15 A. I believe you're referring to Mousa Abu Marzook?

16 Q. Well, let me ask you something. Help me because I'm kind
17 of lost.

18 Was Dr. Ashqar -- I think you talked about it this
19 morning -- subpoenaed in New York?

20 A. Yes.

21 Q. Well, what was going on there?

22 A. Extradition proceedings of Dr. -- or of Mousa Abu Marzook.

23 Q. He was subpoenaed to a grand jury regarding extradition
24 proceedings?

25 A. Well, they were also investigating Mousa Abu Marzook, I



1 believe.

2 Q. Right.

3 Because, generally, you don't subpoena people for
4 purposes of extradition, do you?

5 A. I don't know. No, I would -- I mean, generally, the grand
6 jury's used to conduct a criminal investigation.

7 Q. Right.

8 So -- and an extradition is not typically considered
9 that kind of investigation, is it, that you would subpoena
10 somebody before a grand jury?

11 A. I would say typically not, no.

12 Q. Okay.

13 So, something was being investigated in 1998,
14 correct?

15 A. Yes.

16 Q. And Dr. Ashqar, who was a target of another investigation,
17 was subpoenaed to New York to give testimony?

18 A. Correct.

19 Q. Did anybody in -- you looked at that grand jury testimony,
20 right?

21 A. New York, yes.

22 Q. Did anybody tell Dr. Ashqar that he was a target of an
23 investigation in Washington, D.C., when he was called to
24 testify in New York?

25 A. No.



1 Q. And what happened in New York was a continuation of what
2 happened in Mississippi, right? Dr. Ashqar told them that he
3 was not going to testify, correct? He was not going to name
4 names?

5 A. Correct. He did not provide information that the grand
6 jury sought.

7 Q. And, in fact, he made the same statement in New York that
8 he made here in Chicago?

9 A. Essentially, yes.

10 Q. All right.

11 And that statement was that people were fighting for
12 freedom and he was not going to name them because it was
13 against the people in his country, right?

14 A. Essentially, yes.

15 Q. Essentially.

16 And Dr. Ashqar was held in civil contempt, correct?

17 A. Yes.

18 Q. He actually went to jail, correct?

19 A. Yes, he did.

20 Q. And had a hunger strike, right?

21 A. That is correct.

22 Q. And ultimately was released after six months, right?

23 A. Yes.

24 Q. And was never charged in New York with criminal contempt,
25 correct?



1 A. That is correct.

2 Q. So, by the time your investigation started in 2002, you
3 were aware that Dr. Ashqar was not willing to name names in
4 Mississippi, correct?

5 A. Correct.

6 Q. Was not willing to name names in New York, correct?

7 A. Correct.

8 Q. That he even went to jail to avoid naming names, right?

9 A. Correct.

10 Q. Took the position it was against his religion and against
11 his feelings of Palestinian liberation; and, he did that
12 openly and without prompting, correct?

13 A. Yes.

14 Q. Now -- so, by the time you subpoenaed him, you knew that
15 this was a man who was willing to accept contempt rather than
16 name names?

17 A. I knew he had done it in New York in 1998. I knew that
18 FBI agents in Oxford, Mississippi, had attempted to get his
19 cooperation.

20 Q. And you knew that he had been at least offered some form
21 of protection in both places, correct?

22 A. Yes.

23 Q. Now -- yet you were going to base your investigation in
24 Chicago on a man who had refused to test- -- who had refused
25 to "cooperate," on what he considered to be his principles, in



1 Mississippi and refused to testify upon those same principles
2 in New York, right?

3 A. You say base our investigation. He was called to the
4 grand jury in our investigation, yes.

5 Q. All right.

6 But those are -- that's information that you had
7 before he was called, correct?

8 A. Yes, sir.

9 Q. All right.

10 Now, do you know what, if anything, was going on with
11 his family in 19- -- in the occupied territories in 1998, when
12 he was called before the grand jury?

13 A. No.

14 Q. Do you know how many members of his family might have been
15 in jail or imprisoned by the Israelis at that time?

16 A. No.

17 Q. All right.

18 And during the course of this whole affair with
19 Dr. Ashqar -- which began sometime in the early '90s, ended
20 with his failure to testify in your grand jury -- do you have
21 any idea what, if anything, was happening in the occupied
22 territories to members of Dr. Ashqar's family?

23 A. No.

24 Q. Now, Dr. Ashqar is not a citizen of the United States,
25 correct?



1 A. That is correct.

2 Q. In fact, he sought asylum. You talked about that today,
3 right?

4 A. Yes, he was seeking asylum here.

5 Q. On the basis of his treatment and the treatment of his
6 family in the occupied territories, correct?

7 A. Correct.

8 Q. You've seen the asylum petition, right?

9 A. (No response.)

10 Q. Right?

11 A. I'm thinking.

12 (Brief pause.)

13 BY THE WITNESS:

14 A. I know of -- I believe I have seen it, yes.

15 BY MR. MOFFITT:

16 Q. And you were aware that it raised the conditions that he
17 had lived under in the occupied territories?

18 A. Again, I believe I've seen it. I don't know that I read
19 the entire document.

20 Q. Well, this was a guy -- let me see if I understand. This
21 is a guy you wanted to testify, right?

22 A. Yes, sir.

23 Q. You didn't want to know as much about him as possible
24 before you called him?

25 A. I didn't look into his family's situation in the occupied



1 territories --

2 Q. You didn't --

3 A. -- no.

4 Q. You didn't want to know what might influence whether or
5 not he was willing to testify? That -- you weren't curious
6 about that?

7 A. I would have loved to talk to him about it, yes.

8 Q. All right.

9 But you had sources of information about him that
10 didn't require you to talk to him, right? For instance, an
11 asylum petition?

12 A. Correct, I knew that there was asylum proceedings that had
13 been going on for some time.

14 At the time of our seeking to have him into the grand
15 jury, those had ended and he agreed to voluntarily depart the
16 United States.

17 Q. Well, did you monitor those asylum proceedings?

18 A. Me personally, no.

19 Q. Well, let me ask you this: I know you didn't do very much
20 personally; but, as a case agent, did you have somebody
21 monitoring the asylum proceedings?

22 A. Agents at the Washington field office were.

23 Q. And who were they?

24 A. What were their names?

25 Q. Yes.



1 A. Monica Traxel.

2 Q. So, you were curious about the asylum proceeding, right?

3 A. I was curious about the status.

4 Q. Oh, you weren't curious about the information that was

5 being revealed?

6 A. I don't remember focusing it on the time, no.

7 Q. This was a guy, again, you wanted to testify, right? You

8 wanted him to cooperate --

9 A. Yes.

10 Q. -- right?

11 And this was a source of information about him, about

12 things that he thought about and all of that, but it wasn't --

13 you weren't curious about it at all?

14 A. Again --

15 MR. FERGUSON: Judge?

16 THE COURT: Sustained --

17 MR. FERGUSON: Just so we're clear --

18 THE COURT: -- on form.

19 MR. FERGUSON: -- the witness does not question

20 people in the grand jury; the prosecutors question.

21 MR. MOFFITT: The witness gets his information --

22 THE COURT: Mr. Moffitt, ask your next question,

23 please.

24 MR. MOFFITT: Well -- okay.

25 BY MR. MOFFITT:



1 Q. You don't question witnesses in the grand jury, do you?

2 A. No. I'm not even permitted to be in there when they are
3 questioned.

4 Q. But you provide information to these folks (indicating),
5 don't you?

6 A. Yes.

7 Q. And that was the way you conducted the grand jury in this
8 case, wasn't it?

9 A. Yes.

10 Q. You provided information?

11 A. Sure.

12 Q. Okay.

13 Now, let me ask you a question. Holy Land was
14 ultimately indicted, correct?

15 A. Yes.

16 Q. And they were indicted in Texas?

17 A. Yes.

18 Q. When?

19 A. I believe they were indicted 2004.

20 Q. All right.

21 And that grand jury terminated around the same time
22 your grand jury terminated, right?

23 A. I don't know.

24 Q. Well, your grand jury terminated 2004, right, by the
25 return of an indictment?



- 1 A. We got an indictment 2004, yes.
- 2 Q. Okay.
- 3 And Holy Land got an indictment in 2004, correct?
- 4 A. I believe so, yes.
- 5 Q. Now, the Holy Land indictment involved Holy Land
- 6 Foundation for Relief and Development, correct?
- 7 A. Yes, sir.
- 8 Q. Shukri Abu Baker, correct?
- 9 A. Yes, sir.
- 10 Q. Muhammad El-Mezain, correct?
- 11 A. Correct.
- 12 Q. Ghassan Elashi, E-l-a-s-h-i?
- 13 A. Yes.
- 14 Q. Haitham Maghawri -- h-a-w-r-i?
- 15 A. Yes.
- 16 Q. Akram Mishal, right?
- 17 A. I believe so, yes.
- 18 Q. Mufid Abdulqader? And I've butchered that.
- 19 A. Yeah, I -- I believe so, based upon your pronunciation
- 20 there.
- 21 Q. Abdulrahman Odeh, right?
- 22 A. Yes.
- 23 Q. And they were indicted and Dr. Ashqar didn't testify,
- 24 correct?
- 25 A. Correct.



1 Q. Now --

2 THE COURT: Mr. Moffitt, if you have a document with
3 the spelling of those names --

4 MR. MOFFITT: Yes.

5 THE COURT: -- I know Joe would appreciate it.

6 MR. MOFFITT: I have a document -- I have two
7 documents, in fact.

8 THE COURT: Okay. Thank you.

9 (Document tendered.)

10 BY MR. MOFFITT:

11 Q. Now, in the course of -- that was also an investigation of
12 Hamas, correct?

13 A. Yeah. The grand jury rendered an indictment that included
14 material support charges.

15 Q. Wasn't their investigation -- you know what their
16 investigation was, right? It was about Hamas, wasn't it, and
17 Holy Land's connection to Hamas?

18 A. Yes.

19 Q. All right.

20 I mean, if Holy Land wasn't connected to Hamas, there
21 wouldn't have been any reason to indict him, right?

22 A. Correct.

23 Q. Okay.

24 Now --

25 MR. MOFFITT: Your Honor, can we get another copy of



1 this? I'm sorry, I didn't bring another copy.

2 THE COURT: I do not have a copy machine in here.

3 What is it?

4 MR. MOFFITT: It is a court document from Holy Land.

5 I think it was attached to my original motion when I came.

6 THE COURT: Is that what you gave to Joe?

7 MR. MOFFITT: No, I gave him another document from

8 Holy Land.

9 THE COURT: Are you going to seek to introduce this
10 document?

11 What are you --

12 MR. MOFFITT: I'm going to ask him some questions
13 about it.

14 THE COURT: Okay.

15 Have you shown Mr. Ferguson the document?

16 MR. MOFFITT: I think they saw it when I filed my
17 motion. I think it was an attachment to my original motion.

18 MR. FERGUSON: It was an attachment to the
19 discovery -- sentencing discovery -- motion, but we don't
20 have --

21 MR. MOFFITT: Maybe I have a copy of that motion.

22 (Brief pause.)

23 MR. MOFFITT: I'm sorry, I didn't bring it. I'm
24 sorry.

25 THE COURT: Show the agent the document.



1 Do you have it marked?

2 MR. MOFFITT: No, I have not marked it.

3 THE COURT: Okay.

4 Mark it for the record, please, and show it to the
5 agent.

6 MR. MOFFITT: I'd ask the Court to take judicial
7 notice of this. This is a document filed by the government in
8 Holy Land.

9 THE COURT: I am not familiar with it, either.

10 (Document tendered to the Court.)

11 THE COURT: I can take judicial notice that it is
12 Attachment A in the United States District Court for the
13 Northern District of Texas, Dallas Division, "List of
14 Unindicted Co-Conspirators and/or Joint Venturers."

15 Beyond that, Mr. Moffitt, I am not familiar with that
16 case. I do not know if this was filed there. I do not --
17 there is no certification.

18 MR. MOFFITT: Let me --

19 THE COURT: I do not know if Mr. Ferguson has any
20 knowledge of it, if he will stipulate to it. I just do not
21 know.

22 You are asking me to take judicial notice of
23 something that I am not familiar with.

24 MR. MOFFITT: Okay.

25 MR. FERGUSON: Judge, I don't know the docket in the



1 Texas case.

2 THE COURT: And I do not know if Agent Bray -- ask
3 the witness. Maybe he knows.

4 (Document tendered to counsel.)

5 BY MR. MOFFITT:

6 Q. The Texas case was a conspiracy?

7 A. Yes.

8 Q. In fact, the case agent in the Texas case -- I forget his
9 name -- testified in our case against Dr. Ashqar; did he not?

10 A. Yes.

11 Q. What was his name? Miranda was his name?

12 A. Robert Miranda.

13 Q. He was the case agent in the Texas case, correct?

14 A. Yes, one of the case agents.

15 Q. The case that Mr. Ferguson -- well, let me ask you
16 something.

17 A. Yes, sir.

18 Q. In the course of your investigation and Agent Miranda's
19 investigation, did you all have conversations with one
20 another?

21 A. Yes.

22 Q. And did you have conversations about the progress of the
23 investigation?

24 A. Yes.

25 Q. Did you relay those conversations to either Mr. Ferguson,



1 Mr. Schar or anybody associated with the prosecution of
2 Dr. Ashqar?

3 A. To a degree. A lot of our conversations -- most of our
4 conversations -- dealt with translation matters.

5 Q. Well, you had enough conversation with him that he became
6 the witness that was called with respect to the Philadelphia
7 meeting, right?

8 A. Correct.

9 As I mentioned before, it was the Dallas Division
10 that essentially took ownership of that for purposes of
11 translating it.

12 Q. All right.

13 Now, at the top of this document -- do you see that
14 at the very top?

15 Will you look at that for me, please?

16 (Document tendered.)

17 BY MR. MOFFITT:

18 Q. Do you see the very top?

19 A. Where it references what appears to be a case number,
20 document number, filed, et cetera?

21 Q. Yes.

22 A. Yes, sir.

23 Q. That's in a different type than what's in the body of the
24 document; is it not?

25 A. You mean typesetting?



1 Q. Yes. Font.

2 A. Font?

3 Appears to be.

4 Q. All right.

5 And it references a case number 3-04-CR-00240,
6 correct?

7 A. Yes.

8 Q. Document No. 656-2, correct?

9 A. Yes.

10 Q. Filed on 05-29-2007, correct?

11 A. Yes.

12 Q. Page 1 of 11.

13 THE COURT: Mr. Moffitt, if that document is the same
14 as the attachment to your motion filed on October 9th, here
15 are two copies.

16 (Document(s) tendered.)

17 MR. MOFFITT: Yes, that is. That's exactly the
18 document.

19 BY MR. MOFFITT:

20 Q. And that document purports to be a list of unindicted
21 co-conspirators and joint venturers, correct?

22 A. Yes.

23 Q. And do you know how many people and entities are named in
24 the course of that document as unindicted co-conspirators and
25 joint venturers?



1 A. I do not. I mean, I can --

2 Q. Well, would the -- if I told you that I counted them and
3 it's 300, would that surprise you?

4 A. Looking at this, no.

5 Q. Okay.

6 Now, what I'd like you to do is help me for a second
7 -- because I don't want to take you through this whole

8 thing --

9 A. Thank you.

10 Q. -- all right?

11 But I'd like you to look at it -- take a few minutes
12 to look at it -- because I want to ask you a few things about
13 it with regard to how many of these people were subpoenaed
14 before your grand jury.

15 A. Okay.

16 (Brief pause.)

17 BY MR. MOFFITT:

18 Q. And when you come to one that was subpoenaed before your
19 grand jury, mark it.

20 (Document tendered.)

21 (Brief pause.)

22 BY MR. MOFFITT:

23 Q. Done?

24 A. Whenever you're ready, yes, sir.

25 Q. Okay.



1 May I -- I'll switch with you --

2 A. Sure.

3 Q. -- okay?

4 A. You want your list back? Okay. Here's your pen.

5 Q. No, I'll give you my list because I want to see who you --
6 and I want to also be fair to you because I don't want this to
7 be misconstrued, okay?

8 A. Okay.

9 (Document tendered.)

10 BY MR. MOFFITT:

11 Q. Now, you can --

12 THE COURT: Just for the record, you have handed him
13 a copy of the document that he just marked?

14 MR. MOFFITT: Yes. Yes, ma'am.

15 THE COURT: Okay.

16 MR. MOFFITT: Yes, ma'am.

17 BY MR. MOFFITT:

18 Q. Let me ask you a few questions, so that we can be fair.

19 This list of alleged co-conspirators and joint
20 venturers is broken up into several headings; am I right?

21 A. In several pages or --

22 Q. Headings. Like, if you look at the first page, it has
23 "Item No. 1" and that's in bold type?

24 A. Yes, sir.

25 Q. And that "Item No. 1" says, "The following are individuals



1 who were -- " "who are or who were, in part, a part of the
2 Hamas social infrastructure in Israel and the Palestinian
3 territories," correct?

4 A. Yes, sir.

5 Q. All right.

6 And, obviously, these were not people that you could
7 subpoena, because they were in Israel or in the territories,
8 right?

9 A. Yes.

10 Q. So, we won't -- let's not talk about them.

11 And that goes on from 1 through 8 to 1 through 46,
12 correct? And to 84 until it gets to 92, right?

13 A. Correct.

14 Q. Now, these were people who it was alleged that were part
15 of the Hamas social structure in Israel and the Palestinian
16 territories, right?

17 A. Yes, that's what the caption is.

18 Q. And this allegation was made about these people acting in
19 the territories and in Israel without the testimony of
20 Dr. Ashqar, correct?

21 A. Correct. Dr. Ashqar did not testify in this matter.

22 Q. Okay.

23 So, that was 92 people who were in Israel and the
24 territories that were named as having some association Hamas
25 as a result of the investigation that occurred in Texas,



1 right?

2 A. It appears to be, yes.

3 Q. All right.

4 Now, the next category is a category that begins,
5 "The following individuals -- " "The following are individuals
6 who participated in fundraising activities on the behalf of
7 the Holy Land Foundation for Relief and Development," correct?

8 A. Yes, sir.

9 Q. And the allegation was that Holy Land was acting to
10 provide money and resources and various other things to Hamas,
11 correct?

12 A. Correct.

13 Q. And the allegation was that that had begun even before
14 Hamas had been designated, correct?

15 A. I believe that is the case, yes, sir.

16 Q. All right.

17 And it doesn't tell us where these people were, does
18 it?

19 A. What do you mean? As far as that time continuum?

20 Q. Category 2. That Category 2.

21 A. Oh, location of where they are?

22 Q. Yes.

23 A. No, it does not identify a location.

24 Q. Do you recognize any of those people?

25 A. The first one.



1 Q. All right.

2 Abdallah Azzam?

3 A. Uh-huh.

4 Q. And where is he?

5 A. Well, I recognize the name. I don't know who that --

6 Q. Do you know whether any of these people were located in
7 the United States?

8 A. I'm also aware of No. 21. I'm not -- whether they are in
9 the United States, no, I -- I don't know that.

10 Q. All right.

11 So, to be fair, you don't know whether you could have
12 subpoenaed the people in this group.

13 Did you look at the next page? Because the group
14 goes on from 1 to 38?

15 A. Yes, sir.

16 Q. All right.

17 Do you recognize any of those names?

18 A. In 1 through 38?

19 Q. Uh-huh.

20 A. Yes.

21 Q. Okay.

22 Which ones do you recognize?

23 A. No. 21.

24 Q. 21.

25 What's that name, sir?



1 A. Jamal -- Jamil Hammami a/k/a Abu Hamza.
2 Q. And he was named as an unindicted co-conspirator or a
3 joint venturer here?
4 A. On this document, yes.
5 Q. Yes.
6 A. Yes.
7 Q. Without Dr. Ashqar's testimony, right?
8 A. Correct.
9 Q. Any more in the 1 through 38?
10 A. Yes, No. 25.
11 Q. What's that name?
12 A. Mahmud Zahar.
13 Q. All right.
14 And what is his -- the best you can recall during the
15 period of your investigation, what was his residence?
16 A. During our invest- -- I know -- I believe he's in Gaza
17 now.
18 Q. I'm talking about in the years 2002 through the years
19 2004.
20 A. I would assume that's where he was then, but I don't know.
21 Q. Okay.
22 Any more in that 1 through 38?
23 A. No. 27's a name I'm familiar with, but -- Mohamed Siam.
24 Q. All right.
25 And do you have any idea where he was located --



1 A. No.

2 Q. -- during the course of your investigation?

3 A. No.

4 Q. All right.

5 And who is Omar Al Ashqar?

6 A. I don't know.

7 Q. All right.

8 Do you know whether he's related to Dr. Ashqar or
9 not?

10 A. I do not.

11 Q. Okay.

12 And, again, all these people were named as joint
13 venturers or co-conspirators, again, without Dr. Ashqar's
14 testimony, right?

15 A. It appears that way, yes.

16 Q. All right.

17 The next category of people is Category No. 3, right?
18 That begins with, "The following are individuals and entities
19 who are or were members of the U.S. Muslim Brotherhood's
20 Palestine Committee and its organization," correct?

21 A. Yes, sir.

22 Q. Now, in the course of your investigation, were you aware
23 of a U.S. wing of the Muslim Brotherhood?

24 A. I was aware of an organization referred to as the
25 Palestine Committee. I think there was a Palestine Committee



1 in the U.S. that drew its origins from the Muslim Brotherhood.

2 Q. Well, this describes it as the U.S. Muslim's Brotherhood's
3 Palestine Committee, right?

4 A. Yes.

5 Q. Were you aware of a U.S. Muslim Brotherhood, first of all?

6 A. Yes.

7 Q. All right.

8 And were you aware that the U.S. Muslim Brotherhood
9 had a Palestine Committee?

10 A. Yes. I've seen documents where it's referred to as the
11 Palestine Committee.

12 Q. All right.

13 And where did -- what was the source of those
14 documents?

15 A. I believe we looked at one earlier today. The source of
16 it was from Dr. Ashqar's apartment. I believe -- and, again,
17 I would have to go back and look, as far as similar items
18 being found during the search warrant of Ismael El-Barasse.

19 Q. Okay.

20 Now, is the Palestine -- the Muslim Brotherhood --
21 Hamas or is that something different?

22 A. To my knowledge, Hamas had its origins from the Muslim
23 Brotherhood.

24 Q. Well, is the Muslim Brotherhood Committee Hamas or is it
25 something different?



1 A. I don't know.

2 Q. All right.

3 Interestingly enough, you checked the first name that
4 you saw that was supposed to be an individual or an entity who
5 was a member of the U.S. Muslim Brotherhood Palestine
6 Committee, correct?

7 That first name is Abdelhaleem Ashqar, correct?

8 A. Yes, sir.

9 Q. So, their grand jury identified him as an unindicted
10 co-conspirator and a member of the Muslim Brotherhood, right?

11 MR. FERGUSON: Judge, I'm going to object. This is
12 not a grand jury document. This is a prosecution document --

13 MR. MOFFITT: All right.

14 Well, excuse me.

15 MR. FERGUSON: -- apparently filed in the --

16 MR. MOFFITT: I'll correct it.

17 BY MR. MOFFITT:

18 Q. The prosecution.

19 THE COURT: I am also -- I am going to sustain on
20 foundation.

21 This is a document from the Texas case. You are
22 asking questions about what is on here and construction of
23 this document and the context of what is printed on here. And
24 Agent Bray -- it is not even clear if he has ever seen this,
25 much less has any --



1 MR. MOFFITT: He was involved --

2 THE COURT: -- investigating input.

3 MR. MOFFITT: -- in an investigation that -- where
4 they were discussing what was going on here and in Texas. One
5 of the Texas -- the lead investigator in the Texas
6 investigation testified in his case. They exchanged and
7 shared information.

8 THE COURT: But, again, you are asking him specific
9 questions about a document filed in Texas and interpreting
10 stuff on this document.

11 And you can try to lay the foundation, but you are
12 not there yet on your last question, Mr. Moffitt.

13 MR. MOFFITT: Okay.

14 BY MR. MOFFITT:

15 Q. You knew that the grand jury in Texas was investigating
16 the Holy Land Foundation, correct?

17 A. Yes, sir.

18 Q. You knew that the investigation involved the Holy Land
19 Foundation's connections to Hamas?

20 A. Yes, sir.

21 Q. And you knew that it had been alleged that the Holy Land
22 Foundation was the largest fundraiser for Hamas stationed in
23 the United States, correct?

24 A. Yes, sir.

25 Q. And you also knew, from your phone calls and the things



1 that you overheard, that before Hamas ever was designated,
2 there was an Al-Aqsa fund that was raising money, correct?

3 A. Yes.

4 Q. That Al-Aqsa fund was related to Dr. Ashqar, correct?

5 A. Correct.

6 Q. And you knew, from the phone calls, that there were
7 discussions regarding Holy Land versus Al-Aqsa, which one was
8 going to survive, correct?

9 A. Yes.

10 Q. And all of those conversations happened in 1993, prior to
11 the designation of Hamas, correct, because that's when you had
12 the wiretap?

13 A. Correct. Roughly 1993, yes.

14 Q. All right.

15 And you knew that Al-Aqsa stopped collecting money
16 and distributing money and Holy Land continued to distribute
17 money --

18 A. Yes.

19 Q. -- collect money?

20 A. Yes, sir.

21 Q. So, Al-Aqsa had stopped collecting money and providing
22 money prior to the designation of Hamas, correct?

23 A. I'm not sure when it last collected money, but I would
24 assume that that's safe to say, that it was before 1995.

25 Q. All right.



1 So, that would have made it prior to the --

2 A. To OFAC's designation. The Treasury Department's --

3 Q. The first designation?

4 A. Yes, sir. Yes, sir.

5 Q. Okay.

6 And you were likewise -- likewise, I mean, they were
7 investigating a funding source for Hamas, and you were
8 investigating a funding source for Hamas, correct?

9 A. We were investigating whether anyone was providing
10 material support to Hamas, yes.

11 Q. So, you were both operating along similar lines, correct?

12 A. To a degree, yes.

13 Q. Okay.

14 Well, both of you were interested in funding sources
15 for Hamas, right?

16 A. Yes.

17 Q. And both of you were interested not only in funding
18 sources for Hamas in 1993, but you were both interested in
19 funding sources for Hamas post its designation, correct?

20 A. Yes.

21 Q. And I assume that you talked to one another often about
22 what was going on with these investigations?

23 A. We were aware generally what was going on with each
24 other's investigations, but you make -- I wasn't in daily --
25 not even weekly conversations with him.



1 Q. Were you in bi-weekly conversations?

2 A. No.

3 Q. Did you talk to him every month?

4 A. Some months, no; some months, yes.

5 Q. All right.

6 And were you discussing people who were appearing
7 before the grand juries, witnesses to be called and who would
8 call whom?

9 A. On occasion. They were certainly aware of who we might be
10 calling to a grand jury.

11 Q. And was -- likewise -- you aware of who they might be
12 calling to a grand jury?

13 A. You know, I don't ever recall having a specific
14 conversation with them about who they were calling into the
15 grand jury, no.

16 Q. All right.

17 Let me ask you a question. When you had these
18 conversations would you make notes of the conversations that
19 you had with them?

20 A. No.

21 Q. Okay.

22 A. Typically, not.

23 Q. Well, did you ever make notes of the conversation?

24 A. I may have. I don't know.

25 Q. Where are those notes now?



1 A. Who knows.

2 Q. Who knows?

3 A. I mean --

4 Q. Excuse me?

5 A. I didn't write up a 302 about a conversation I had with

6 another agent about what they were doing, if that's what

7 you're --

8 Q. Did you ever write up an insert?

9 A. No.

10 Q. A blue sheet?

11 A. Anything -- any communication discussions between our

12 office and their office, if it was written up, would have been

13 written up on a memorandum.

14 Q. How about an Airtel?

15 A. No.

16 Q. You know what an Airtel is, right?

17 A. I've seen them.

18 Q. You've seen them?

19 A. Yeah. They don't get used too frequently anymore.

20 Q. Okay.

21 That was a message between offices?

22 A. Yes.

23 Q. Okay.

24 And -- so, you all don't write messages between

25 offices anymore or you don't call them Airtels?



1 A. We don't call them Airtels.

2 Q. Okay.

3 What do you call them when you write up a message
4 between offices?

5 MR. FERGUSON: Judge, objection. Relevance to all of
6 this. I have no idea what this is for.

7 THE COURT: Mr. Moffitt, it is --

8 MR. MOFFITT: I want to know if --

9 THE COURT: Wait, wait, wait, please.

10 It is quarter to 4:00. I have given you a lot of
11 leeway in cross-examination. What is the relevance of what
12 they call something?

13 MR. MOFFITT: The reason is if I don't call it the
14 right name in front of this witness, he's not going to tell me
15 whether it was written. So, I want to make sure that there's
16 no Jencks material that I have not received, because it's
17 important to me to know what communications went on between he
18 and the grand jury, who were pursuing what has to be described
19 as parallel lines.

20 THE COURT: Why do you not just ask him if there was
21 any communication between him and the office regardless of
22 what it is called.

23 MR. MOFFITT: Okay.

24 BY MR. MOFFITT:

25 Q. Was there any written communication between the two



1 offices regarding which way their investigations were going?

2 A. Regarding which way our investigations were going?

3 I mean, there were -- again, there were --

4 Q. Were there any written communications between the two
5 offices?

6 A. Yes.

7 Q. Were there written communications between the two offices
8 concerning the investigations?

9 A. Yes.

10 Q. Were there written office -- communications between the
11 two offices concerning witnesses?

12 A. There may have been. There were witnesses that we
13 interviewed jointly.

14 Q. Okay.

15 A. Which we would have turned over the 302s.

16 Q. Uh-huh.

17 And were there --

18 A. But there -- I'm sorry.

19 Q. Were there witnesses that you interviewed for them, you
20 know, and turned over the 302s under that score?

21 A. I don't recall. It seems like there was an instance where
22 they were interested in somebody here, but I don't remember if
23 we interviewed them or not for them.

24 Q. Is it fair to say that you all cooperated in this
25 investigation?



1 A. Sure.

2 Q. Is it fair to say that you discussed leads and lines of
3 investigation?

4 A. Yes.

5 Q. All right.

6 Is it fair to say that you got some idea from them
7 about which way their investigation was pursuing or which way
8 it was going?

9 A. In a general sense, yes. And it was more focused, again,
10 on what documents, whether they be financial records or search
11 documents, or et cetera -- or you've mentioned the
12 Philadelphia meeting -- things that we had that they might
13 want to use. As I mentioned, some of those items were
14 admitted as evidence in their trial.

15 That's what most of any conversations I might have
16 with them was about. What was the status of translation, how
17 complete were they. That encapsulates the majority of our
18 conversation.

19 Q. Were you -- did you ever ask them if they had interviewed
20 anybody that might be helpful in your investigation?

21 A. I don't recall. I mean, I can query names, and if they've
22 interviewed them, I will know that.

23 Q. Well, did you ever do that?

24 A. Sure. I query names all the time.

25 Q. Did you ever do that in -- with respect to the Holy Land



1 Foundation investigation?

2 A. It wouldn't be limited to just the Holy Land Foundation.

3 Q. I'm asking you about only the Holy Land Foundation
4 investigation.

5 A. Did I ever go in and specifically query the Holy Land
6 Foundation to see if they had interviewed anybody that I was
7 interested in?

8 Q. Yes.

9 A. I don't recall doing that, no.

10 Q. Okay. All right.

11 There are names on this list that are also on the
12 phone list that you saw today, right? Yassir Bushnaq's name
13 is on there?

14 A. Yes. Yes, sir.

15 Q. Okay.

16 Do you know whether he was called in as a witness in
17 Holy Land?

18 A. I do not.

19 Q. All right.

20 It's somebody that you were interested in, right?

21 A. Yes.

22 Q. All right.

23 There's a name on here, Mr. Alamoudi, right?

24 A. On the Dallas document you gave me?

25 Q. Yes.



1 Let me see if I can find it.

2 A. Yeah, if you direct me towards --

3 Q. You know who that is, don't you?

4 A. Yes.

5 Q. Who is he?

6 A. Well, I -- I know he was interviewed. He was interviewed.

7 He's incarcerated, I believe, in Virginia.

8 Q. He's cooperating with the government?

9 A. Yes.

10 Q. Was he called before your grand jury?

11 A. No.

12 (Brief pause.)

13 BY MR. MOFFITT:

14 Q. Now, the other information that was provided, the search

15 documents for Dr. Ashqar's home, those documents were provided

16 to the people in Texas, correct?

17 A. That is correct.

18 Q. The product of the bug with regard to Dr. Ashqar's home,

19 that information was provided in Texas, correct?

20 A. Yes.

21 Q. All right.

22 The Philadelphia meeting -- the bug of the

23 Philadelphia meeting -- that information was provided in

24 Texas, correct?

25 A. Yes.



1 Q. Do you know whether that information was placed before the
2 grand jury?

3 A. No.

4 Q. All right.

5 Do you know whether any of that information was
6 utilized in obtaining an indictment with regard to the HLF?

7 A. I've seen the indictment. It's been a while since I've
8 seen it. I can't say for sure. Again, I know it was admitted
9 as evidence in their trial.

10 Q. Okay.

11 Now, let me ask you another question. You did not
12 expect that the verdict on the RICO count would go out -- go
13 the way that it did, did you?

14 MR. FERGUSON: Objection. Relevance.

15 MR. MOFFITT: Bias.

16 THE COURT: Bias?

17 MR. MOFFITT: Bias. That he's angry and part of the
18 reason he's testifying in the manner that he is, is that he's
19 angry that he didn't win.

20 MR. FERGUSON: I'll lift the objection and let the
21 agent answer. It's fine.

22 THE COURT: Okay.

23 Go ahead.

24 BY THE WITNESS:

25 A. That is absolutely not correct.



1 BY MR. MOFFITT:

2 Q. You had --

3 A. I'm not angry at all.

4 Q. Okay.

5 You had spent how many years involved in this
6 investigation?

7 A. Five.

8 Q. Five?

9 A. Part of the time as case agent. I supervised the squad
10 that eventually took it to trial.

11 Q. Important case?

12 A. Yeah, it was an important case, sure.

13 Q. You wanted to win?

14 A. Sure.

15 Q. All right.

16 Did you plan the party for after you won?

17 A. No.

18 MR. MOFFITT: Let me check.

19 (Brief pause.)

20 BY MR. MOFFITT:

21 Q. At any point in your investigation and your attempts to
22 get Dr. Ashqar to testify, did you know what was going on
23 between the Israeli authorities and any members of
24 Dr. Ashqar's family?

25 A. No.



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MR. MOFFITT: I think I'm done.

THE COURT: Thank you, Mr. Moffitt.

Any redirect?

MR. FERGUSON: I just have one question, Judge.

REDIRECT EXAMINATION

BY MR. FERGUSON:

Q. Special Agent Bray, do you want me --

THE COURT: Will you stand, please, Mr. Ferguson?

MR. FERGUSON: I'm sorry.

BY MR. FERGUSON:

Q. Special Agent Bray, do you want me to ask any more questions?

A. No, I do not.

MR. FERGUSON: I have no other questions, Judge.

THE COURT: You may step down.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: We are going to break for ten minutes. I will be back in ten minutes, and we will start with the Presentence Investigation Report.

(Brief recess.)

MR. MOFFITT: May we approach, your Honor?

THE COURT: I am sorry?

MR. MOFFITT: May we approach?

THE COURT: Yes.



1 (Proceedings had at sidebar:)

2 MR. MOFFITT: May I ask an adjournment at this
3 particular point?

4 I've got plane tickets back. I don't know if I can
5 change them. They were scheduled for 5:50 tonight. We've
6 still got to get to the airport in the middle of the rush
7 hour. Even if I were to leave now, I don't know if I could
8 get there. I'm prepared to come back on the 13th.

9 THE COURT: I cannot do the 13th.

10 MR. MOFFITT: Well, I can do it --

11 MR. FERGUSON: If the Court is prepared to proceed,
12 the government would like to proceed.

13 MR. MOFFITT: I did not make plans to spend the
14 night. I've also got a commitment that I made tomorrow. I'd
15 ask some indulgence.

16 THE COURT: When can you come back?

17 The problem is my schedule.

18 MR. MOFFITT: Well, if you tell me what your schedule
19 is --

20 MR. SPIELFOGEL: The 19th was what Edna checked out.

21 If you can't do it the 13th, the 19th? How is that?

22 THE COURT: How about the day before Thanksgiving?

23 MR. SCHAR: The 21st.

24 MR. MOFFITT: If I have to do it the day before
25 Thanksgiving, I will do it the day before Thanksgiving.



1 MR. SPIELFOGEL: We'll get it all done on that day.

2 THE COURT: I do not want to ruin any -- if people
3 have travel plans, I --

4 MS. HAMILTON: I won't be here, but you should go
5 ahead.

6 MR. SCHAR: Ms. Hamilton will not be available, but
7 if that's the day --

8 MS. HAMILTON: If that's the day --

9 MR. SPIELFOGEL: I'm leaving on Thanksgiving Day, but
10 that's -- we'll get it all done on the 21st.

11 MR. MOFFITT: I mean, I have --

12 THE COURT: We will get it done the morning of the
13 21st.

14 MR. SPIELFOGEL: Okay.

15 MR. MOFFITT: That's fine.

16 MR. SPIELFOGEL: Great.

17 MR. MOFFITT: That's fine. I mean, I have he guests
18 coming, but I will be here on the 21st.

19 MR. SPIELFOGEL: Do you want us here at 3:00 a.m.?

20 (Laughter.)

21 THE COURT: Do not --

22 MR. MOFFITT: Don't --

23 THE COURT: Do not tempt me.

24 The 19th is full, and I cannot do the 20th.

25 The 21st.



1 MR. SCHAR: That's fine.

2 THE COURT: Either that or the week after

3 Thanksgiving. But I would rather --

4 MR. SCHAR: I'd rather do --

5 THE COURT: -- do it sooner.

6 MR. MOFFITT: I would rather do the 21st.

7 THE COURT: Okay.

8 MR. MOFFITT: Okay.

9 MR. SCHAR: There's no other day next week, Judge,

10 that would work? The 15th or 16th?

11 THE COURT: I cannot because of my schedule.

12 MR. SCHAR: 21st.

13 MR. SPIELFOGEL: 10:00 o'clock?

14 MR. SCHAR: 9:00 a.m.?

15 MR. FERGUSON: 8:30?

16 THE COURT: Theresa, will you grab my red book for

17 the 21st.

18 Can we start at 9:00?

19 MR. MOFFITT: Yes, ma'am.

20 (Brief pause.)

21 THE COURT: 9:00 works. Maybe we will start at 8:30.

22 MR. FERGUSON: The Probation Officer.

23 THE COURT: Can you continue this -- Mr. Moffitt has

24 asked for a continuance. Can you do this the day before

25 Thanksgiving?



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MS. RICE: Yes.

THE COURT: Okay.

8:30?

MR. MOFFITT: Well, I would generally take the 6:00 o'clock plane. I'd be here at probably 7:00 o'clock your time. Then the only thing would be making --

THE COURT: Okay. We will start at 9:00.

MR. MOFFITT: Okay.

MR. SPIELFOGEL: 9:00?

THE COURT: 9:00 o'clock on the 21st.

MR. SPIELFOGEL: Thanks, Judge.

MR. MOFFITT: Thank you very much.

MR. SCHAR: Thank you, Judge.

(Proceedings had in open court:)

THE COURT: You do not plan on calling any witnesses, correct?

MR. MOFFITT: No, ma'am.

THE COURT: You have asked for a continuance because of your schedule, Mr. Moffitt. The 21st is open, but we would need to end by 12:30.

Do you think --

MR. MOFFITT: I believe that would not be a problem.

THE COURT: Okay.

I am going to start it at 8:30. I know you are flying in, but you can -- I am accommodating you.



1

MR. MOFFITT: I will be here.

2

THE COURT: Okay.

3

At your request, I will continue this matter until
November 21st at 8:30.

5

You should be prepared to address the Guidelines.

6

MR. MOFFITT: Yes, ma'am.

7

THE COURT: I have heard all the testimony either
side is going to have.

9

I will tell you now I have thoroughly read each of
your submissions: Your 170-plus-page submission; your
response; and, your reply.

12

I have read every letter that you have filed. I do
not want you or do not need you to re-argue what you have
already submitted to the Court. I am just letting you know
that right now. I have thoroughly, thoroughly gone through
this.

17

I know there has been new information that we have
obtained today -- some new, some old. You could certainly
incorporate that into your oral arguments.

20

There are two particular Guidelines that I think that
would be relevant to; namely, the 2J1.2(b)(2) enhancement and
the 3A1.4 enhancement.

23

So, I will hear your arguments on the relevancy and
how that plays in. I will do that on the 21st.

25

So, I will, at your request, continue this until



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November 21st at 8:30.

MR. MOFFITT: Thank you, your Honor.

THE COURT: Is there anything else?

MR. FERGUSON: No, Judge.

MR. SCHAR: No.

THE COURT: Thank you.

(Whereupon, an adjournment was taken at 4:15 o'clock
p.m., until 8:30 o'clock a.m., November 21, 2007.)

* * * * *

I certify that the foregoing is a correct transcript from the
record of proceedings in the above-entitled matter.

_____, 2007
Official Court Reporter