

1 UNITED STATES DISTRICT COURT  
 2 SOUTHERN DISTRICT OF NEW YORK  
 -----X  
 3 UNITED STATES OF AMERICA,  
 4 v.  
 5 OMAR AHMAD ALI ABDEL RAHMAN,  
 6 a/k/a "Omar Ahmed Al i ,"  
 7 a/k/a "Omar Abdel Al -Rahman, "  
 8 a/k/a "Shei k Rahman, ",  
 9 a/k/a "The Shei k, "  
 10 a/k/a "Shei k Omar, "  
 11 EL SAYYID NOSAIR,  
 12 a/k/a "Abu Abdal I ah, "  
 13 a/k/a "El Sayyi d Abdul Azzi z, "  
 14 a/k/a "Vi ctor Noel Jafry, "  
 15 IBRAHIM A. EL-GABROWNY,  
 16 SIDDI G IBRAHIM SIDDI G ALI ,  
 17 a/k/a "Khal i d, "  
 18 a/k/a "John Medl ey, "  
 19 CLEMENT HAMPTON-EL,  
 20 a/k/a "Abdul Rashi d Abdul I ah, "  
 21 a/k/a "Abdel Rashi d, "  
 22 a/k/a "Doctor Rashi d, "  
 23 AMI R ABDELGANI ,  
 24 a/k/a "Abu Zai d, "  
 25 a/k/a "Abdou Zai d, "  
 FARES KHALLAFALLA,  
 a/k/a "Abu Fares, "  
 a/k/a "Abdou Fares, "  
 TARI G ELHASSAN,  
 a/k/a "Abu Ai sha, "  
 FADI L ABDELGANI ,  
 MOHAMMED SALEH,  
 a/k/a "Mohammed Al i , "  
 VI CTOR ALVAREZ,  
 a/k/a "Mohammed, " and  
 MATARAWY MOHAMMED SAID SALEH,  
 a/k/a "Wahi d, "

S5 93 Cr. 181 (MBM)

Defendants.

-----X  
 Before:  
 HON. MI CHAEL B. MUKASEY,  
 Di stri ct Judge

Jul y 13, 1995  
9: 40 a. m.

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Si raj Wahhaj Testimony

APPEARANCES

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Si raj Wahhaj Testimony

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1 (Tri al resumed)  
2 (In open court; jury not present)  
3 THE COURT: I understand that there is a witness  
4 or witnesses who have some time constraints, so we ought to  
5 get started as fast as we can. Is there anything that I  
6 have to do before we get started, that can't wait?  
7 MR. STAVIS: No, your Honor.

Si raj Wahhaj Testimony

8 THE COURT: Then let's get started.  
9 MR. RICCO: The first witness will be taken out  
10 of turn. He will be a witness for Mr. El-Gabrowny.  
11 THE COURT: Do you want me to explain that to the  
12 jurors?  
13 MR. RICCO: Please.  
14 (Jury present)  
15 THE COURT: Good morning, ladies and gentlemen.  
16 JURORS: Good morning.  
17 THE COURT: As has happened before, we are going  
18 to take a witness out of order. Witnesses were being called  
19 principally by counsel for Mr. Nosair, but there is a  
20 witness who has a scheduling problem, so we are going to go  
21 a little bit out of order and take a witness called by  
22 counsel for Mr. El-Gabrowny.  
23 Mr. Ricco.  
24 MR. RICCO: Your Honor, Mr. El-Gabrowny calls  
25 Si raj Wahhaj.

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1 SIRAJ WAHHAJ,  
2 called as a witness by the defense,  
3 having duly affirmed, testified as follows:  
4 THE COURT: Go ahead, Mr. Ricco.  
5 MR. RICCO: Thank you, your Honor.  
6 DIRECT EXAMINATION  
7 BY MR. RICCO:  
8 Q Are you familiar with the Al-Taqwah Mosque?  
9 A Yes, very much so.  
10 Q How is that?

Siraj Wahhaj Testimony

11 A I am the imam, or the leader of that particular  
12 community.

13 Q How long have you been the imam at the Al-Taqwah  
14 Mosque?

15 A The masjid began, was incorporated in 1981, and I  
16 have been the imam since then, from the beginning.

17 Q Can you explain to the jury the neighborhood  
18 surrounding the Al-Taqwah Mosque?

19 A Basically, it is in the middle of Bedford  
20 Stuyvesant. It is on Fulton Street and Bedford Avenue, and  
21 predominantly African Americans in the area, I would say.  
22 It's changed a little bit over the years. It used to be  
23 infested with a lot of drugs but there is less of that kind  
24 of traffic now because of our presence there, I would say.

25 Q Can you tell the jury, who makes up the

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1 congregation that attends the Al-Taqwah Mosque?

2 A Probably 45 percent to 50 percent would be  
3 African Americans. We have a sizable African community. We  
4 have brothers from Senegal, Nigeria, Sudan. We have Muslims  
5 from Pakistan, India, Bangladesh. We have white European  
6 Americans in our congregation, we have Hispanics, Puerto  
7 Ricans.

8 Q In the time that you have been the imam, have you  
9 had contact with community or political leaders?

10 A Of course, including the mayor, whether it was  
11 Mayor Giuliani, Mayor Dinkins, Borough President Howard  
12 Goldin from Brooklyn, Borough President Schuler from Queens.  
13 Name them. The chief of police of many administrations.  
14 Many political leaders, congressmen, Congressman Ed Townes,

Si raj Wahhaj Testimony

15 State Senator Markowitz, Marty Markowitz -- I mean, the list  
16 goes on. A number of occasions. Civic leaders, churches,  
17 meeting with rabbis, ministers. Name them, we probably met  
18 one of them.

19 Q Do you lecture at all?

20 A Yes, all the time.

21 Q Do you lecture at different mosques?

22 A I have lectured at almost every major university  
23 and college in America, including Harvard University. Name  
24 them, I have given lectures in this country and around the  
25 world. In fact, I am trying to catch a flight now to go to

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1 Germany. Universities, and also Muslim mosques throughout  
2 the world. So yes, I have given quite a number of lectures.

3 Q What has been the subject of your lectures?

4 A Infinite number of subjects. We have talked  
5 about Allah, God, all the great prophets, Jesus, Abraham,  
6 Moses. We have talked about family relationships, we have  
7 talked about community involvement, responsibility. We have  
8 spoken about our commitment to clean up our neighborhoods.  
9 We have spoken about the father's responsibility to take  
10 care of his family. Just about every kind of topic you can  
11 imagine.

12 Q Have you ever addressed the Congress of the  
13 United States?

14 A Yes, of course. I was the first Muslim in the  
15 history of the United States of America to actually do an  
16 invocation to the Congress of the United States in 19, I  
17 think '92, June. That began a precedent of Muslims actually

Siraj Wahhaj Testimony

18 opening up a session of Congress, and again we were the  
19 first. It is in the historical record.

20 Q Do you know the man Ibrahim El-Gabrowny?

21 A Yes. Can I say As-Salamu Alkaiyum to him?

22 THE COURT: It is not a social occasion.

23 THE WITNESS: It is not social but this is a  
24 greeting that we have to do -- OK, sorry.

25 MR. RICCO: Mr. El-Gabrowny, can you stand up.

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1 Q Is that --

2 A Yes, it is.

3 Q Can you explain to the jury the circumstances  
4 under which you met Mr. El-Gabrowny brown?

5 A I met him a few years ago concerning the Nosair  
6 case, and he came to what is called the majshura,  
7 M-A-J-S-H-U-R-A -- Arabic words, means the council of  
8 leaders. There are about 40 mosques or Muslim communities  
9 that work together, and he came seeking support for brother  
10 Nosair in his case, asking us to, you know, get involved, to  
11 help us to raise money for his defense, to come to the court  
12 and things like that. That's when I first became aware of  
13 him.

14 Q On that occasion, did you have an opportunity to  
15 discuss his reputation in the community?

16 A To discuss his reputation in the community?

17 Q Yes.

18 A Yes. If anyone came to the majshura, the council  
19 of leaders, you know, we would have to check the person out,  
20 to make sure that person was reputable. So to that degree  
21 he was known and respected among us. We had nothing -- we

Si raj Wahhaj Testimony

22 didn't know anything negative about him at all.

23 Q Did the council discuss participating with the  
24 Nosair trial?

25 A We did discuss it, yes.

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1 Q Did there come a time when you attended the  
2 trial?

3 A Yes, there was.

4 Q How many times did you attend the trial?

5 A Probably three, but I am not sure. I would think  
6 two, three or four. Probably three, I think.

7 Q Did you have an occasion to meet a man by the  
8 name of Emad Salem?

9 A Yes, I did.

10 Q Do you recall the circumstances under which you  
11 met Emad Salem?

12 A I first met him, didn't realize who he was -- the  
13 first time I came to the court, I guess because I am an imam  
14 or leader, it was Emad who actually -- "oh, imam, come this  
15 way," and I didn't know who he was, you know, and he kind of  
16 took me along and got me into the courtroom and had me  
17 seated. That's the first time that I met him.

18 Q Did you have an occasion to meet Emad Salem again  
19 at the Abu Bakr Mosque?

20 A Yes, I did.

21 Q Can you explain to the jury what you said to him  
22 and what he said to you at that meeting?

23 A He was talking not necessarily to me directly at  
24 first. He was just talking about, he was going on and on



25 about his, he was, he fought in some war and he got wounded,

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1 he was shot all over the place, you know, and he went on to  
2 say what a great person he was. I mean, I remember me  
3 getting the impression that this guy is trying to convince  
4 me that he is a great person. That I remember very clear.  
5 He said Imam Siraj, then he looked at me and he said yes,  
6 I'm an expert in security, I could wire your masjid for you,  
7 I could protect your masjid for you. I looked at him, like,  
8 what are you talking about, and kind of dismissed him.

9 Q Did you ever have him come wire your masjid  
10 mosque?

11 A No.

12 Q Did you ever ask Emad Salem to conduct firearm  
13 training at the mosque?

14 A Absolutely not.

15 Q Did you ever request him to give any type of  
16 martial arts or any other type of training at all at the  
17 Al -Taqwah Mosque?

18 A Absolutely not.

19 Q Did you have was there an occasion when you were  
20 at the El Salaam Mosque in New Jersey and there was a  
21 dispute?

22 A Yes.

23 Q Who were you there with?

24 A Who was I there with?

25 Q Yes.

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Si raj Wahhaj Testimony

1           A       We were coming from a meeting in the Islamic  
2 center in New Jersey, I think, Park Place or Park Avenue,  
3 something like that, and there was about four of us. I  
4 remember myself, Ali Abdul Karim, and the two other people  
5 escaped me, but maybe two, three other people. We just  
6 happened to be coming past that masjid, Masjid Salaam, and  
7 we noticed a lot of people out there, the police out there  
8 and a lot of Muslims. We said what's going on, so naturally  
9 we going to stop the van, and we went in and there the  
10 brothers know me, and they said Imam Si raj, Imam Si raj, and  
11 they told me there was some kind of dispute going on there,  
12 and they asked us if we could help them.

13           Q       Do you recall if Dr. Omar Abdel Rahman was  
14 present at the El Salaam Mosque on the occasion that you  
15 just testified to?

16           A       Yes, he was.

17           Q       Do you know if the man by the name of Ibrahim  
18 Siddig Ibrahim was present on that occasion?

19           A       Yes, he was present, I remember 6789.

20           Q       Did you go to that mosque for the purposes of  
21 settling a dispute?

22           A       No, actually I want to be very clear about it.  
23 We just happened to be passing that way and we wanted to  
24 find out what was going on. As a result of going inside to  
25 find out what's going on, then the brothers, I think I met

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1           somebody from the board of directors, a short gentleman, his  
2 name escapes me, and he said Imam Si raj, you know, we have  
3 some kind of dispute here. So then we got involved like

Siraj Wahhaj Testimony

4 that. We didn't go there with the intention -- we didn't  
5 know about any dispute, anything like that at that time.

6 Q Do you know if members who attend the Al-Taqwah  
7 Mosque provided security at the Nosair trial?

8 A The thing that I do remember is that toward the  
9 end, maybe the sentencing, you know, we were concerned that  
10 there would be a lot of emotions, perhaps on both sides, on  
11 the part of some of the Muslims --

12 THE COURT: The question was simply whether they  
13 did provide security. Did they?

14 THE WITNESS: I am sorry.

15 THE COURT: Go ahead.

16 A Just on the sentence, as far as I know, that's  
17 the only time they had some kind of presence. I guess you  
18 would say security, yes.

19 Q Was that done in conjunction with the police  
20 department?

21 A Yes, it was.

22 Q Imam, are you aware that there was a committee  
23 set up and a fund to raise money for Nosair's attorneys and  
24 to care for his family during his incarceration?

25 A Yes.

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1 Q You are aware of that?

2 A Yes. It was solicited to the majshura, the  
3 Muslim leaders. They asked us to raise money for the case  
4 and for the family.

5 Q Do members of your mosque participate in any  
6 security or martial arts training, to your knowledge?

7 A Yes, some do. Some do as private businesses,

Si raj Wahhaj Testimony

8 some brothers in our community that own security companies,  
9 and also they have some kind of training, security training,  
10 martial arts. Yes, they do.

11 Q Imam, in the time that you have been the imam at  
12 the Al-Taqwah Mosque in Brooklyn, are you aware of any riots  
13 that took place between the African American Muslim  
14 community and the Jewish community in Brooklyn?

15 A African American community?

16 Q The African American Muslim community.

17 A Absolutely not, no.

18 Q Your mosque, Imam, is on the corner of Fulton and  
19 Bedford, isn't that correct?

20 A Yes.

21 Q What does the concept of jihad mean to an imam at  
22 the mosque on the corner of Bedford and Fulton in Brooklyn?

23 A Well, the jihad is a very comprehensive term, as  
24 you know. One could say in our struggle, in our community  
25 of drugs, that's a jihad. It's a struggle. That's what the

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1 word jihad means, it means struggle. It could take on  
2 another meaning, for instance in Afghanistan, Muslims  
3 fighting for their liberation against the Russians. That's  
4 a jihad also. But for us, in the context of our  
5 environment, jihad is, A, cleaning up our community of  
6 drugs, B, getting our family, our men strong, getting them  
7 jobs, taking care of their family. That's a kind of jihad  
8 or struggle.

9 Q Did you have an occasion to address your  
10 congregation about the Kahane murder?

Siraj Wahhaj Testimony

11           A       I don't -- yes, I did, I just remembered, two  
12 things. I remember addressing my community and telling them  
13 that these kinds -- I said I don't know the innocence or the  
14 guilt of the person involved, but I said this kind of thing  
15 is wrong. I said, today I am someone, some crazy person  
16 would kill Kahane because they don't accept his views, I  
17 said tomorrow they kill me because they don't accept my  
18 views. This is wrong. It was unacceptable. I told our  
19 community about that, I was very clear about that. So yes,  
20 I did address my community about that.

21           Q       Just a couple more questions, Imam.

22           A       Sure.

23           Q       Do you know the man Ramzi Yousef?

24           A       No, except for what I read in the newspaper, no.

25           Q       Do you know the man Mohammad Salameh?

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1           A       Except what I read in the newspaper.

2           Q       The man Ahmad Ajaj.

3           A       Newspaper.

4           Q       Nidal Ayyad?

5           A       Newspaper.

6           Q       What about the man Mahmoud Abouhalima?

7           A       Yes, I have met him before.

8           Q       What were the circumstances under which you met  
9 Mahmoud Abouhalima?

10           A       I think he was part of the -- they had an office  
11 in the Masjid Farook, underneath the mosque, and it was like  
12 an Afghani office, and I think them and some other people  
13 were trying to raise money for the Muslims in Afghanistan,  
14 and I met him on a number of occasions in those contexts.

Siraj Wahhaj Testimony

15 Q Finally, you know Dr. Omar Abdel Rahman, isn't  
16 that correct?

17 A Know him? Yes, we have met. I respect him. To  
18 know him, I don't know to what degree you mean.

19 Q You are familiar with the defendant who is known  
20 here by the name of Clement Hampton-EI?

21 A Yes. We call him Rashid, yes.

22 Q Other than those three men, do you have any  
23 knowledge of any other of the men in the room?

24 A Any other --

25 Q Any of the other men seated in the room?

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1 A Seated where?

2 Q Seated at the table.

3 A At this table here? This table right here?

4 Q No, of the defendants, along this row and here  
5 and in the back.

6 A Oh, there, too. I think I have seen -- I am  
7 sorry. I think I have seen -- it's so hard, you know, I see  
8 so many people, I think maybe I have seen some of them  
9 before, yes, I think so.

10 Q Where would you have seen them?

11 A Either in our mosque or other masjids. I go to  
12 so many masjids, I see so many Muslims. So I could have  
13 seen, you know, and I am sorry, sometimes they blur. You  
14 see somebody in the newspaper, and, you know, did I see them  
15 in the newspaper or did I see them in the mosque, I don't  
16 know.

17 Q Did you have occasion to meet the defendant EI

Si raj Wahhaj Testimony

18 Sayyid Nosair?

19 A I don't think I ever met him. I think the first  
20 time I became aware of him, at the trial.

21 Q Outside of the context of the state trial, before  
22 that time did you ever have an occasion to meet with Mr.  
23 El-Gabrowni?

24 A I don't think so. I don't think so.

25 MR. RICCO: I have no further questions. Thank

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1 you very much.

2 THE COURT: Ms. Amsterdam.

3 CROSS-EXAMINATION

4 BY MS. AMSTERDAM:

5 Q Good morning, sir.

6 A Good morning.

7 THE COURT: Wait a minute. Which one of you is  
8 examining?

9 MS. AMSTERDAM: I am sorry. I looked to make  
10 sure anyone else was getting up.

11 THE COURT: Mr. Jabara, representing Dr. Abdel  
12 Rahman.

13 CROSS-EXAMINATION

14 BY MR. JABARA:

15 Q As-Salamu Alai kum, Imam.

16 A As-Salamu Alai kum.

17 Q Peace be on you. Imam Wahhaj, you have met me  
18 before, have you not?

19 A Yes, I have.

20 Q Do you recall when that was?

21 A At our mosque, our masjid.

Si raj Wahhaj Testimony

22 Q Do you recall whether that was?

23 A Probably a few weeks ago, four or five weeks ago,  
24 something like that.

25 Q And you say that you have met Sheik Omar Abdel

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1 Rahman, my client, before, have you not?

2 A Yes.

3 Q Has he ever lectured or given sermons at masjid  
4 Al -Taqwah?

5 A Yes, I think one night he gave a lecture at our  
6 mosque, yes, our masjid.

7 Q Do you recall when that was?

8 A Probably you are talking about late '91, early  
9 '92, I think, something like that.

10 Q Do you recall what he spoke of when he spoke?

11 A I should say yes but I don't. You know, it was a  
12 general kind of talk. Sheik Abdel Rahman was very popular  
13 from reciting verses from the Koran and giving explanation,  
14 but that night I can't remember the context of the talk.

15 Q What were the circumstances, if you recall, Imam  
16 Wahhaj, that Sheik Omar came to lecture?

17 A We had heard that this great sheik was in America  
18 and he was like touring the country and he was in New York  
19 City and some of his entourage, the people who were with  
20 him, said how would you like for him to come to your mosque  
21 and give a talk, and we said yes, definitely, and I think  
22 the brother who invited him was a brother named Jamal, an  
23 Egyptian.

24 Q That lecture was translated that night?



25 A Yes, it was. Yes, in fact it was translated by,

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1 I think, Jamal himself.

2 Q Do you recall how many people were present?

3 A Probably 150, I would say.

4 Q A hundred fifty?

5 A Yes.

6 Q Can you tell me whether or not there was a  
7 question and answer period afterwards?

8 A Yes, there was.

9 Q Did you ever hear Sheik Omar call for robbing  
10 banks?

11 A (Laughs) Well, to be honest, I do remember  
12 something, I don't think he was calling for robbing the  
13 banks but I think that maybe he raised the issue of the  
14 legitimacy of robbing banks.

15 Q Can you tell me, Imam Wahhaj, whether or not  
16 Sheik Omar, you ever heard him lecture in any other  
17 locations?

18 A I don't think so. I have seen him on other  
19 occasions where he had lectured. Maybe I just came there  
20 and he had spoken before, but I don't think so, as I recall.  
21 I can't recall him giving another lecture, not in person,  
22 no.

23 Q Did you ever meet him on any other occasion?

24 A Yes, we had a gathering in Prospect Park, Eid  
25 celebration, and he was there and he attended it. He didn't

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1 give the sermon but he was there that day.

2 Q Pardon?

3 A He did not give the sermon but he was there, he  
4 attended the services.

5 Q Where did you see him, at what mosque?

6 A I saw him at Masjid Salaam, the masjid we spoke  
7 about, recently in Jersey City, he was there that night. I  
8 saw him in Masjid Farook. At that time he was the imam  
9 there, and I visited. At our mosque, and also at the Eid  
10 celebration, I saw him on that occasion. Those are the  
11 times that I remember for sure.

12 Q Have you ever had occasion to meet with him  
13 personally?

14 A Other than coming to our masjid that day and to  
15 shake his hand and to say As-Salamu Alaikum, not really.

16 Q And when you say As-Salamu Alaikum, that means  
17 peace be upon you, is that correct?

18 A Yes.

19 Q When you say he is a great sheik, what do you  
20 mean by that?

21 A He is a well known scholar, he is a respected  
22 scholar. You know, people in the community, they talk about  
23 well known scholars and he is among the ones who is  
24 mentioned. He is called the hafiz of the Koran. He is  
25 called the hafiz, H-A-F-I-Z of the Koran. He memorized the

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1 entire Koran, 114 chapters. That is why I respect him. He  
2 has memorized the many statements of Prophet Mohammed, peace  
3 and blessings be upon him. And he is bold, as a strong

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4 preacher of Islam. So he is respected that way.

5 MR. JABARA: I have nothing further of this  
6 witness.

7 THE COURT: Mr. Wasserman, representing  
8 Mr. Hampton-El. Go ahead.

9 CROSS-EXAMINATION

10 BY MR. WASSERMAN:

11 Q Good morning Imam Si raj. How are you?

12 A Good morning.

13 Q We have met before?

14 A Yes.

15 Q How long have you known Rashid?

16 A Probably at least 10 years.

17 Q Under what circumstances did you come to know  
18 him?

19 A In our mosque, you know, it's expected that we --  
20 any Muslim is expected to pray five times a day. The best  
21 place to make the prayer for us is inside the masjid, the  
22 mosque. I have seen him so many times. 4:30 in the morning  
23 or 10:00 at night, Dr. Rashid he would be there in the  
24 mosque praying. So that's where I think I probably first  
25 met him, in those circumstances around the mosque.

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1 Q Over the years, have you had conversations with  
2 him?

3 A Yes, yes.

4 Q And have you had conversations with other people  
5 about him?

6 A Yes, of course, yes.

7 Q Are you aware that he was in Afghanistan?

Si raj Wahhaj Testimony

8 A Yes.

9 Q What is his reputation, based upon your  
10 conversations with other people?

11 A He is one of the most respected brothers. You  
12 know, when you talk about Dr. Rashid, you are talking about,  
13 like elder in the community. You know, you always see him  
14 sitting around talking to someone, some youth, giving  
15 advice, even some imam, head of the Muslim communities,  
16 giving advice. He is well respected in the community, very  
17 well respected.

18 Q Is that your own opinion as well?

19 A Definitely, yes.

20 Q Have you ever heard or seen him advocate violence  
21 against anybody who is an innocent person?

22 A No, never.

23 Q Did you know of his strong feelings about Bosnia?

24 A Yes -- well, I don't know if I have talked to him  
25 about Bosnia, I have spoken to him about Afghanistan for

♀

14146

1 sure. But like any other Muslim he would have to have a  
2 strong feeling about Bosnia. I don't remember specifically  
3 speaking to him about Bosnia.

4 Q When you say as any Muslim would, would that be  
5 yourself, sir?

6 A Yes, of course. You don't like anybody to suffer  
7 and when it's your own family member, and as Muslims we are  
8 brothers and sisters, it hurts a little bit more, and we are  
9 very much concerned, yes.

10 MR. WASSERMAN: Thank you very much, imam.

11 THE COURT: Ms. Amsterdam, representing

12 Mr. Khalifaalla. Go ahead.

13 CROSS-EXAMINATION

14 BY MS. AMSTERDAM:

15 Q Good morning again.

16 A Good morning.

17 Q Excuse my ignorance. An imam, is that like the  
18 equivalent of minister in a church?

19 A It would be equivalent in a sense to the rabbi of  
20 a synagogue or minister of a church. Imam would be the head  
21 of a congregation. I am that imam.

22 Q Are you elected in that position?

23 A Yes.

24 Q In your mosque, a board of directors?

25 A Not a board of directors as such. We have what

♀

14147

1 is called the majlis, again, M-A-J-L-I-S, majlis, is like a  
2 board of advisers. He have that but not as you call board  
3 of directors, I guess.

4 Q The board of advisers, are they elected?

5 A No, they are appointed.

6 Q They are appointed?

7 A Yes.

8 Q In your mosque, are the services in English or in  
9 Arabic?

10 A Mostly they are in English, but the relevant  
11 verses from the Koran are in Arabic and then translated.

12 The statements of the Prophet Mohammed, peace and blessing  
13 upon him, is in Arabic and then translated. So basically if  
14 I am giving the lecture it's in English. If we have a guest

Si raj Wahhaj Testimony

15 lecturer, if he is from Pakistan, it's in Urdu, translated  
16 to English. If they are from the Arabic countries, given in  
17 Arabic, translated into English.

18 Q You indicated that predominantly in your  
19 congregation there were Afro American members.

20 A Yes.

21 Q There were, however, members who attended who  
22 were from Africa?

23 A Africa, Asia, all over.

24 Q Did that include the Sudan?

25 A Yes, yes, of course.

♀

14148

1 Q Does jihad mean only a physical struggle?

2 A No. It could mean a physical struggle, it could  
3 also mean a spiritual struggle. When a person comes into  
4 the community, having been on drugs, he goes to a personal  
5 jihad. It's called jihad nafs, N-A-F-S. Jihad nafs means a  
6 struggle against yourself to try to overcome the weaknesses  
7 of soul. So the prophet talked that, the jihad of nafs, the  
8 jihad of self. That's a great struggle. It's more than a  
9 struggle against the armies. That's the big struggle.

10 Q The physical struggle is a minor struggle, the  
11 personal struggle to become a better person is the great  
12 struggle, correct?

13 A Yes, you got it.

14 Q And they are both called jihad?

15 A Yes, of course.

16 Q Was Siddiq Ibrahim Siddiq Ali ever invited by you  
17 to lecture at the mosque record regarding Bosnia?

Siraj Wahhaj Testimony

18 A I don't think so. I know I have met him before  
19 on a number of occasions, but I don't think I ever invited  
20 him to give a talk in our masjid, I don't think so.

21 Q Do you know what a shar'ia consultation is?

22 A Shar'ia, yes.

23 Q I apologize for my pronunciation.

24 A No, I apologize. When you talking about shar'ia,  
25 you are talking about Islamic law, and basically the shar'ia

‡

14149

1 is the Koran, the book of gods, and Prophet Mohammed's  
2 hadith, H-A-D-I-T-H, or the prophet's sayings. So when you  
3 are talking about the prophet's law, it's based on two  
4 things, based on God himself, his words and revelation, and  
5 it's based on the statements of our Prophet Mohammed, peace  
6 and blessings be upon him.

7 Q So the shoura is really a term for Islamic law?

8 A Yes. Shar'ia, because difference between shoura  
9 and shar'ia, yes, as you say.

10 Q I am sorry. I apologize. Can you explain to me  
11 again the difference between shoura and shar'ia?

12 A Yes. Shoura is consultation. If you are going  
13 to be a leader of the Muslim community, you can't dictate.  
14 You have to take shoura, consultation with the people.  
15 That's shoura. Shar'ia is Islamic law, and that Islamic law  
16 is based on the words of God himself and the words of his  
17 messenger, Prophet Mohammed.

18 Q If I have a problem or an issue and I come to you  
19 in your position of imam, will you give me consultation?

20 A Of course, yes.

21 Q And what would you call that consultation?

Si raj Wahhaj Testimony

22 A Consul tation.

23 (Laughter)

24 A There is no Islamic term for it. That's  
25 consul tation. That's different from -- see, when I have to

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14150

1 make a major decision, we want to move the masjid to another  
2 location, I can't say I'm going to move the masjid, it  
3 doesn't belong to me, it belongs to the people. So I have  
4 to take consul tation. We discuss that. I say maybe it's my  
5 opinion as the imam that we should move the masjid to  
6 another location and I take consul tation with the people and  
7 they say imam, I don't think we should. This is something  
8 that is binding upon us in the Koran, we have to take  
9 consul tation. If you come to me as an individual, you have  
10 marital problems, then I consult with you and give you  
11 guidance and recommendations based upon my knowledge of our  
12 religion. That's something different.

13 Q If I came to you as a congregant and asked you  
14 whether or not it was permissible to go and fight, for  
15 example, in Bosnia, to participate in an armed struggle in  
16 Bosnia, and you gave advice about that, would that be in  
17 accordance with religious laws?

18 A Yes. I am sorry for the reporter, I am going to  
19 have to give you another term, the fatwa. If someone comes  
20 to the imam asking for legal verdict, imam, is it  
21 permissible for me, for instance, to go to Bosnia to fight,  
22 he is seeking a fatwa, a religious verdict. Now, I don't  
23 put myself on such a high level as to think that I can give  
24 fatwas of various topics.



25

Siraj Wahhaj Testimony  
I am not as learned as our respected Sheikh Omar

♀

14151

1 Abdel Rahman, so therefore, if they come to seek certain  
2 advice, the first thing that I do, if it's in the Koran  
3 clearly, if the prophet said clearly, then it's no problem,  
4 I just say what Allah said and what his messenger said. If  
5 it's an area mutabashahat, which it's a gray area, then  
6 that kind of thing, a person like myself I would say, you  
7 know, I don't have that kind of knowledge but I will seek  
8 someone who would know to give you that kind of information.

9 THE COURT: Could you spell the term that you  
10 used, for the reporter.

11 THE WITNESS: M-U-T-A-B-A-S-H-A-B-I-H-A-T.

12 MS. AMSTERDAM: Thank you, sir. I appreciate.  
13 Thank you very much.

14 THE COURT: Ms. London, representing  
15 Mr. Elhassan. Go ahead.

16 CROSS-EXAMINATION

17 BY MS. LONDON:

18 Q Good morning, Imam Wahhaj.

19 A Good morning.

20 Q Sir, we have met before, haven't we?

21 A Yes, I think so. I think so, yes.

22 Q In fact, we met last week, if you recall.

23 A Help me.

24 Q At Masjid Al-Taqwah. It's OK.

25 A Yes, we did. Now I remember, yes, we did.

♀

14152

Si raj Wahhaj Testimony

1 Q Imam Wahhaj, about how many masjids would you say  
2 there are in the New York area?

3 A At least 100.

4 Q And about how many practicing Muslims would you  
5 say there are in the New York area?

6 A According to reports that I have read from the  
7 government, there are 850,000 Muslims in New York State, and  
8 a tremendous percentage of them, I don't know, are New York  
9 City.

10 Q When you ask the question how many of them are  
11 practicing, that's another question altogether. It's very  
12 difficult to say, because to be a practicing Muslim means to  
13 do some of the basic principles, like make prayer five times  
14 a day, fast on the month of Ramadan. You just don't know.  
15 It's very difficult to say.

16 Q And a Muslim can worship at any masjid?

17 A Yes, of course. In fact, every masjid is called  
18 the house of Allah, so myself even as the imam, I have  
19 prayed at many masjids, and many of them in New York City.  
20 I have prayed at most of them. Any Muslim anywhere,  
21 whenever it is time for prayer, the closest masjid you are,  
22 you go to that masjid and pray even you have never been  
23 there before. It is not unusual for someone to come, we  
24 never saw him before, he is a Muslim, we say As-Salamu  
25 Alai kum, and he makes prayer. It doesn't belong to us, it

♀

14153

1 belongs to God himself, the house of Allah.

2 Q In your understanding, many Muslims go to various  
3 mosques in the area so that they can share the views of

4 other Muslims worshipping --

5 THE COURT: Ms. London, this is direct. Go  
6 ahead.

7 A Yes. They don't necessarily go to another mosque  
8 to share their views. It could be, but most people go to  
9 different masjids simply to pray. It's time for prayer and  
10 they happen to be in the Bronx and they go to the nearest  
11 masjid and they pray.

12 Q Imam Wahhaj, in directing your attention to 1992  
13 and early 1993, during that period of time did you have  
14 guest speakers at your mosque at Al-Taqwah, talking about  
15 the situation in Bosnia?

16 A Probably so. You know, I just can't remember  
17 directly dates, anything like that, but I suspect, because  
18 around that time when the news broke out about Bosnia,  
19 everybody was concerned and I would imagine, if I would  
20 think and go back to my calendar, I probably could give more  
21 details.

22 Q As an imam, do you encourage brotherhood among  
23 your worshippers?

24 A Of course, yes.

25 Q In fact, Islam encourages Muslims to trust one

♀

14154

1 another, is that right?

2 A Absolutely. Again, everything comes from the  
3 Koran, and I won't say the Arabic, I will just say the  
4 English, but basically the verse in the Koran, verily  
5 believes the brothers -- Inna Al-Muslimeen ikhwa -- verily  
6 the Muslims are brothers. Whether that Muslim is a white  
7 Muslim in Bosnia or a black Muslim in Nigeria, they are

Si raj Wahhaj Testimony

8 brothers. Where we met them before they are brothers and  
9 sisters, where we never met them, they are brothers. And  
10 yes, I encourage it all the time.

11 Q In your understanding of Islam, if your brothers  
12 meet a new brother for the first time in a masjid, Islam  
13 encourages them to trust one another unless and until that  
14 trust is proven misplaced?

15 A Of course, yes.

16 MS. LONDON: I have no further questions.

17 THE COURT: Mr. Bernstein, representing Amir  
18 Abdelgani. Go ahead.

19 CROSS-EXAMINATION

20 BY MR. BERNSTEIN:

21 Q Imam, just a few questions.

22 A Yes.

23 Q Regarding prayer, how many times a day is it  
24 recommended?

25 A You have to do at least five a day.

♀

14155

1 Q Are there set times, so to speak, for the day?

2 A Yes.

3 Q What are those times?

4 A The first prayer is sunrise, before sunrise, dawn  
5 prayer. The second one is right after the sun has passed  
6 the meridian. The third one is afternoon prayer. The  
7 fourth one is sunset prayer. And the fifth one is the night  
8 prayer. This is about an hour and a half after sunset.

9 Q Does the prayer also depend on how the sun shifts  
10 throughout the year?

Si raj Wahhaj Testimony

11 A Yes.

12 Q The times of the prayer?

13 A Yes.

14 Q One other thing. If you are not in a mosque, is  
15 it correct or right to pray in your home or wherever you  
16 might be?

17 A Yes, of course. The recommended place to pray is  
18 the masjid, and you get more rewards, 27 times more reward  
19 if you pray in a masjid. But certainly wherever you are.  
20 In fact, I have prayed in the park, for instance, you know,  
21 different places. Whenever the time comes, you try to pray  
22 in the most convenient place.

23 MR. BERNSTEIN: Thank you. I have no further  
24 questions.

25 THE COURT: Mr. Jacobs, representing Mr. Saleh.

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14156

1 CROSS-EXAMINATION

2 BY MR. JACOBS:

3 Q Good morning.

4 A Good morning.

5 Q Do members of your congregation join the United  
6 States military?

7 A Of course, yes.

8 Q The only prohibition is about Muslims fighting  
9 for the United States Army?

10 A No, the only prohibition would be if we  
11 commanded -- I imagine it would be a very difficult thing  
12 for a Muslim, for instance, in the United States Army, and  
13 they are commanded to do something that is unjust. We can't  
14 do that. If a Muslim leader even told us to do something

Si raj Wahhaj Testimony

15 that goes against God and his messenger, we can't do that.  
16 We are taught clearly in that. Obey Allah in the Koran,  
17 obey the messenger, and those charged with authority among  
18 you. If you differ with anything, refer back to Allah and  
19 the messenger, if you believe in Allah and the last day. So  
20 if the commander of the army told us to do something that is  
21 unjust, we couldn't do it.

22 Q Do you know if there are thousands of Muslims  
23 serving in the United States military today?

24 A Definitely, there are. In fact, I just give you  
25 some information. In the war in the Persian Gulf, 7,000

♀

14157

1 American soldiers became Muslims.

2 Q Do you know if recently President Clinton  
3 appointed an imam to serve as one of the leading chaplains  
4 for the services?

5 A I don't think I know that, no.

6 Q That's all right.

7 A I wish I did.

8 MR. JACOBS: That's all right. No further  
9 questions.

10 THE COURT: Mr. Lavine representing Fadi I  
11 Abdelgani. Go ahead.

12 MR. LAVINE: Thank you.

13 CROSS-EXAMINATION

14 BY MR. LAVINE:

15 Q Good morning, Imam.

16 A Good morning.

17 Q You had mentioned that when a Muslim meets

Siraj Wahhaj Testimony

18 another Muslim, is introduced to another Muslim in a mosque  
19 or a masjid, that those two people will trust each other  
20 until the trust is betrayed.

21 A Yes.

22 Q Is the same true if a Muslim meets or is  
23 introduced to another Muslim outside the masjid?

24 A Yes, of course.

25 Q Thank you very much.

‡

14158

1 A In fact, I was going to make that clear. It's  
2 not just the masjid. If you meet any Muslim anywhere -- in  
3 fact our prophet encourages us to greet Muslims both that  
4 you know and you don't know. So if you see a stranger, you  
5 know, and they look like a Muslim, and they say As-Salamu  
6 Alaikum, you start talking as if you had known them for  
7 years. So it doesn't have to be in a mosque or anywhere.  
8 If you meet a Muslim, you begin to trust them, of course. I  
9 mean, you can't be foolish, but, you know, you trust them.

10 MR. LAVINE: Thank you very much, sir. I have  
11 nothing further.

12 THE COURT: Anyone else? Cross. Mr. Fitzgerald.

13 CROSS-EXAMINATION

14 BY MR. FITZGERALD:

15 Q Good morning, sir. My name is Pat Fitzgerald. I  
16 am one of the government attorneys and I just have a few  
17 questions for you.

18 A Sure.

19 Q You mentioned that you know defendant Clement  
20 Hampton-El, Dr. Rashid, for about 10 years.

21 A Yes.

Si raj Wahhaj Testimony

22 Q Would you say that he is a very open, up front  
23 person?

24 A Yes, definitely.

25 Q If you went to him and told him, if you asked him

♀

14159

1 to do something wrong, he would tell you you are wrong?

2 A Definitely. I can give you an example of that.  
3 It just happened recently. When I gave the invocation to  
4 Congress, he wasn't so happy with it, you know. He said I  
5 don't think it was a good move, but I respect you anyway.  
6 And this is what we respect in Islam. We are not yes  
7 people, we don't always agree, we have differences of  
8 opinion. And one thing I can say about this Muslim, he is  
9 open and honest and he tells you as he sees it.

10 Q If he disagrees, he will tell you he disagrees?

11 A Absolutely.

12 Q And if he agrees, he will tell you that too?

13 A Yes.

14 Q And if he tells you that he is going to help you,  
15 you can bank on that, that he is really going to try?

16 A Yes.

17 MR. FITZGERALD: Thank you, nothing further.

18 THE COURT: Thank you very much. You are  
19 excused.

20 (Witness excused)

21 MR. PATEL: Your Honor, at this time I would ask  
22 to publish two exhibits that were admitted the other day.  
23 It is GGG and III. And I would also at this time, your  
24 Honor, offer an exhibit that was discussed, which is HHH,



25 and I would also offer, I believe with stipulation, HHH-T.

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1 We will publish that at a later time, your Honor.

2 THE COURT: Is there any objection to HHH and  
3 HHH-T?

4 MR. FITZGERALD: No objection.

5 THE COURT: HHH and HHH-T are received without  
6 objection, and you can publish GGG and II.

7 (Defendant Nosair Exhibits HHH and HHH-T received  
8 in evidence)

9 THE COURT: Is that a certificate of  
10 incorporation?

11 MR. PATEL: And a photograph, your Honor.

12 THE COURT: Let's wait -- the certificate -- if  
13 you want to publish the photograph, go ahead. The  
14 certificate of incorporation, I think, can wait.

15 MR. PATEL: We can wait -- actually, your Honor,  
16 why don't we wait and we can do it when we publish the  
17 translation at a later time, if that is convenient.

18 THE COURT: Fine. Go ahead.

19 MR. PATEL: I think we are just getting our next  
20 witness, your Honor. Just one moment.

21 THE COURT: Excuse me. When someone is being  
22 sworn, don't talk.

23 Excuse me, Mr. Wasserman.

24 (Continued on next page)

25

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14161

Si raj Wahhaj Testimony

1 NORVELL BONDS DeATKINE,  
2 called as a witness by the defendant Nosair,  
3 having been duly sworn, testified as follows:

4 THE COURT: Go ahead.

5 DIRECT EXAMINATION

6 BY MR. STAVIS:

7 Q Are you here pursuant to a subpoena that was  
8 signed by Judge Mukasey?

9 A Yes, I am.

10 Q Could you tell the ladies and gentlemen of the  
11 jury where you were born and raised?

12 A I was born in Galveston, Texas, and raised mostly  
13 in the southern parts of the United States, because my Dad  
14 was in the Army.

15 Q Will you tell the ladies and gentlemen of the  
16 jury something about your educational background?

17 A I went to high school in Hampton, Virginia. I  
18 went to the U.S. Military Academy at West Point, and I got a  
19 master's degree in Arab studies from the American University  
20 of Beirut.

21 Q You are wearing your West Point ring on your left  
22 hand over there?

23 A Yes, that's correct.

24 Q Could you tell the ladies and gentlemen of the  
25 jury about your military service?

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14162

1 A I graduated from West Point in 1959. I was an  
2 artillery officer. I served in Vietnam, I served in Korea,  
3 I served in a number of stateside posts -- Fort Lewis, Fort

Siraj Wahhaj Testimony

4 Sill, a number of others. I was stationed in Beirut,  
5 Lebanon. I was stationed in Cairo, Egypt. I was stationed  
6 in Aman, Jordan. I was a deputy commander of 3 Corps  
7 Artillery at Fort Sill, inspector general, and I retired in  
8 1985.

9 Q Let's back up a little bit. You said you were  
10 stationed in Cairo, Egypt?

11 A That's correct.

12 Q Where in Cairo, Egypt, and what was your role and  
13 your rank?

14 A I was a colonel. I was the Chief of the Office  
15 of Military Cooperation Land Forces, which is involved  
16 primarily in military equipment for the Egyptian Army.

17 Q You also said that you were stationed in Beirut.  
18 What was your post when you were in Beirut?

19 A I was simply a student at the time, at the  
20 American University of Beirut.

21 Q And you stated that you were stationed in Aman,  
22 Jordan. What was your position? And what were the years  
23 that you were there?

24 A I was there in '70 to '72, through '72. I was  
25 the assistant military attache at the American Embassy.

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14163

1 Q When I believe you said you retired from the  
2 military in 1985, is that correct?

3 A That's correct.

4 Q At the time that you retired from the military,  
5 what was your rank?

6 A I was a colonel O6, full colonel.

7 Q Excuse me, I didn't hear that.

Si raj Wahhaj Testimony

8 A A colonel 06, which is full colonel.

9 Q Full colonel.

10 A Correct.

11 Q Did there come a time, after your retirement,  
12 Colonel DeAtkine, that you took on a civilian position with  
13 the Armed Forces?

14 A Yes. In November of 1988 I became an instructor  
15 at the Special Warfare School and Center.

16 Q What is the Special Warfare School and where is  
17 it located?

18 A The Special Warfare School and Center is located  
19 at Fort Bragg, North Carolina. It is an institution which  
20 trains special operations personnel.

21 Q What is Fort Bragg, North Carolina, and what is  
22 located there?

23 A Fort Bragg, North Carolina, is one of the largest  
24 military posts in the United States. We have the 18th  
25 Airborne Corps, 82nd Airborne Division, the Army Special

♀

14164

1 Operations Command, the Special Forces Command, and some  
2 other what they call tenant units.

3 Q You mentioned the Special Operations Command.  
4 What does that mean?

5 A Special operations basically entails what we call  
6 civil affairs, psychological operations, and special forces.

7 Q Let's take them one at a time. What is  
8 psychological operations?

9 MR. McCARTHY: Objection. Rule 16(b)(1)(C).

10 MR. STAVIS: I have to go to the book for that

Si raj Wahhaj Testimony

11 one, your Honor.

12 THE COURT: Let me see you at the sidebar.

13 (At the sidebar)

14 THE COURT: Where is this going?

15 MR. STAVIS: His background and where he works.

16 THE COURT: This is one of the units within Fort  
17 Bragg, North Carolina. We don't need a full description of  
18 the psychological operations.

19 MR. STAVIS: All right.

20 THE COURT: I don't see the relevance.

21 MR. STAVIS: It was a foundational question. I  
22 will move on. Mr. Patel wants to interject something.

23 MR. PATEL: Do you want to ask him about the  
24 special forces?

25 MR. STAVIS: Yes.

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14165

1 THE COURT: Special forces is something else.

2 MR. McCARTHY: What is his basis for testifying  
3 to that?

4 MR. STAVIS: His basis for testifying as to  
5 special forces is that he works with those people in North  
6 Carolina where they they are located.

7 THE COURT: From his background it sounds like he  
8 works with special forces.

9 MR. STAVIS: Yes.

10 MR. McCARTHY: Can we find out if he is  
11 competent? This witness is being proffered so that they  
12 don't have to put Ali Mohamed on the stand to ask him about  
13 it himself. He shouldn't be allowed to testify to Ali  
14 Mohamed's background and training. This witness, as I

Si raj Wahhaj Testimony

15 understand it, was proffered as a fact witness about Ali  
16 Mohamed, not as an expert witness on special forces. He  
17 certainly hasn't been proffered on it.

18 THE COURT: That is not expert testimony. That  
19 is fact testimony if he knows. If he doesn't know, you can  
20 cross. Cross-examination is the greatest legal engine for  
21 discovering the truth.

22 (In open court)

23 BY MR. STAVIS:

24 Q You mentioned, Colonel DeAtkine, Special Forces  
25 are located at Fort Bragg, North Carolina. What are the

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14166

1 Special Forces?

2 A My definition, and I have never served in Special  
3 Forces so I --

4 MR. McCARTHY: Objection.

5 THE COURT: He never served in Special Forces.

6 Can you testify, based on your personal  
7 knowledge, as to what their mission is? I am talking about  
8 what you heard based on your own firsthand knowledge. Do  
9 you know what they do?

10 THE WITNESS: My knowledge of the Special Forces  
11 is that they are American soldiers who are trained primarily  
12 to train friendly allied national soldiers.

13 THE COURT: Is that based on your own knowledge  
14 or based on what you heard?

15 THE WITNESS: This is from my own knowledge of  
16 being with these people but not being part of their  
17 organization.



Si raj Wahhaj Testimony

22 Q Did there come a time when you were working at  
23 the John F. Kennedy Special Warfare Center that you met a  
24 man by the name of Ali Mohamed?

25 A Yes, I did.

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14168

1 Q When did you meet him?

2 A This was sometime, I think, in early 1989, when  
3 First Sergeant Daniels brought sergeant Ali Mohamed in and  
4 said, "This is Sergeant Ali Mohamed. He is going to be  
5 working with you."

6 MR. STAVIS: Your Honor, may I approach the  
7 witness --

8 THE COURT: Yes.

9 MR. STAVIS: -- with what has been previously  
10 marked as Nosair Defense Exhibit JJJ-1.

11 THE COURT: All right.

12 Q I am showing you what has been marked as defense  
13 JJJ-1 for purposes of identification and ask you if you  
14 recognize it.

15 A Yes, I do.

16 Q What do you recognize it to be?

17 A The tape that I made with Sergeant Ali Mohamed.

18 Q Have you viewed that tape recently?

19 A Yes, I have.

20 Q I am now showing you what has been marked as  
21 Defense KKK-1 and -2 for purposes of identification. I ask  
22 you to take a look at them. Do you recognize them?

23 A Yes, I do.

24 Q What do you recognize them to be?



25 A One gentleman is Sergeant Ali Mohamed and the

♀

14169

1 other one is me.

2 Q Drawing your attention to Nosair Defense Exhibit  
3 KKK-1, who is depicted in that photograph?

4 A That is Sergeant Ali Mohamed.

5 MR. STAVIS: Your Honor, at this time I would  
6 offer defense Exhibit JJJ-1, the videotape, into evidence.  
7 This is a videotape that was recovered from Mr. Nosair's  
8 home.

9 THE COURT: Is that stipulated?

10 MR. McCARTHY: That fact is stipulated.

11 THE COURT: That fact, yes.

12 MR. McCARTHY: I would like a brief voir dire on  
13 the tape.

14 THE COURT: All right. Are you offering it in  
15 evidence?

16 MR. STAVIS: Yes, your Honor. I am also  
17 offering Nosair Defense Exhibit KKK-1 and -2.

18 MR. McCARTHY: No objection to that.

19 THE COURT: KKK-1 and -2 are received. You can  
20 have voir dire on the tape.

21 MR. McCARTHY: Yes, briefly.

22 (Nosair Defense Exhibit KKK-1 and KKK-2 were  
23 received in evidence.)

24 VOIR DIRE EXAMINATION

25 BY MR. McCARTHY:

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14170

Si raj Wahhaj Testimony

1 Q Good morning, Mr. DeAtki ne.

2 A Good morni ng.

3 Q Sir, the tape that you just looked at, Nosair's  
4 Exhi bi t KKK --

5 THE COURT: JJJ.

6 Q -- JJJ-1 for identi fication (handing to the  
7 witness), are you able to tell, Mr. DeAtki ne, looking at  
8 that, whether that is the original tape that you and Mr.  
9 Mohamed made or a copy?

10 A I have no way of knowing that, sir.

11 Q Do you have any idea, as you sit here today, how  
12 widely ci rculated those tapes may have been?

13 A I did not distri bute them mysel f, but I have no  
14 way of knowing how widely it was distri buted by any other  
15 means.

16 Q So you don't know if it is a copy or a copy of a  
17 copy?

18 A No, I do not know.

19 MR. McCARTHY: Your Honor, I have no objecti on to  
20 the exhi bi t.

21 THE COURT: JJJ-1 is recei ved.

22 (Nosai r Defense Exhi bi t JJJ-1 was recei ved in  
23 evi dence.)

24 MR. STAVIS: I j ust wi sh to hold up these two  
25 photographs before the jury.

♀

14171

1 THE COURT: Go ahead.

2 (Mr. Stavis showed photographs to the jury.)

3 DI RECT EXAMI NATI ON CONTI NUED

Si raj Wahhaj Testimony

4 BY MR. STAVIS:

5 Q Colonel DeAtkine, for what purpose was that  
6 videotape made that is Nosair JJJ-1 in front of you?

7 A The tape was originally made with the intention  
8 of being able to show it to our future students. We have  
9 normally two classes a year. And since Sergeant Ali Mohamed  
10 was going to leave the Army soon, we decided that we wanted  
11 to capture his particular philosophy on tape.

12 Q After the videotape was made, did you have an  
13 opportunity to review it?

14 A Yes, I did.

15 Q What if anything did you do when you reviewed the  
16 tape?

17 A After I looked at some of the tapes, I considered  
18 them too boring to use for my students and I put them in a  
19 box and I left them there.

20 Q Did you know if copies were made of this tape?

21 A I have no knowledge of that.

22 Q Do you know if the tape was distributed?

23 A I did not distribute any tapes, and I have no  
24 knowledge of it being distributed.

25 Q Were you the person who was responsible for the

♀

14172

1 making of these videotapes?

2 A I was co-responsible. I was working with another  
3 major and we decided together to do this, and so we shared  
4 responsibility for making this.

5 Q What organization is the owner of that videotape?

6 A The United States Army.

7 Q Is it the property of the United States Army?

Si raj Wahhaj Testimony

8 MR. McCARTHY: Objection in form.

9 THE COURT: Sustained.

10 Q Colonel DeAtkine, that videotape, Nosair JJJ-1,  
11 is that the kind of tape you could find at Blockbuster or  
12 another video store?

13 A Not to my knowledge.

14 MR. STAVIS: Your Honor, at this time I would ask  
15 to play a small portion of what has been introduced into  
16 evidence as Nosair Defense JJJ-1.

17 THE COURT: All right.

18 MR. McCARTHY: Your Honor, I have no objection --

19 THE COURT: Do you want to be heard at the  
20 sidebar?

21 MR. McCARTHY: If you don't mind.

22 (At the sidebar)

23 MR. McCARTHY: Your Honor, the only thing I would  
24 ask is an instruction to the jury that this is being offered  
25 for the limited purpose of the fact that Mr. Nosair had it.

♀

14173

1 The contents of it are not admissible for their truth. It  
2 is basically Mr. Mohamed, and the other meanderings about  
3 Afghanistan and --

4 THE COURT: I don't know what part he is going to  
5 show.

6 MR. STAVIS: I am showing it from the beginning,  
7 ten minutes into it. I am not skipping around on it.

8 THE COURT: I understand that. But the point is  
9 to show the nature of what it is that Mr. Nosair had, rather  
10 than the truth of what it is these folks are saying.

11 MR. STAVIS: Yes, your Honor.

12 (In open court)

13 THE COURT: Mr. Stavis is going to show part of  
14 this tape. The purpose of showing the tape to you is simply  
15 to show you the nature of what it is that was on the tape  
16 that Mr. Nosair had. It is not being offered for the truth  
17 of what the people on the tape are saying. It is simply to  
18 show you the nature of what it is. Go ahead.

19 MR. STAVIS: Your Honor, I am told that the  
20 jurors may need their headphones to hear the sound.

21 THE COURT: All right.

22 MR. McCARTHY: Your Honor, at least some of the  
23 jurors can't hear.

24 THE COURT: May I suggest we take our break now,  
25 check the connection, and then proceed.

♀

14174

1 . Ladies and gentlemen, we are going to take a  
2 short break. Please leave your notes and other material  
3 behind. Please don't discuss the case. We will resume in  
4 ten minutes.

5 (Recess)

6

7 (continued on next page)

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Si raj Wahhaj Testimony

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14175

1 (In open court; jury not present)  
2 THE COURT: Are we set?  
3 (Videotape played)  
4 MR. McCARTHY: Your Honor, may we approach?  
5 THE COURT: Yes.  
6 (At the side bar)  
7 MR. McCARTHY: I didn't object to this on  
8 Mr. Stavis' representation to me that it was going to be a  
9 10-minute sampling and it has now been --  
10 THE COURT: Twenty.  
11 MR. McCARTHY: -- close to 20.  
12 MR. STAVIS: I will stop now but the counter  
13 number is 64 and there has been a miscalculation.  
14 THE COURT: Whatever the counter number, it has  
15 been 20 minutes.  
16 MR. STAVIS: I will stop here.  
17 (In open court)

Siraj Wahhaj Testimony

18 MR. STAVIS: Your Honor, may I approach the  
19 witness with what has been previously marked into evidence  
20 as Government's Exhibit 118?

21 THE COURT: Go ahead.

22 MR. STAVIS: Your Honor, Government's Exhibit 118  
23 is a document that was recovered from Mr. Nosair's home  
24 during the search of his home.

25 THE COURT: Go ahead.

‡

14176

1 BY MR. STAVIS:

2 Q Colonel De Atkine, I would ask you to take a look  
3 at what is in evidence as Government's Exhibit 118. Have  
4 you ever seen anything like that?

5 A I have seen things of this type, yes.

6 Q What is that, sir?

7 MR. McCARTHY: Objection.

8 A This is what we call --

9 THE COURT: When he makes an objection, I have to  
10 rule on it.

11 When did you see it? Did you see it in the  
12 course of your duties? Have you dealt with documents of  
13 this kind?

14 THE WITNESS: I am sorry, sir. I didn't hear  
15 you.

16 THE COURT: Have you seen it in the course of  
17 your duties? Have you dealt with documents of this kind?

18 MR. McCARTHY: Your Honor, I have no objection if  
19 it is clear that it is documents of this kind rather than  
20 that document. I have no objection --

21 THE COURT: Right. Have you seen documents of  
Page 47

Si raj Wahhaj Testimony

22 this kind?

23 THE WITNESS: Yes, sir, I have seen documents of  
24 this type many times.

25 THE COURT: Go ahead.

♀

14177

1 Q What is it?

2 A There is what we call an enemy weapons guide,  
3 which enables our troops to know the bad guys from the good  
4 guys.

5 Q When you say the bad guys from the good guys,  
6 what are you referring to?

7 A This is primarily -- this is Soviet equipment.  
8 This is a guide of Soviet equipment.

9 Q Turning your attention to the first page of that  
10 exhibit, what is written on the first page?

11 A It says United States Army, John F. Kennedy  
12 Special Warfare Center.

13 Q Turning your attention to a page Bates stamped  
14 number 3075 -- that is also part of Government's Exhibit  
15 118 -- I ask you to take a look at that.

16 A Yes, sir.

17 Q Have you seen anything like that?

18 A This is basically an excerpt from a manual on  
19 maintaining an M16 rifle.

20 Q What is an M16 rifle?

21 A It is the basic small arm United States Army.

22 Q Turning your attention to the Bates stamped page  
23 number 3089 of Government's Exhibit 118, have you ever seen  
24 insignificant like that?



25 A Yes, I have seen similar documents.

♀

14178

1 Q What is that?

2 A This is just an excerpt of a manual on preparing  
3 light antitank weapon for firing, the LAW.

4 Q When you say the LAW, what are you referring to?

5 A Just the light antitank weapon. It used to be a  
6 basic antiarmor weapon at the lowest infantry level.

7 Q The word LAW, is that an abbreviation for --

8 A Acronym, yes.

9 MR. STAVIS: Your Honor, I am now approaching the  
10 witness with what has been previously marked into evidence  
11 as Government's Exhibit 117. This document was also  
12 recovered during the search of Mr. Nosair's home on November  
13 6, 1990.

14 THE COURT: Go ahead.

15 Q Colonel De Atkine, turning your attention to the  
16 front page of this document, it says "JCS warning order."  
17 Do you see where it says that?

18 A Yes, I do.

19 Q And it says "From JCS Washington, D.C.." Do you  
20 see that?

21 A Yes, I do.

22 Q What is the JCS in Washington, D.C.?

23 A Joint chiefs of staff.

24 Q And it says "To," and then there are some  
25 initials, USCINCCENT MacDill AFBFL.

♀

14179

Si raj Wahhaj Testimony

1 THE COURT: You are going to have to spell all  
2 that or show the reporter what you are reading from,  
3 otherwise it comes out as gibberish.

4 (Pause)

5 Q What do those initials stand for?

6 A It stands for United States Commander in Chief,  
7 Central Command, MacDill Air Force Base, Florida.

8 Q Turning your attention to a page which has a  
9 number 6 at the bottom of it, at the top it refers to daily  
10 sortie rates. What does that refer to?

11 A It is an air force term referring to number of  
12 air force flying single missions.

13 Q Are there types of aircraft in the corner?

14 A Yes, there are.

15 MR. STAVIS: I have no further questions, your  
16 Honor.

17 THE COURT: Any other defense counsel? Cross?

18 MR. McCARTHY: Thank you, your Honor.

19 CROSS-EXAMINATION

20 BY MR. McCARTHY:

21 Q Good morning again, sir.

22 A Good morning.

23 Q Mr. De Atkine, when you took the post at the JFK  
24 Special Warfare Center in 1988, that was a civilian post?

25 A Yes, as a civilian.

♀

14180

1 Q And that was after you retired from active duty?

2 A That is correct.

3 Q Thank you, and the post was that you were an

Siraj Wahhaj Testimony

4 instructor at the school?

5 A I am sorry.

6 Q The post that you took was that you were an  
7 instructor at the school?

8 A That is correct.

9 Q And you had some responsibility for lecturing and  
10 teaching at the school, is that correct?

11 A That is correct.

12 Q You told us that you met Mr. Mohammed in 1989,  
13 correct?

14 A To the best of my recollection, yes, sir.

15 Q That was around February or so?

16 A It must have been early in 1989.

17 Q When you met him, he was an E5 sergeant?

18 A That is correct.

19 Q Mr. Mohammed, the man that we saw in the tape  
20 recording, was wearing civilian clothes, right?

21 A Yes, sir.

22 Q At the time he was making the tape, even though  
23 he was in civilian clothes, he was actually an active duty  
24 E5 sergeant in the army?

25 A That is correct.

♀

14181

1 Q And part of the reason that he wore civilian  
2 clothes frequently at the JFK Special Warfare Center is that  
3 he was frequently in the position of giving lectures to  
4 superior officers, correct?

5 A That I have no knowledge, sir, about giving  
6 lectures to superior officers. We had him in civilian  
7 clothes to lend some credibility. As a sergeant E5, he

Si raj Wahhaj Testimony

8 wouldn't have the same credibility in the videotape.

9 Q He himself was not an officer, correct?

10 A Not in the United States Army, no.

11 Q And as far as you knew, he had no security  
12 clearance?

13 A Insofar as I know, no.

14 Q When he was brought to you in 1989, he was  
15 brought to you by Sergeant Daniels, correct?

16 A That is correct.

17 Q And Sergeant Daniels told you to find something  
18 for him to do?

19 A That is correct.

20 Q Can you tell the ladies and gentlemen of the jury  
21 what it is that you found for him to do?

22 A Actually between myself and Captain Brush, who  
23 was on the videotape, we had him do cross-cultural lectures  
24 for soldiers who were deploying to the Middle East, on  
25 basically how to work with Arabs. We had him straighten up

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14182

1 the files. In general, he did just a lot of gopher duties  
2 around the office.

3 Q It was your idea -- what was the rank of Officer  
4 Brush?

5 A She was a captain at the time.

6 Q It was your idea to have him lecture, is that  
7 correct?

8 A I can't really remember if it was my idea. I  
9 think we both thought it was a good idea.

10 Q And the reason you thought it was a good idea was

Siraj Wahhaj Testimony

11 because it was your understanding that he was an Egyptian  
12 and a native of the area?

13 A That is correct.

14 Q And you thought that a native's perspective would  
15 be a good thing to share with your students?

16 A Absolutely.

17 Q The views that he expressed on the tape recording  
18 were his own views, is that correct?

19 A Yes.

20 Q Not anything that you schooled him in in order to  
21 communicate to your students, correct?

22 A Absolutely not.

23 Q In fact, after the tapes were made, you never  
24 decided to share them with your students, correct?

25 A Yes, sir. I didn't use them for my students but

♀

14183

1 it wasn't because of what he said. It was simply that the  
2 tapes themselves were not of sufficient quality to hold the  
3 interest of my students.

4 Q I think you told us before that you had no idea  
5 how many copies of the tape were made.

6 A I don't know the exact number. My recollection  
7 is somewhere in the 12 or more tapes.

8 Q I am not asking you, sir -- and I apologize for  
9 not being clear in the question. I wasn't asking you how  
10 many tapes were made in the series of lectures. What I was  
11 asking you, sir, was, you don't know how many copies of  
12 those tapes were made, correct?

13 A No, sir, I do not.

14 Q You don't have any idea how widely they were  
Page 53

Si raj Wahhaj Testimony

15 distributed?

16 A No, sir, I do not.

17 Q You don't have any idea whether Mr. Mohammed took  
18 some and distributed them?

19 A No, I do not.

20 Q Let me show you copies of Government's Exhibits  
21 117 and 118 in evidence that Mr. Stavis showed you a few  
22 moments ago. Mr. De Atkine, is it not correct that those  
23 documents aren't classified documents, are they?

24 A No?

25 A No, sir, they are not classified.

♀

14184

1 Q Do you have any idea how widely circulated those  
2 documents may be?

3 A Those on maintenance and identification guides  
4 are very widely distributed. The op plan would be  
5 restricted to probably those who are playing in the roles of  
6 various people during the planning session.

7 Q And it is a fact, is it not, that with respect to  
8 the op plan, the amount of that information that would be  
9 distributed at the time of the op plan -- withdrawn -- the  
10 number of copies of that op plan that would be distributed  
11 at the time of the exercise would vary depending on how  
12 large the exercise was, correct?

13 A Yes, sir.

14 Q And those operational plans would be held,  
15 treated as if they were classified while the operation was  
16 going on, correct?

17 A That is correct, sir.

Siraj Wahhaj Testimony

18 Q But once the operation was over, they are no  
19 longer treated that way?

20 A They are no longer treated as classified, they  
21 are treated as something we should put back together and  
22 keep out of the public, yes.

23 Q But there is no strict regulation on how many  
24 copies are made and what is done with them?

25 A Only during the training exercise itself.

♀

14185

1 Q The annotations that are on some of those pages  
2 that are handwritten in Arabic, I take it when the  
3 operational plan and the other exhibit are actually made and  
4 distributed at Fort Bragg or within the army proper, those  
5 Arabic annotations do not appear on those forms, correct?

6 A All I can say, sir, is I have never seen an op  
7 plan with that sort of thing on there.

8 MR. MCCARTHY: Thank you, Mr. De Atkine.

9 THE COURT: Mr. Stavis, any redirect?

10 REDIRECT EXAMINATION

11 BY MR. STAVIS:

12 Q Colonel De Atkine, Mr. McCarthy asked you some  
13 questions about Mr. Mohammed being an Egyptian and having  
14 some knowledge of the area. Do you recall those questions?

15 A Yes, sir.

16 Q Was Mr. Mohammed an officer in the Egyptian army?

17 A He told me he was.

18 Q Mr. McCarthy asked you some questions concerning  
19 the tape and the distribution of that tape. Could you tell  
20 the ladies and gentlemen which people had access to that  
21 tape after it was created?

Si raj Wahhaj Testimony

22 A The audio visual unit that actually made the  
23 tape, which unit belongs to JFK Center, and then they were  
24 transferred --

25 Q How many people are in that unit?

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14186

1 MR. McCARTHY: Objection.

2 A I don't really know, sir.

3 THE COURT: Overruled.

4 A I am not sure. It may be 10, 12 people.

5 Q Who else had access to those tapes after they  
6 were created?

7 A I can't say for sure, sir. All I know is the  
8 tapes by some means were transferred back to our unit and  
9 were in my classroom.

10 Q Once the tapes were transferred to your unit or  
11 your classroom, who at the JFK Center had access to those  
12 videotapes?

13 A Certainly myself and Captain Brush and Sergeant  
14 Ali Mohammed, and others I may not know about, I have no  
15 personal knowledge.

16 Q Do you have any reason to believe that other  
17 people aside from you, Captain Brush and Ali Mohammed had  
18 access to those videotapes?

19 A I have no reason to believe they did not. They  
20 were not under lock and key and they were in an open  
21 classroom. Students could have had access to them. I don't  
22 know.

23 Q Mr. McCarthy asked you about Government's Exhibit  
24 118. That is the one that describes the Soviet armament.



25 Do you know who published that?

♀

14187

1 A No, sir, I do not.

2 Q Is that a U.S. Army publication?

3 A That particular one, I don't know, but there are  
4 similar types that are published by the U.S. government.

5 Q Colonel De Atkine, the students that you teach at  
6 the JFK Special Warfare Center, are all of those students  
7 army officers?

8 A In my particular seminar, yes. I teach other  
9 classes in which I have enlisted men.

10 Q But those are enlisted men in the United States  
11 Army, is that correct?

12 A That is correct.

13 Q You don't teach any civilians at the U.S. Army  
14 John F. Kennedy Special Warfare Center?

15 A No, but there are a number of civilians taught  
16 there, as there are some allied officers, but in my classes,  
17 no.

18 MR. STAVIS: I have no further questions, your  
19 Honor.

20 THE COURT: Anything else?

21 MR. McCARTHY: No, thank you, your Honor.

22 THE COURT: You are excused. Thank you.

23 (Witness excused)

24 MR. STAVIS: Could we be heard at the side bar,  
25 your Honor?

♀

14188

Si raj Wahhaj Testimony

1 THE COURT: Yes.

2 (At the side bar)

3 MR. STAVIS: Mr. McCarthy has raised some  
4 question concerning the admissibility of Mr. Mohammed Ali's  
5 service records, not with regard to their authenticity. It  
6 is my intention to introduce his service records at this  
7 point to show the years that he was in the military.

8 THE COURT: If it's a fast one I will field it  
9 here. If it's not a fast one -- what is the issue?

10 MR. McCARTHY: Your Honor, the issue is that the  
11 only thing that is relevant is that the guy was in the army  
12 and he was in the army for three years and his dates of  
13 service. He wants to put in pages of stuff, detailed  
14 minutia about the guy's career in the army which is not  
15 relevant to the case.

16 MR. STAVIS: It shows that making videotapes was  
17 one of his duties. It shows that Mr. De Atkine was his  
18 superior in the JFK warfare center.

19 THE COURT: You are not going to have this now  
20 if --

21 MR. STAVIS: No, I am not. May I publish other  
22 exhibits or is your Honor's scheduling preference to put  
23 another witness on?

24 THE COURT: Which documents?

25 MR. PATEL: The photographs --

♀

14189

1 THE COURT: The photographs, fine. I have a  
2 problem with people reading certificates of incorporation  
3 unless you have some reason to do it.

Siraj Wahhaj Testimony

4 MR. PATEL: We can make copies of it, your Honor.

5 THE COURT: The photograph I have no problem.

6 Having people read a certificate of incorporation with no  
7 apparent focus strikes me as a colossal waste of time.

8 MR. STAVIS: I will introduce these, I have Mr.  
9 Nosair's citizenship certificate, which there is no  
10 objection to, and we can publish that or wait for another  
11 time to publish that, and then we will put another witness  
12 on.

13 THE COURT: Fine.

14 (In open court)

15 MR. STAVIS: Your Honor, at this time I offer  
16 into evidence Nosair Defense Exhibit LLL, which constitutes  
17 the military service records of Sergeant Ali Mohammed.

18 THE COURT: That is received.

19 (Defendant Nosair Exhibit LLL received in  
20 evidence)

21 MR. STAVIS: Your Honor, at this time I introduce  
22 into evidence Nosair Defense Exhibit MMM, which is Mr.  
23 Nosair's certificate of United States citizenship, dated the  
24 27th day of September 1989.

25 THE COURT: That is received.

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14190

1 (Defendant Nosair Exhibit MMM received in  
2 evidence)

3 THE COURT: I assume by stipulation.

4 MR. McCARTHY: Yes, your Honor.

5 MR. STAVIS: At this time the defense calls  
6 Khaled Ibrahim to the witness stand.

7 KHALED IBRAHIM,

Si raj Wahhaj Testimony

8 called as a witness by the defense,  
9 having duly affirmed, testified as follows:

10 THE COURT: Go ahead, Mr. Stavis.

11 MR. STAVIS: Yes.

12 (Continued on next page)

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14191

1 DIRECT EXAMINATION

2 BY MR. STAVIS:

3 Q Mr. Ibrahim, would you tell the ladies and  
4 gentlemen of the jury where you were born and raised.

5 A I was born in Cairo, Egypt, and raised in Egypt  
6 until the age of 19.

7 Q Could you tell the ladies and gentlemen of the  
8 jury something about your educational background.

9 THE COURT: Mr. Ibrahim, you are going to have to  
10 move closer to the microphone if you can and talk right into

11 it, otherwise the translators can't hear you.

12 A I went to engineering college in Cairo  
13 University, and when I came here to United States, I  
14 continued my education at New Jersey Institute of Technology  
15 in Newark, New Jersey, and I got a bachelor's degree in  
16 electrical engineering in 1976.

17 Q When did you first come to the United States?

18 A July 1973.

19 Q Why was it that you came to the United States?

20 A My father had immigrated to the United States in  
21 1971. He came here by himself at first, and then after  
22 that, when he got settled, he got a job and so on, we came,  
23 meaning myself, my mother and my two brothers.

24 Q Did there come a time that you became a United  
25 States citizen?

♀

14192

1 A Yes, in 1985, to the best of my recollection, I  
2 became a United States citizen.

3 Q Where did that occur?

4 A In Evansville, Indiana.

5 Q Did you have to go to court at that time?

6 A Yes.

7 Q What did you have to do before you went to court?

8 A You have to go to a meeting with an immigration  
9 official, and they ask you some questions about your  
10 knowledge of the system of government of the United States  
11 and so on, and general knowledge of the government, and then  
12 if you pass that test, then they schedule an appearance in  
13 court, where you take the oath of being a citizen in the  
14 United States.

Si raj Wahhaj Testimony

15 Q Did you do that?  
16 A Yes.  
17 Q Mr. Ibrahim, are you married?  
18 A Am I married?  
19 Q Yes.  
20 A Yes.  
21 Q How long have you been married?  
22 A I was married in 1983, so that's about 12 years.  
23 Q What is your wife's name?  
24 A Fatima.  
25 Q Do you have any children, sir?

♀

14193

1 A Four children.  
2 Q What are their names and their ages?  
3 A Yousef is 10 years old, my oldest son. Then  
4 Sarah is 9. Then Ali is 8. And then I have a daughter  
5 Mariam. She is only 2 years old.  
6 Q What kind of work do you do?  
7 A I am an electrical engineer. I work at E. I.  
8 Associates in East Orange, New Jersey.  
9 Q How long have you worked there?  
10 A A little over one year.  
11 Q What about your previous employment?  
12 A I had worked for John Brown Engineers,  
13 engineering and construction, for a total of about 10 years,  
14 but over three different periods of time. The last, my last  
15 employment with them was for about three and a half years,  
16 starting around May 1989.  
17 Q How long have you been working at your present

Siraj Wahhaj Testimony

18 job?

19 A I am sorry.

20 Q How long have you been working at your present

21 job?

22 A About a little over one year.

23 Q Where do you live?

24 A I live at 244 North 11th Street in Kenilworth,

25 New Jersey.

♀

14194

1 Q How long have you lived there?

2 A About eight months, maybe.

3 Q Where did you live before that?

4 A 24 Romaine Avenue, in Jersey City.

5 Q When did you first move to Jersey City,

6 Mr. Ibrahim?

7 A In the summer of 1987.

8 Q After moving to Jersey City in the summer of

9 1987, did you begin to attend a particular mosque?

10 A Yes, El Salaam Mosque in Jersey City, on Kennedy

11 boulevard.

12 Q Mr. Ibrahim, do you know this gentleman sitting

13 over here?

14 A Yes.

15 Q What is his name?

16 A Sayyid Nosair.

17 Q When did you first meet Sayyid Nosair?

18 A Probably within the first year after I moved to

19 Jersey City, which would have been during the year 1988.

20 Q Where was it that you met him?

21 A At El Salaam Mosque in Jersey City.

Si raj Wahhaj Testimony

22 Q Describe, if you would, for the ladies and  
23 gentlemen of the jury your relationship with Sayyid Nosair.

24 A I met him at El Salaam Mosque and after awhile we  
25 got to know each other a little bit, he would bring his

♀

14195

1 children to the mosque and I would take some of my children  
2 to the mosque, too, at least the older two children, and the  
3 children would play with each other and we would talk, and  
4 then our friendship developed into social visits at home and  
5 things like that, and my wife came to know his wife through  
6 that relationship, and we would visit them, they would visit  
7 us. While the children played, we would talk.

8 Q Do you consider Sayyid Nosair to be a friend of  
9 yours?

10 A Yes.

11 Q Mr. Ibrahim, do you know Sheik Omar Abdel Rahman?

12 A Yes, I do.

13 Q When did you first meet Sheik Omar Abdel Rahman?

14 A I don't remember the exact time when I met him,  
15 but he had come to the United States from Egypt, I think,  
16 and within maybe six months after that, I met him.

17 Q Where was it that you met Sheik Omar Abdel  
18 Rahman?

19 A At El Salaam Mosque.

20 Q What position, if any, did Sheik Omar Abdel  
21 Rahman have at the El Salaam Mosque?

22 A He didn't have any position. He would give  
23 sermons and lectures at the mosque as an invited speaker,  
24 but I don't remember that he had any position as such.



25 Q How often did those lectures occur?

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14196

1 A There was a time when he would give weekly  
2 lectures, and on Friday sermons I don't think he gave every  
3 Friday but maybe once every three or four weeks he would  
4 give one like that.

5 Q How would you describe your relationship with  
6 Sheik Omar Abdel Rahman?

7 A I like to listen to his lectures, especially  
8 having to do with tafzeer of the Koran.

9 Q You used a word --

10 A Tafzeer means explanation of the Koran, because  
11 he is a scholar and his specialty, as far as I know, means  
12 tafzeer, which means explanation of the meaning of the  
13 Koran, and I like to listen to his tafzeer very much.

14 Q Did you ever see Sheik Omar Abdel Rahman and  
15 Sayyid Nosair together at the El Salaam Mosque?

16 A I don't recall seeing them together at Salaam.

17 Q Do you recall seeing Sayyid Nosair and Sheik Omar  
18 Abdel Rahman together at a location other than the El Salaam  
19 Mosque?

20 A No, I don't.

21 Q When you first met Sayyid Nosair in 1988, how  
22 often did you see him at the El Salaam Mosque?

23 A I used to go to El Salaam Mosque almost every  
24 day, or as often as I could, at least for the night prayers,  
25 at night, and he was regular, as far as I could tell. He

♀

14197

Si raj Wahhaj Testimony

1 probably went there just about as often as I did, which was  
2 almost every night.

3 Q Did there come a time when you began to see less  
4 of Sayyid Nosair at the El Salaam Mosque?

5 A Yes.

6 Q When was that?

7 A That was around -- I would think it's 1990, maybe  
8 in the summer. I remember at that time there was some  
9 disagreement between him and the Sheik Omar, and he would  
10 come to El Salaam Mosque less frequently. And then it came  
11 to the point that he moved out of the Jersey City totally,  
12 and he moved to Cliffside Park. To the best of my  
13 recollection, that was in the summer of 1990.

14 Q Do you know a man by the name of Abdo Mohammed  
15 Haggag?

16 A Yes, I do.

17 Q Where do you know him from?

18 A From El Salaam Masjid also.

19 Q How well did you come to know Abdo Mohammed  
20 Haggag?

21 A I came to know him fairly well.

22 Q Did you ever see Abdo Mohammed Haggag with Sheik  
23 Omar Abdel Rahman at the El Salaam Mosque?

24 A Yes, I remember seeing him.

25 Q How often did you see those two men together at

♀

14198

1 the El Salaam Mosque?

2 A I would say that towards the period before I left  
3 the United States, they were getting closer together.

Siraj Wahhaj Testimony

4 Q Did you ever have occasion to see Abdo Mohammed  
5 Haggag and Sheik Omar Abdel Rahman in places other than the  
6 El Salaam Mosque?

7 A There was one time when I had to visit the  
8 sheik's apartment, at one time, for some reason, and Abdo  
9 Haggag was there.

10 Q Do you know a man by the name of Mohammed  
11 Salameh?

12 A Yes.

13 Q When did you first meet Mohammed Salameh?

14 A I don't remember the exact time but it had to be  
15 around 1989 or 1988. I think it is 1989, during that year.

16 Q Where was it that you met him for the first time?

17 A At El Salaam Mosque.

18 Q Describe, if you would, your relationship with  
19 Mohammed Salameh.

20 A Again, I would meet him at El Salaam Mosque for  
21 prayers, and we would talk and stuff like that, and then I  
22 got to know him a little bit more after that, but he is not  
23 a real close friend, you know. I just know him. He is an  
24 acquaintance.

25 Q Did you ever have occasion to speak to Mohammed

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14199

1 Salameh on the telephone?

2 A Yes, I remember that he called me maybe two or  
3 three different times over a period of a couple of years.

4 Q Did Mohammed Salameh ever come to your home?

5 A Yes, I think he came to my home, maybe once or  
6 twice.

7 Q Do you consider Mohammed Salameh to be a friend

Si raj Wahhaj Testimony

8 of yours?

9 A Yes.

10 Q Do you know a man by the name of Siddig Ibrahim  
11 Siddig Ali?

12 A Yes, I do.

13 Q Where did you meet him?

14 A I never really met him. I saw him at Islam  
15 mosque, and I saw him at the trial, Sayyid's trial.

16 Q Did you ever have a conversati on wi th Siddig  
17 Ibrahim Siddig Ali?

18 A No, I don't remember having a conversati on wi th  
19 hi m.

20 Q When was it that you met him at the El Salaam  
21 Mosque?

22 MR. FITZGERALD: Objecti on to form.

23 MR. STAVIS: I wi ll wi thdraw it.

24 Q When was it that you saw him at the El Salaam  
25 Mosque?

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14200

1 A I think it was around a time when Sayyid was on  
2 trial.

3 Q Have you ever spoken to Mr. Siddig Ali?

4 A I don't remember speaking to him directly. I  
5 know that I have seen him there. I saw him talking to other  
6 peopl e.

7 Q Mr. Ibrahim, do you know thi s gentl eman over  
8 here, Victor Alvarez?

9 A Yes, I know hi m.

10 Q Where do you know Vi ctor Al varez from?

Siraj Wahhaj Testimony

11           A       The first time I met him was at Al Farook Masjid  
12 in Brooklyn, on Atlantic Avenue, and then --

13           Q       When was that?

14           A       I think it was around 1989.

15           Q       Describe, if you would, your relationship with  
16 Victor Alvarez.

17           A       At first I really didn't know him very well, and  
18 I remember one time we went on Islamic conference in Kansas  
19 City -- that was over the Christmas holiday -- and during  
20 that trip I got to know him a little better.

21           Q       You told us that you met Victor Alvarez at the Al  
22 Farook Mosque in Brooklyn.

23           A       Yes.

24           Q       Explain to the ladies and gentlemen of the jury  
25 what you were doing at the Al Farook Mosque in Brooklyn.

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14201

1           A       At Al Farook Mosque, there was an office that was  
2 called the Jihad Office, and we would go there sometimes to  
3 get maybe the latest news about the jihad in Afghanistan,  
4 and to maybe help out with some of the chores that they were  
5 doing. So that's why I went.

6           Q       Did you ever pray at the Al Farook Mosque?

7           A       Yes, I did.

8           Q       Did there come a time that you met a man by the  
9 name of Mahmoud Abouhalima?

10          A       Yes, I did.

11          Q       Where did you meet him?

12          A       I also met him at Al Farook Masjid in Brooklyn.

13          Q       When did you meet him?

14          A       I don't remember the exact time. It had to have

Si raj Wahhaj Testimony

15 been around that time, maybe 1989 or 1988.

16 Q What happened when you met Mahmoud Abouhalima?

17 A Again, we would go there to help out with the  
18 Jihad Office in Brooklyn, in Al Farook, and I got introduced  
19 to him once. After that, I liked him and I would talk to  
20 him from time to time.

21 Q What was the nature of your relationship with  
22 Mahmoud Abouhalima?

23 A At first it was just casual acquaintance, and  
24 then after that he moved to New Jersey -- I think he lived  
25 in Newark -- and I got to know him a little better after he

♀

14202

1 moved to New Jersey.

2 Q Do you know the gentleman at the front table by  
3 the name of Ibrahim El-Gabrownny?

4 A Yes, I do.

5 Q When did you first meet Ibrahim El-Gabrownny?

6 A I remember that it was maybe 1988 or early 1989.  
7 I can't pinpoint -- no, it was '88, I remember now. It was  
8 1988, yes.

9 Q Describe for the ladies and gentlemen of the jury  
10 your relationship with Ibrahim El-Gabrownny.

11 A I was building a house in an area which is just  
12 outside of Atlantic City, as an investment type of thing,  
13 and he is a carpenter by trade, and I asked him to help me  
14 with building the house. So during that period of time I  
15 got to know him very well, because he helped me to build  
16 that house.

17 MR. STAVIS: Your Honor, I am about to move into

Si raj Wahhaj Testimony

18 a new area.

19 THE COURT: This is a convenient break point.

20 Ladies and gentlemen, we are going to break for lunch.

21 Please leave your notes and other materials behind. Please

22 don't discuss the case, and we will resume this afternoon.

23 (Luncheon recess)

24

25

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14203

1 AFTERNOON SESSION

2 2:10 p.m.

3 (Jury not present)

4 MR. STAVIS: Mr. Patel will be here in one

5 moment. He just went to get the witness.

6 THE COURT: Bring in the jurors.

7

8 KHALED IBRAHIM, resumed.

9 (Jury present)

10 THE COURT: Good afternoon, ladies and gentlemen.

11 JURORS: Good afternoon.

12 THE COURT: Mr. Stavis?

13 MR. STAVIS: Thank you, your Honor.

14 DIRECT EXAMINATION CONTINUED

15 BY MR. STAVIS:

16 Q Mr. Ibrahim, do you know of an Islamic leader by  
17 the name of Sheikh Abdallah Azzam?

18 A Yes, I do.

19 Q Who was Abdallah Azzam?

20 A Sheikh Abdallah Azzam was a scholar of Islam. He  
21 was a teacher or a professor at an Islamic University in

Siraj Wahhaj Testimony

22 Saudi Arabia. He got interested in the jihad that was going  
23 on in Afghanistan, and he left his posts and he dedicated  
24 the rest of his life to supporting the jihad in Afghanistan.

25 MR. STAVIS: Your Honor, at this time I would

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14204

1 offer into evidence Nosair Defense Exhibit J-1, a  
2 photographic enlargement of Nosair Defense Exhibit J, which  
3 was introduced on February 23 of this year.

4 MR. McCARTHY: No objection.

5 THE COURT: J-1 is received in evidence.

6 (Nosair Defense Exhibit J-1 was received in  
7 evidence.)

8 MR. STAVIS: Defense Exhibit J was recovered from  
9 Mr. Nosair's work locker on November 6 of 1990.

10 Q Mr. Ibrahim, could you please come off the  
11 witness stand.

12 THE COURT: I would ask Mr. Stavis, if he is  
13 going to testify down there about that exhibit, that he be  
14 given a microphone so that the translators can hear him.  
15 Thank you.

16 Q Speak into the mike.

17 Mr. Ibrahim, take a look, if you would, at Nosair  
18 Defense Exhibit J-1. Who is that a photograph of? Whose  
19 photograph is on that exhibit?

20 A This is a photo of Abdul Azzam.

21 Q Do you know what this is a photographic  
22 enlargement of?

23 A This is the cover of Al Jihad magazine, which was  
24 issued monthly to talk about the news of the jihad in



25 Afghani stan.

♀

14205

1 Q Were you a regular reader of Al Jihad magazine?

2 A Yes, I read every word of every issue.

3 Q Do you recall the issue that is depicted here in  
4 Nosair Defense Exhibit J-1?

5 A Yes. This is the issue that was right after  
6 Sheik Abdallah Azzam was killed in the shower in Pakistan.

7 Q Please resume your seat.

8 Was Sheik Abdallah Azzam part of any  
9 organization?

10 A Yes. He established an office in Peshawar to  
11 facilitate the jihad, performing the act of jihad, for  
12 people who wanted to go to Afghanistan and help the Afghans  
13 in their jihad against the Communists. And that was called  
14 the Mujahideen Services Office. There were other offices  
15 established here in the United States for the same purpose,  
16 to disseminate information about the jihad in Afghanistan  
17 throughout the Muslim community in the United States and to  
18 facilitate traveling to Afghanistan for those Muslims who  
19 wanted to go and participate in the jihad in Afghanistan.

20 Q What is the Alki fah? What does that mean?

21 A Alki fah Refugee Center -- are you asking me about  
22 the meaning of the word Alki fah?

23 Q No, what is the Alki fah Refugee Center?

24 A The Alki fah Refugee Center is one of those  
25 offices that was established by Sheik Abdallah Azzam in the

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14206

Si raj Wahhaj Testimony

1 United States.

2 Q Is there any other name that the Alki fah Refugee  
3 Center is known by?

4 A Well, we always refer to it as Al Jihad office.

5 Q You used the word "jihad." What does that word  
6 mean?

7 A Jihad means armed struggle to protect Muslims,  
8 Muslim countries, against outside aggression, and to restore  
9 Islamic rule to countries, Muslim countries which do not  
10 have Islamic rule; which have un-Islamic rule imposed on  
11 them by outside forces.

12 Q What, if anything, did Sheik Abdallah Azzam do to  
13 publicize the cause of the Mujahideen in Afghanistan?

14 A He toured different parts of the world, the  
15 Middle East and the United States, to give lectures about  
16 the jihad in Afghanistan, the fact that the Afghans were  
17 launching a legitimate jihad, and to give the latest news  
18 and developments about the jihad in Afghanistan to the  
19 Muslims of the world, and to encourage people to participate  
20 in jihad and to convey the message that jihad, supporting  
21 the Afghans in the jihad is a duty that is incumbent on  
22 every Muslim if he is able to participate.

23 Q You mentioned that there was a legitimate jihad  
24 in Afghanistan. What do you mean by that?

25 A Well, the Afghans were fighting against the

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14207

1 Soviet occupation of Afghanistan, and the reason that the  
2 Soviets occupied Afghanistan is because they wanted to  
3 impose Communism on Afghanistan. And the Afghan people, who

Siraj Wahhaj Testimony

4 are mostly Muslim, did not accept that. They fought back.  
5 And therefore it was a legitimate jihad.

6 Q What if anything did the Soviets in Afghanistan  
7 do with regard to the Muslims in Afghanistan?

8 A They --

9 MR. FITZGERALD: Objection.

10 THE COURT: Sustained.

11 Q What name were these Muslims who fought the  
12 Soviet Union known by?

13 A The Mujahideen. They were called the Mujahideen,  
14 and we referred to them always as the Mujahideen. The  
15 Mujahideen became a very commonplace word, to the extent I  
16 remember during that time that President Reagan referred to  
17 them --

18 THE COURT: He just asked you what word was used.  
19 You gave the word. Go ahead.

20 MR. STAVIS: May I approach the witness, your  
21 Honor.

22 Q Mr. Ibrahim, I am showing you what has been  
23 marked as Nosair Defense Exhibit JJJ-24, and I ask you to  
24 take a look at it.

25 A OK.

♀

14208

1 Q Have you seen that before?

2 A Yes.

3 Q What is it?

4 A It is a tape which shows some of the battles that  
5 took place in Afghanistan.

6 Q Have you viewed that tape recently?

7 A Yes.

Si raj Wahhaj Testimony

8 Q How do you know that?

9 A I see my initials on it and a date when I saw it.

10 MR. STAVIS: Your Honor, at this time I would  
11 introduce into evidence Nosair JJJ-24, and an accompanying  
12 transcript, Nosair Defense JJJ-24T, and ask to play a small  
13 excerpt from Nosair JJJ-24.

14 MR. FITZGERALD: May I just have one moment with  
15 Mr. Stavis.

16 THE COURT: Yes.

17 MR. FITZGERALD: A very brief sidebar, your  
18 Honor.

19 (At the sidebar)

20 MR. FITZGERALD: I have no objection as long as  
21 it is not offered for the truth but for what was in Mr.  
22 Nosair's house.

23 THE COURT: I am sorry, where did this come from?

24 MR. STAVIS: It came from his house. I am going  
25 to clear that up.

♀

14209

1 THE COURT: All right.

2 MR. FITZGERALD: If it is offered just to show  
3 that this is the type of material he had in his house, I  
4 have no objection, but if he is offered for the truth, it is  
5 hearsay.

6 THE COURT: It is not being offered for the  
7 truth?

8 MR. STAVIS: No, your Honor.

9 THE COURT: Say where it came from.

10 (In open court)

11 MR. STAVIS: Your Honor, Nosair JJJ is a  
12 videotape recovered --

13 THE COURT: JJJ-24.

14 MR. STAVIS: Excuse me?

15 THE COURT: JJJ-24.

16 MR. STAVIS: Yes, your Honor. Nosair JJJ-24 a  
17 videotape recovered from Mr. Nosair's home on November 6 of  
18 1990.

19 Q Mr. Ibrahim, is there a person who is narrating  
20 the scenes depicted in Nosair Defense Exhibit JJJ-24?

21 A Yes.

22 Q And who is that?

23 A Sheik Abdallah Azzam.

24 MR. FITZGERALD: So stipulated. I will stipulate  
25 that all the JJJ videotapes came from Mr. Nosair's home, to

♀

14210

1 save time.

2 THE COURT: Good. And the transcript, I gather,  
3 is stipulated to be the transcript of what the statements  
4 are on the tape?

5 MR. STAVIS: Yes, your Honor.

6 MR. FITZGERALD: No objection.

7 THE COURT: They are both received.

8 (Nosair Defense Exhibits JJJ-24 and JJJ-24T were  
9 received in evidence.)

10 Q Mr. Ibrahim, I will ask you put your headphones  
11 on and listen to this Arabic tape while the jury is watching  
12 it.

13 (continued on next page)

14

Siraj Wahhaj Testimony

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14211

1 (Videotape played)

2 BY MR. STAVIS:

3 Q Mr. Ibrahim, on the screen there are two men with  
4 rifles and they are standing next to a rock, and something  
5 is written on the rock in Arabic, and what is that?

6 A The bottom line says Allahu Akbar. The top line,  
7 I think it is in a language other than Arabic and I don't  
8 think I can read it.

9 Q What does Allahu Akbar mean?

10 A God is great.

11 (Videotape continued)

12 Q Who was the man who was narrating that film in  
13 Arabic?

14 A That was sheik Abdallah Azzam.

15 Q Was one of Sheik Abdallah Azzam's functions as  
16 the head of the Alki fah movement to make tapes of movies and  
17 books and things like that?

Si raj Wahhaj Testimony

18 A Yes.

19 Q Mr. Ibrahim, did there come a time that you  
20 personally met Sheik Abdallah Azzam?

21 A Yes.

22 Q When was that?

23 A That was in the latter part of 1987, to the best  
24 of my recollection, probably around December, over the  
25 holiday time.

‡

14212

1 Q Where was it that you met Sheik Abdallah Azzam?

2 A In Jersey City, he came to give the lecture about  
3 jihad in Afghanistan, first at the Islamic Center in Jersey  
4 City, and then the second part of the day he gave the  
5 lecture at El Salaam.

6 Q What if anything do you remember about the  
7 lecture that you saw in 1987 of Sheik Azzam?

8 A He talked about the latest developments of the  
9 jihad in Afghanistan at that time, and he emphasized the  
10 importance of Muslims knowing that it is incumbent upon them  
11 to support that jihad in any way possible, and those of us  
12 who could actually go over there to participate in the  
13 jihad, then we should do that.

14 Q And you said that the following day Sheik Azzam  
15 went to a different mosque?

16 A Yes.

17 Q And that other mosque was Al Farook Mosque?

18 A Yes.

19 Q And you attended his lecture there?

20 A Yes. I attend the attended the lecture at Al  
21 Farook Mosque also, because I was very impressed and

Si raj Wahhaj Testimony

22 interested in the subject, and so I also followed him to Al  
23 Farook to listen to more of his talk about Afghani stan.

24 Q What if anything did you do after attending these  
25 two lectures by Sheik Abdallah Azzam?

♀

14213

1 A After the first lecture I went home and I talked  
2 to my wife. I told her that I am convinced that it's the  
3 duty upon me to participate in the jihad, if possible, and  
4 that I would like to go.

5 Q Drawing your attention to the summer of 1980, did  
6 you have a conversation with Sayyid Nosair concerning the  
7 subject of jihad in Afghani stan?

8 A What was the date that you mentioned?

9 MR. STAVIS: Summer of 1990.

10 THE COURT: '80?

11 MR. STAVIS: No, '90.

12 A 1990, yes.

13 Q What did you say?

14 A We talked about going to Peshawar together.

15 Q What is Peshawar?

16 A Peshawar is acity in Paki stan which is about 50  
17 kilometers away from the border wi th Afghani stan.

18 Q I am going to interrupt you for a second and ask  
19 you if you could come off the witness stand for just one  
20 moment.

21 MR. STAVIS: Your Honor, at this time I would  
22 introduce into evi dence Nosair Defense Exhi bi t NNN.

23 MR. FITZGERALD: No obj ecti on.

24 THE COURT: NNN is recei ved wi thout obj ecti on.



25 It is a map?

♀

14214

1 MR. STAVIS: Yes, your Honor.

2 (Defendant Nosair Exhibit NNN received in  
3 evidence)

4 Q You just mentioned Peshawar, which is in  
5 Pakistan, Mr. Ibrahim.

6 A Yes.

7 Q Could you show the ladies and gentlemen of the  
8 jury where Peshawar, Pakistan, is.

9 A Yes.

10 Q You have to come out of the way of the jurors so  
11 they can see the map. Where is Peshawar in relation to the  
12 border of Afghanistan?

13 A It is about 50 kilometers away, which is about  
14 30-something miles.

15 Q I would ask you to write the word Peshawar on the  
16 map so that we will be able to see it, with that red marker.  
17 Just write a P for Peshawar.

18 A P for Peshawar.

19 Q Can you please resume your seat.

20 Mr. Ibrahim, this conversation that you had with  
21 Sayyid Nosair, where did it occur?

22 A In Jersey City. It happened probably during the  
23 times when he was visiting me at my house or I was visiting  
24 him, I don't remember which.

25 Q What if anything did you tell Sayyid Nosair about

♀

14215

Si raj Wahhaj Testimony

1 Peshawar, Paki stan?

2 A He is the one who actually suggested that we  
3 would take our families and go to Peshawar, and maybe, you  
4 know, share a house, a large house or something like that in  
5 Peshawar, and go into Afghani stan together, or alternately,  
6 something like that.

7 Q At the time that you had that conversation, did  
8 you know anything about houses which were available for rent  
9 in Peshawar, Paki stan?

10 A We knew that there was an area in Peshawar in  
11 which a lot of the Arabi c-speaking brothers lived.

12 Q Let me interrupt you. You said brothers. What  
13 do you mean by that?

14 A Muslim brothers, Muslims, other Muslims. And  
15 they lived in an area where there were houses that in many  
16 cases those houses were large enough that two families would  
17 share a house. I knew that.

18 Q Did you know anybody from the El Salaam Mosque  
19 who had gone to do jihad in Afghani stan?

20 A Yes. I know, there is a brother by the name of  
21 Mustafa Sai f who had been to Afghani stan, and Mohsen Atti a,  
22 and also there was one brother who went there about the same  
23 time that I was there, and that was, hi s name was Ibrahi m  
24 Abdo, who actually got killed in the battles over there.

25 Q Were these people that you are menti oning members

♀

14216

1 of the mosque that you attended in Jersey Ci ty?

2 A Yes.

3 Q You mentioned the Ji had Offi ce. Was there a

Siraj Wahhaj Testimony

4 Ji had Office located in Brooklyn?  
5 A Yes, there was.  
6 Q Where was that Ji had Office located?  
7 A On Atlantic Avenue, on the first floor of the Al  
8 Farook Masjid.  
9 Q What name did you call that?  
10 A We called it Al Ji had office.  
11 Q Had you ever been to the Al Ji had office in  
12 Brooklyn?  
13 A Yes, I have been there a few times.  
14 Q On any of the occasions that you went to the Al  
15 Ji had office in Brooklyn, did you see Sayyid Nosair?  
16 A Yes. As a matter of fact, we went together a few  
17 times.  
18 Q Was there another Ji had Office in the New York  
19 area?  
20 A Yes, there was one in Jersey City, in the same  
21 building which had El Salaam Mosque in it.  
22 Q Did you go to that Ji had Office in Jersey City?  
23 A Yes, I did.  
24 Q At any of the times that you went to that Ji had  
25 Office, did you see Sayyid Nosair?

♀

14217

1 A Yes.  
2 Q What was the role of Sayyid Nosair with regard to  
3 the Ji had Office in Jersey City?  
4 A I think he founded it. He was the main person in  
5 the office, and the people that were working in the office  
6 were basically helping him.  
7 Q What kind of work did Sayyid Nosair do in the

Si raj Wahhaj Testimony

8 Jersey Ci ty Ji had Offi ce?

9 A They had a li brary, or a book store, you could  
10 say, where people could go in and read books or could  
11 purchase books, Islami c books. They had a computer and they  
12 were trying to publish a publi cation about ji had, something  
13 like just a local newsletter, you might say, about ji had.

14 Q What role, if any, did Sayyid Nosair have with  
15 regard to that newsletter that they were trying to publish  
16 at the Ji had Offi ce in Jersey Ci ty?

17 A He would ask people to write articles in that  
18 newsletter, and he would bring some of the material himsel f,  
19 and then he had someone put it together and type it and have  
20 it printed and so on.

21 Q Do you know if he did any i ntervi ews for the  
22 newsletter at the Ji had Offi ce?

23 A Yes. I remember he did an i ntervi ew, I think it  
24 was over the telephone, wi th somebody who had called in, who  
25 had read the newsletter and wanted to talk about hi s

♀

14218

1 personal experience, and that i ntervi ew was, to the best of  
2 my recollec tion was printed in that newsletter.

3 Q When you say that man's personal experience, what  
4 are you referring to?

5 A I remember that there was an Egyptian guy that  
6 called and Sayyid took hi s i ntervi ew over the telephone, and  
7 that guy used to be in the security forces in Egypt, and --

8 MR. FITZGERALD: Obje ction, 401.

9 MR. STAVIS: I wi ll move on, your Honor.

10 THE COURT: All ri ght.

Siraj Wahhaj Testimony

11 Q Can you come down off the witness stand again,  
12 please. I am going to show you Nosair Defense Exhibit C in  
13 evidence and I am going to ask you to describe what it is  
14 for the ladies and gentlemen of the jury. And let's get a  
15 microphone for you.

16 A It's a T-shirt, and it has a symbol on it of the  
17 mujahideen services office in Afghanistan, for the  
18 mujahideen in Afghanistan, and it has the address of the  
19 office, which is 552 Atlantic Avenue, Brooklyn. It's got  
20 the telephone number.

21 Q Is the back of the T-shirt written in English?

22 A Yes.

23 Q Can you please hold that up for the ladies and  
24 gentlemen of the jury and go sort of towards the middle of  
25 the jury box.

♀

14219

1 Thank you. Please resume your seat.

2 Q During your time at the Jihad Office in Brooklyn  
3 and the Jihad Office in Jersey City, did you ever have  
4 occasion to see T-shirts like this one, Nosair Defense  
5 Exhibit C?

6 A Yes.

7 Q Before, whether we were looking at this large  
8 enlargement of Jihad Magazine for January of 1990, you said  
9 that you had read Jihad Magazine.

10 A Yes.

11 Q Where did you get the copies of Jihad Magazine  
12 that you read?

13 A Sometimes I get it at Al Jihad office in  
14 Brooklyn, or at the El Salaam Mosque. A lot of copies used

Si raj Wahhaj Testimony

15 to be available for people to pick up for a dollar or  
16 something like that.

17 Q What kind of subjects were covered in Jihad  
18 Magazine?

19 A It talked almost exclusively about the jihad in  
20 Afghanistan.

21 Q How often did you read Jihad Magazine?

22 A I think it came out monthly, so I would read  
23 every issue. I never missed one.

24 MR. STAVIS: At this time I would ask that the  
25 jurors open up their notebooks to Nosair defendant Exhibits

♀

14220

1 J and K.

2 May I approach the witness with Nosair defense J  
3 and K, your Honor?

4 THE COURT: Yes.

5 Q Drawing your attention to Nosair Exhibit K, which  
6 issue of Jihad Magazine is that, Mr. Ibrahim?

7 A February 1990.

8 Q What does that say in Arabic on the front cover?

9 A It is asking a question, how far has the  
10 investigation gone in the accident of, assassination of  
11 Dr. Abdallah Azzam.

12 Q Please turn to the back page, the back cover, I  
13 should say. Who is depicted in the back cover?

14 A Sheik Abdallah Azzam.

15 Q What if anything did Sheik Abdallah Azzam have  
16 slung over his right shoulder?

17 A Kalishnikov rifle.

Siraj Wahhaj Testimony

18 Q What is a Kalishnikov rifle?

19 A It's a Russian-made assault rifle that can be  
20 operated in automatic or semi automatic modes.

21 Q Thank you.

22 At the Jihad Offices in Brooklyn and New Jersey,  
23 were there videotapes about the subject of the jihad in  
24 Afghanistan?

25 A Yes.

♀

14221

1 Q I am now going to show you a series of  
2 videotapes. They are all marked Nosair Defense Exhibit JJJ,  
3 and it is stipulated that these videotapes were recovered  
4 from Sayyid Nosair's home in New Jersey on November 6 of  
5 1990.

6 MR. FITZGERALD: So stipulated.

7 Q There are a lot of tapes, and I would ask you, if  
8 you have any notes, if you would like to refer to them.  
9 Take your pick.

10 THE COURT: Mr. Stavis, can we focus it just a  
11 little bit more than that?

12 MR. STAVIS: OK.

13 THE COURT: Thank you.

14 Q Nosair Defense Exhibit JJJ-7, is that a videotape  
15 that you have viewed?

16 A Yes, I see my initials on it and the date.

17 Q What is depicted in videotape number 7? JJJ-7?

18 A I have to refer to my notes, because there are so  
19 many of them.

20 Q That is quite all right.

21 MR. FITZGERALD: No objection, if we could just  
Page 87

Si raj Wahhaj Testimony

22 mark them at some point.

23 MR. STAVIS: The notes?

24 MR. FITZGERALD: Yes, 3500.

25 MR. STAVIS: The notes are Ibrahim 3500 pages 1

♀

14222

1 through 3.

2 MR. FITZGERALD: Thanks.

3 A Number 7 I have written here says --

4 Q Just use the notes, please, to refresh your  
5 memory.

6 THE COURT: He is not refreshing his  
7 recollection. Did you make the notes at the time you were  
8 looking at the tapes?

9 THE WITNESS: The dates.

10 THE COURT: At the time you were looking at the  
11 tapes you were making the notes?

12 THE WITNESS: Yes.

13 THE COURT: And you wrote down what you were  
14 looking at?

15 THE WITNESS: Yes.

16 MR. FITZGERALD: We won't be objecting.

17 THE COURT: You can use the notes. Go ahead.

18 A Number 7 is an interview with Sheik Tami m Adnani .  
19 I am not sure if it is an interview or lecture. This  
20 particular one doesn't have any sound on it, but it is the  
21 same as number 29.

22 Q Who is Sheik Tami m Adnani ?

23 A He was also a scholar of Islam who got interested  
24 in jihad in Afghanistan, and he joined the jihad in



25 Afghanistan and was acting as an assistant and deputy to

♀

14223

1 Sheik Abdallah Azzam, in the office which he set up in  
2 Peshawar.

3 Q Drawing your attention to JJJ-6, is that a  
4 videotape that you have seen?

5 A Number 6? No, 6 is not one of the ones that I  
6 have seen. I don't have a note of it here.

7 Q Videotape JJJ-2, is that a videotape that you  
8 have viewed?

9 A Yes.

10 Q What is depicted on that videotape?

11 A An interview with Sheik Abdallah Azzam, except  
12 this particular one has no sound on it. There is another  
13 one like it which has the sound on it, which is 14.

14 Q Videotape JJJ-10, is that a video that you have  
15 seen?

16 A Yes.

17 Q When did you see it and what is depicted on it?

18 A I saw it on the 4th of June, 1995.

19 Q What is depicted in that videotape JJJ-10?

20 A It is a lecture by Sheik Abdallah Azzam at Al  
21 Farook Masjid in Brooklyn.

22 MR. STAVIS: Your Honor, I would ask to play a  
23 small section of Defendant's Exhibit JJJ-10.

24 MR. FITZGERALD: Could I have a brief voir dire?

25 THE COURT: Go ahead.

♀

14224

Si raj Wahhaj Testimony

1 VOIR-DIRE EXAMINATION

2 BY MR. FITZGERALD:

3 Q Good afternoon. Nosair Exhibit JJJ-10, this  
4 videotape, do you know when it was recorded, the year, if  
5 you know?

6 A No, I don't.

7 Q The video we saw earlier, the Sheik Azzam Mirror  
8 of Afghan Jihad, did you notice the date on the corner said  
9 1984?

10 A I think I remember that.

11 Q Do you know if that is more recent than that or  
12 not?

13 A I believe it is, yes.

14 Q Do you know if this was recorded before or after  
15 the Russians left Afghanistan?

16 A This one?

17 Q Yes. If you know.

18 A I don't know.

19 MR. FITZGERALD: No objection, Judge.

20 THE COURT: JJJ-10 is received.

21 (Defendant Nosair Exhibit JJJ-10 received in  
22 evidence)

23 BY MR. STAVIS:

24 Q Mr. Ibrahim, I would ask you to put your  
25 headphones on, and we will just play a short snippet, and

♀

14225

1 you can tell the ladies and gentlemen of the jury basically  
2 what is going on at the Al Farook Mosque.

3 MR. STAVIS: I would ask that the jury put their

Siraj Wahhaj Testimony

4 headphones on, if possible, even though it is in Arabic.

5 I would ask if you can fast forward to the Sheikh  
6 Azzam part.

7 (Videotape played)

8 Q Showing you Nosair JJJ-8, is that a video that  
9 you have seen?

10 A Yes, it is the same as number 1, except without  
11 sound.

12 Q And what was number 1?

13 A Scenes from Afghanistan. It had in the  
14 background some songs and things about jihad, and some  
15 scenes from Afghanistan, that's all.

16 Q JJJ-13, what is that?

17 A It's a lecture in Oklahoma City by Sheikh Abdallah  
18 Azzam.

19 Q Have you viewed that videotape recently?

20 A Yes.

21 Q What is the subject of Sheikh Azzam's lecture?

22 A He is talking about jihad in Afghanistan, and he  
23 is explaining that, why is it that the Afghan mujahideen  
24 were able to overcome a major power like the Soviet Union,  
25 and he is saying that the reason is because of their faith

♀

14226

1 in Allah and their determination to rid their country of the  
2 foreign occupation, and he went on to explain that they  
3 started the jihad with very few weapons and that most of the  
4 weapons that they had in their hands were actually captured  
5 from the Soviets. And he narrated some stories of things  
6 that happened over there.

7 Q JJJ-14, Mr. Ibrahim, is that a video that you

Siraj Wahhaj Testimony

8 have seen?

9 A Yes.

10 Q What is depicted in JJJ-14?

11 A It's an interview with Sheik Abdallah Azzam in  
12 what seemed to me like a private setting, maybe somebody's  
13 apartment.

14 Q What was the subject of that interview with Sheik  
15 Abdallah Azzam?

16 A Again, it was mostly about Afghanistan --  
17 actually, 100 percent about Afghanistan, and it talks about  
18 the latest developments, latest news about the Afghan jihad,  
19 and it talks about the future expectations of when the jihad  
20 might conclude, and so on.

21 Q Videotape JJJ-5, is that a videotape that you  
22 have seen?

23 A Yes.

24 Q What is depicted in videotape JJJ-5?

25 A It's a lecture that was delivered by Sheik

♀

14227

1 Abdallah Azzam in Peshawar to a mostly Afghan audience,  
2 except that they knew the Arabic language. It seemed from  
3 the tape that they understood what he was saying.

4 Q JJJ-11, is that a videotape that you have seen?

5 A Yes.

6 Q What is depicted in JJJ-11?

7 A It is a sermon by Sheik Abdallah Azzam in  
8 Peshawar, in Arabic, delivered to a mostly Arabic-speaking  
9 audience.

10 Q What is the subject matter of that sermon?

Siraj Wahhaj Testimony

11 A He talked about the need for the Arabic-speaking  
12 community over there to unit and forget their differences,  
13 and try to overlook what they saw as the shortcomings of the  
14 Afghans.

15 Q What did they see as the shortcomings of the  
16 Afghans?

17 MR. FITZGERALD: Objection, 401.

18 THE COURT: Sustained.

19 Q I ask you to take a look at JJJ-17.

20 A OK.

21 Q And I would also ask you to take a look at the  
22 same time at JJJ-23. Are those videotapes that you viewed?

23 A Yes.

24 Q What is depicted in Nosair defense JJJ-23?

25 A A lecture by Sheikh Abdallah Azzam at Al Farook

♀

14228

1 Masjid in Brooklyn.

2 Q What is the subject matter of Sheikh Azzam's  
3 lecture at the Al Farook Mosque in Brooklyn?

4 A He stalked about jihad in Afghanistan, and he  
5 emphasized that it is the duty of every Muslim, if he is  
6 able, to participate in the jihad in Afghanistan.

7 Q What about Nosair defense JJJ-17? What is  
8 depicted there?

9 A Same as 23, except there is no sound.

10 Q Showing you Nosair JJJ-15, I ask you, have you  
11 seen that video?

12 A Yes.

13 Q What is depicted in there?

14 A Number 5?

Si raj Wahhaj Testimony

15 Q 15.  
16 A 15. Yes, that is the same as number 10, which we  
17 saw a piece of a few minutes ago.  
18 Q What was that?  
19 A It was a lecture in Al Farook Masjid by Sheik  
20 Abdallah Azzam, in Arabic, about Afghanistan.  
21 Q That is the Al Farook Masjid, you mean mosque?  
22 A Mosque.  
23 Q And that is in Brooklyn?  
24 A Yes.  
25 Q Showing you Nosair Defense JJJ29.

♀

14229

1 A Yes.  
2 Q Is that a videotape that you have seen?  
3 A Yes.  
4 Q What is depicted in that videotape?  
5 A This is Sheik Tamim Adnani, talking about  
6 Afghanistan.  
7 Q What is the subject matter of his talk about  
8 Afghanistan?  
9 A OK. He said that the reason that the Afghans are  
10 beating the Russians is because of their faith, and despite  
11 the fact that they were lightly armed and their odds of  
12 beating the Russians would have been small, but what helped  
13 them is their faith in Allah.  
14 And he also -- he mentioned the fact that the  
15 fight against communism by the Afghans really started before  
16 the Soviet invasion of Afghanistan, because the government  
17 of Afghanistan was trying to impose communism on the Afghan

18 people even before the Soviet invasion.

19 Q Showing you JJJ-101, which is also videotape  
20 number 1, I think you referred to that earlier.

21 A Yes.

22 Q What was in that video?

23 A Scenes from Afghanistan with background singing  
24 and there was some narration. I could not recognize the  
25 name of the narrator -- I mean, the voice of the narrator.

♀

14230

1 MR. STAVIS: Your Honor, at this time I would  
2 move JJJ-1, 14, 7, 2, 8, 13, 5, 11, 17, 23, 15, 29, and 101  
3 into evidence.

4 MR. FITZGERALD: A brief voir dire.

5 THE COURT: You might want to renumber 1, since  
6 that is the same number that you put on the exhibit from --

7 MR. STAVIS: That is why I called it 101.

8 THE COURT: So there is no 1, there is only 101?

9 MR. STAVIS: I believe 1 might have --

10 THE COURT: That is my point. There is no 1 in  
11 this group, it is 101?

12 MR. STAVIS: 101.

13 THE COURT: Thank you.

14 VOIR-DIRE EXAMINATION

15 BY MR. FITZGERALD:

16 Q I will start generally and maybe it will go  
17 quick. Is it fair to say that as to each of these tapes,  
18 you don't know when they were recorded?

19 A Not the exact dates but on some of the lectures I  
20 recall.

21 Q What would the year be of the lectures that you

Si raj Wahhaj Testimony

22 recall?

23 A Probably during the years 1988 or 1989.

24 Q Do you know whether those lectures were given  
25 before or after the Soviets left Afghanistan?

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14231

1 A I don't know for sure.

2 MR. FITZGERALD: Your Honor, I have no objection  
3 if it is offered for the same purpose as we discussed at the  
4 side bar.

5 MR. STAVIS: It is, your Honor.

6 THE COURT: Simply, these are not being offered  
7 for the truth of what is on the tape but simply to show the  
8 nature of the material that Mr. Nosair had in his home, or  
9 at least the nature of this material. Go ahead.

10 (Defendant Nosair Exhibits JJJ-1, JJJ-14, JJJ-7,  
11 JJJ-2, JJJ-8, JJJ-13, JJJ-5, JJJ-11, JJJ-17, JJJ-23, JJJ-15,  
12 JJJ-29, and JJJ-101 received in evidence)

13 BY MR. STAVIS:

14 Q You mentioned in describing the videotapes sheik  
15 Tami m Adnani ?

16 A Yes.

17 Q And he was the second person to Sheik Azzam, I  
18 believe you mentioned?

19 A Yes.

20 Q Have you ever met Sheik Tami m Adnani ?

21 A Yes, I did.

22 Q When did you meet Sheik Tami m Adnani ?

23 A He also used to come here to the United States to  
24 give lectures about Afghanistan, and on one or two of those



25 visits, I met him.

♀

14232

1 Q What if anything did you discuss with Sheik Tamim  
2 Adnani on those two occasions that you met him?

3 A Actually, I don't remember having any one-on-one  
4 conversation with him but I did listen to his lectures, and  
5 I went on a trip to Queens, I think it was, to see him tape,  
6 record a videotape at one of the mosques in Queens, New  
7 York, spent some time at the mosque over there with him.

8 (Continued on next page)

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14233

Si raj Wahhaj Testimony

1 Q Mr. Ibrahim, I am going to show you Nosair  
2 Defense JJJ-34. What was the name of the mosque in Queens  
3 where you saw the lecture by Sheikh Tami m Adnani ?

4 A I don't remember the name. That is the only time  
5 I have been to it. But I don't want to guess, so.

6 Q Do you remember around what time, what year that  
7 was?

8 A Yes. That was his last visit to the United  
9 States, and during that visit he later went to the West  
10 Coast, I believe, California, and then after that he died.  
11 So that was his last visit.

12 Q Do you remember what the subject of that lecture  
13 was at the mosque in Queens?

14 A Yes. It was about Afghanistan, and he was  
15 talking about the bravery of the Afghan mujahideen and some  
16 of the successes that they have had.

17 Q I am now going to show you Nosair Defense JJJ-34  
18 and ask you if that is a videotape that you viewed.

19 A Yes, I have seen it.

20 Q When did you see that video?

21 A The 4th of June, 1995.

22 Q What is depicted in that video?

23 A Let me refer to my notes. It is an interview by  
24 Sheikh Tami m Adnani with Lawrence Video. They are located in  
25 Lawrence, Kansas.

♀

14234

1 MR. STAVIS: Your Honor, at this time I would  
2 move Nosair Defense JJJ-34 into evidence and ask to play a  
3 small segment of that tape.

Siraj Wahhaj Testimony

4 MR. FITZGERALD: To the same offer, no objection.

5 THE COURT: All right.

6 Q Is that in English?

7 A Yes, it is.

8 THE COURT: Triple JJJ-34 is received without  
9 objection.

10 (Nosair Defense Exhibit JJJ-34 was received in  
11 evidence.)

12 MR. STAVIS: I would ask the jurors to put their  
13 headphones on. It is an English tape.

14 (Videotape played)

15 MR. STAVIS: Your Honor, for the record, Nosair  
16 JJJ-34 was another one of the videotapes recovered from  
17 Sayyid Nosair's home on November 6, 1990. That is the one  
18 that we just viewed.

19 THE COURT: All right. We will take a short  
20 break. Please leave your notes behind. Please don't  
21 discuss the case.

22 (continued on next page)

23

24

25

♀

14237

1 (Pages 14235 - 14236 sealed)

2 (In open court; jury not present)

3 MR. STAVIS: Your Honor, I am finished playing  
4 videotapes. I have one more to introduce with a transcript,  
5 but it is not going to be played.

6 THE COURT: OK.

7 (Witness resumed)

Si raj Wahhaj Testimony

8 (Jury present)

9 THE COURT: Mr. Stavisi.

10 MR. STAVIS: Your Honor, at this time I offer  
11 into evidence Nosair Defense JJJ27, which is a videotape  
12 recovered from Sayyid Nosair's home on November 6, 1990, and  
13 it depicts Sheikh Abdallah Azzam speaking at a United States  
14 convention. I also offer at this time Nosair Defense  
15 JJJ-27T, an English transcript of that Sheikh Azzam speech at  
16 the U.S. convention.

17 MR. FITZGERALD: We stipulate to the procedure  
18 and no objection to the offer of the items in evidence with  
19 the two conditions that part of page 17 has an agreed-upon  
20 redaction, and offered under the same conditions, not for  
21 the truth.

22 THE COURT: Videotape JJJ-27. Again, it is being  
23 offered not for the truth of what is portrayed there but to  
24 show the nature of some of the material that was taken from  
25 Mr. Nosair's home on November 6.

♀

14238

1 (Defendant Nosair Exhibits JJJ-27 and JJ-27T  
2 received in evidence)

3 BY MR. STAVIS:

4 Q Mr. Ibrahim, did there come a time that you began  
5 to train to go and perform jihad in Afghanistan?

6 A Yes.

7 Q What happened and when did it happen?

8 A What happened is that there was an announcement  
9 made at El Salaam Mosque that there will be training  
10 sessions held for shooting practice, and for those who

Siraj Wahhaj Testimony

11 wanted to participate, they could go for a day to a location  
12 like a shooting range, and it would be held on Saturdays or  
13 Sundays.

14 Q You mentioned announcements at the mosque. Were  
15 there ever any posters put up about this training?

16 A Yes.

17 Q Where were those posters located?

18 A On the wall.

19 Q Who organized the rifle training?

20 A Sayyid Nosair.

21 Q How often did this training occur?

22 A It would take place on the weekends, so it would  
23 be like maybe once a week or once every two weeks, like  
24 that.

25 Q What kind of weapons were used for this shooting

♀

14239

1 that occurred on the weekends?

2 A The AK47 assault rifle, which is also known as  
3 the Kalishnikov assault rifle, and there was also some kind  
4 of hunting rifle. But mostly it was the AK47.

5 Q Did you participate in this rifle training?

6 A Yes, I did.

7 Q Can you tell us about it, your own personal  
8 experience?

9 A Yes. On the occasions that I went, we would  
10 gather at the place usually in front of El Salaam Mosque,  
11 and then we would go together, groups of maybe six or eight  
12 or ten people, in maybe two cars.

13 Q Was Sayyid Nosair present in those groups of six  
14 to eight or ten people?

Si raj Wahhaj Testimony

15 A Yes.

16 Q Then what if anything would happen after you got  
17 into the car?

18 A We would drive to a location in Connecticut, a  
19 shooting range, and then we would take up a place to  
20 practice shooting, and then there would be an instructor and  
21 we would take turns, like each person -- first there would  
22 be like a small lecture about how to operate the rifle, and  
23 safety precautions and stuff like that, and then after that  
24 we would take turns shooting at the targets. Each person  
25 would fire roughly about 10 shots, and then the next person

♀

14240

1 would move up and start shooting.

2 Q Why did you go for this rifle training?

3 A It was part of the preparation for Afghanistan,  
4 because at that time we were pretty much preoccupied with  
5 the jihad that was going on in Afghanistan, and we wanted to  
6 get that, you know, at least know how to use a rifle,  
7 because many of us were thinking of going to Afghanistan to  
8 participate in the jihad.

9 Q You mentioned the term AK47 or Kalishnikov.

10 A Yes.

11 Q You said it is full automatic or semi automatic.  
12 What do you mean by those terms?

13 A Full automatic means when you pull the trigger,  
14 it fires off, you know, shots in rapid succession.  
15 Semi automatic means you have to pull the trigger for every  
16 shot to come out.

17 MR. STAVIS: Your Honor, may I approach the

Siraj Wahhaj Testimony

18 witness with Nosair KKK-1.

19 Q Mr. Ibrahim, I am showing you Nosair KKK-1, and I  
20 ask you to take a look at that. Can you turn it around so  
21 that the jury can see. Do you know the man who is depicted  
22 in Nosair KKK-1?

23 A Yes. His name is Abu, A-B-U, Omar, O-M-A-R.

24 Q Did there come a time that Abu Omar came to  
25 Jersey City?

‡

14241

1 A Yes.

2 Q When was that?

3 A It was during the year of 1989, during the spring  
4 or early summer of that year. That's the first time I saw  
5 him.

6 Q At the time that Abu Omar came to Jersey City,  
7 did he give classes in military training?

8 MR. FITZGERALD: Objection to leading.

9 THE COURT: Sustained.

10 Q At the time that Abu Omar came to Jersey City,  
11 did he hold any classes?

12 A Yes.

13 Q What kind of classes did he hold?

14 A Military classes.

15 Q What were the specific topics of these military  
16 classes held by Abu Omar?

17 A It was about navigating in areas like if you are  
18 lost in a desert area or a jungle or you are part of a group  
19 and you want to find your way, how to use a compass, how to  
20 find your way by looking at the stars, and survival things,  
21 and how to recognize some of the weapons if you see them,

Si raj Wahhaj Testimony

22 like tanks, stuff like that.

23 Q Where were these classes held?

24 A In an apartment.

25 Q Do you know whose apartment?

♀

14242

1 A Yes, it was the apartment of a brother by the  
2 name of Abdel Aziz, Abdel Aziz Hassan.

3 Q Where was that located?

4 A On Harrison Avenue, in Jersey City.

5 Q Did Sayyid Nosair attend any classes by Abu Omar?

6 A Yes. He invited me to attends the class, and he  
7 attended himself.

8 Q What role did Sayyid Nosair take in introducing  
9 people to Abu Omar?

10 MR. FITZGERALD: Objection to form.

11 THE COURT: Sustained.

12 Q What if anything did Sayyid Nosair do with regard  
13 to Abu Omar when he came to Jersey City?

14 A Sayyid is the one who introduced Abu Omar to the  
15 rest of us, and he was his host in Jersey City, as far as I  
16 could see.

17 Q Did you see Abu Omar in the Jihad Office in  
18 Jersey City?

19 A Yes.

20 Q What is the first time you saw Abu Omar in the  
21 Jihad Office in Jersey City? What year was that and what  
22 time of year?

23 A It was 1989. I don't remember the exact month,  
24 but it had to be in the spring or early summer of 1989, to



25 the best of my recollection.

♀

14243

1 Q You say it had to be. Why do you say that?

2 A I remember that it was a time when I had started  
3 my new job at John Brown in Stamford, Connecticut, about  
4 Memorial Day of that year, and I remember it was around that  
5 time. I don't remember if it was before or after, but it  
6 had to be around that time.

7 Q After Abu Omar left on that first visit, did you  
8 notice anything different at the Jersey City Alki Fah office?

9 A Yes, I saw the manuals.

10 MR. STAVIS: Your Honor, may I approach the  
11 witness?

12 THE COURT: Yes.

13 Q I am showing you what has been marked as  
14 Government Exhibit 118 in evidence -- I believe it is  
15 stipulated with the government that this was a manual, a  
16 document that was recovered from the home of Sayyid Nosair  
17 on November 6, 1990.

18 MR. FITZGERALD: That is correct.

19 THE COURT: Which exhibit is this?

20 MR. STAVIS: Government's Exhibit 118.

21 THE COURT: Go ahead.

22 Q I ask you to take a look at Government's Exhibit  
23 118.

24 A OK.

25 Q Have you seen that before?

♀

14244

Si raj Wahhaj Testimony

1 A Yes.

2 Q Where have you seen it?

3 A At Al Ji had office in Jersey Ci ty.

4 Q What is Government' s Exhi bi t 118?

5 A It' s a mil itary manual , about how to recognize  
6 certain tanks and weapons, whether they are enemy tanks or  
7 friendly tanks.

8 Q What does it say on the front cover of  
9 Government' s Exhi bi t 118?

10 A "Uni ted States Army, John F. Kennedy Speci al  
11 Warfare Center. "

12 Q Di d you have occasi on to see manuals l ike that  
13 prior to Abu Omar' s visi t to the Al ki fah Center in Jersey  
14 Ci ty?

15 A I don' t remember seei ng any of these before the  
16 visi t of Abu Omar to Jersey Ci ty.

17 Q I am showi ng you what is entered into evi dence as  
18 Government' s Exhi bi t 77, also a document recovered from the  
19 home of Sayyi d Nosai r on November 6, 1990.

20 MR. FITZGERALD: So sti pul ated.

21 Q I ask you to take a look at that.

22 A On the front cover, what does it say on the front  
23 cover of Government' s Exhi bi t 77?

24 A "Afghan Refugees Servi ce Inc. , 2824 Kennedy  
25 Boul evard, sui te number 4, Jersey Ci ty, New Jersey. "

♀

14245

1 Q Is that what you have been referring to as the  
2 Jersey Ci ty Ji had Offi ce?

3 A Yes.

Siraj Wahhaj Testimony

4 Q What is that document?

5 A It's a document that tells you how to make  
6 explosives, and some kind of improvised weapons and  
7 explosives.

8 Q Had you seen that document in the Jersey City  
9 Jihad Office?

10 A Yes.

11 Q Did you have occasion to see that document,  
12 Government's Exhibit 77, in the Jihad Office in Jersey City  
13 prior to Abu Omar's first visit to the Jihad Office?

14 A No.

15 Q I am now showing you what has been entered into  
16 evidence as Government's Exhibit 78. Is that something that  
17 you have seen before at the Jersey City Jihad Office?

18 A Yes.

19 Q What is depicted in Government's Exhibit -- what  
20 is Government's Exhibit 78?

21 A It's called explosive traps, and it shows you how  
22 to make, you know, boobytraps which have explosives.

23 Q Did you have occasion to see a booklet like this  
24 in the Jersey City Jihad Office prior to the visit of Abu  
25 Omar to the Jersey City Jihad Office?

♀

14246

1 A No.

2 Q The last one is Government Exhibit 79. What is  
3 Government's Exhibit 79?

4 A It talks about grenades.

5 Q Is Government's Exhibit 79 something that you  
6 have seen previously in the Jersey City Jihad Office?

7 A Yes.

Si raj Wahhaj Testimony

8 Q Did you have occasion to see a booklet like  
9 Government's Exhibit 79 in evidence at the Jihad Office  
10 prior to the visit of Abu Omar to that office?

11 A No.

12 Q Drawing your attention to this page -- it's an  
13 Arabic 48 -- I will show the government.

14 MR. FITZGERALD: That's fine.

15 Q What is depicted on that page?

16 A It shows you how to throw a hand grenade while  
17 sitting on one knee.

18 Q I draw your attention to the clothing that is  
19 being worn by the person who is throwing that grenade. What  
20 kind of clothing that is that?

21 A Pakistani clothing, which is the shirt that goes  
22 down to the knee.

23 Q Is that the kind of clothing that people would  
24 wear in Peshawar, Pakistan?

25 A Yes.

♀

14247

1 Q Or Afghanistan?

2 A Yes.

3 Q After Abu Omar's first visit to the Jersey City  
4 Jihad Office in spring or early summer of 1989, did there  
5 come a time that he returned to the Jihad Office?

6 A Yes.

7 Q Approximately when was that?

8 A Same year, later in the year, maybe around the  
9 fall.

10 Q Did you see him at that time?

Si raj Wahhaj Testimony

11 A Yes.

12 Q Where did you see him?

13 A At Al Jihad office in Jersey City.

14 Q At the time that you saw Abu Omar that second  
15 time at the Jersey City Jihad Office, who else was present?

16 A Sayyid Nosair was present, as well as some other  
17 brothers.

18 Q Did you see who brought Abu Omar to the Jersey  
19 City Jihad Office that day?

20 A Yes, Sayyid brought him.

21 Q When you say Sayyid, you are referring to Sayyid  
22 Nosair.

23 Did you have occasion on that second visit to  
24 with Abu Omar, did you have occasion to speak with Abu Omar  
25 at the Jersey City office?

♀

14248

1 A Yes.

2 Q What if anything did you speak about with him?

3 A Mostly Afghanistan.

4 Q Do you remember anything specifically, what was  
5 said?

6 MR. FITZGERALD: Objection -- one moment.

7 (Pause)

8 Q Generally you spoke to Abu Omar about  
9 Afghanistan?

10 A Yes.

11 Q And the mujahideen in Afghanistan?

12 A Yes.

13 MR. STAVIS: May I approach the witness, your  
14 Honor?

Si raj Wahhaj Testimony

15 THE COURT: Yes, you may.  
16 Q I am approaching you with Nosair Defense JJJ-1 in  
17 evidence. I ask you if you have viewed that video?  
18 A Yes, I have seen it.  
19 Q When did you review that video most recently?  
20 A The 4th of June 1995.  
21 Q What is depicted in that video?  
22 A I want to refer to my notes.  
23 A It's a panel discussion with Ali Mohammed at the  
24 JFK army center.  
25 Q You say Ali Mohammed. Do you know him by another

♀

14249

1 name?  
2 A Abu Omar.  
3 Q Did there come a time that you saw that video,  
4 Nosair Defense JJJ-1, at the Jersey City Jihad Office?  
5 A Yes, I did.  
6 Q Please tell us about that.  
7 A Sayyid brought the tape and he played it for us.  
8 Q When you say Sayyid, you --  
9 A Sayyid Nosair. He played it for us at the Jihad  
10 Office in Jersey City and we watched it, I watched it.  
11 Q Approximately when did you watch it and who else  
12 was there?  
13 A I don't know the exact date, but I think it was  
14 during that year 1989, and Sayyid was there, and some other  
15 brothers were there. I don't remember who they were.  
16 Q Turning your attention to November 6 of 1990, did  
17 anything unusual occur on that day?

Si raj Wahhaj Testimony

18 A Yes.

19 Q What happened?

20 A On my way to work I heard a news report on the  
21 radio that Rabbi Meir Kahane had been assassinated and that  
22 there was a suspect caught, and I heard that the name of the  
23 suspect was Sayyid Nosair, but I was so shocked to hear  
24 that, I really didn't believe --

25 MR. FITZGERALD: Objection, your Honor.

‡

14250

1 THE COURT: Sustained.

2 Q What did you do after hearing that radio  
3 announcement?

4 A After I got to work, about a half hour or so  
5 after I got to work my wife called me from home, and she  
6 asked me if I had heard the news. I said yes. So she said,  
7 I think it's Sayyid who has been arrested, they mentioned  
8 his name. So when she said that, I was sure it was him. At  
9 first I was doubting whether maybe I heard it wrong or  
10 something.

11 Q Shortly after that time, was there a meeting in a  
12 mosque concerning Sayyid Nosair's arrest?

13 A The first meeting took place at Ibrahim's house.

14 Q Tell us about that meeting, when it was and who  
15 else was there.

16 A I went to Ibrahim's apartment, and some other  
17 brothers came to his apartment. Some of them had brought  
18 with them donations to help Sayyid's family and so on, and  
19 there was discussion about how the family should be  
20 supported, and what would be done regarding his defense, and  
21 we came to the conclusion that there should be a committee.

Si raj Wahhaj Testimony

22 Q You say this took place at Ibrahim's apartment,  
23 is that correct?

24 A Yes.

25 Q When you say Ibrahim, are you referring to

♀

14251

1 Ibrahim El-Gabrowny?

2 A Yes.

3 Q Do you remember where his apartment was?

4 A It's on Prospect Park in Brooklyn.

5 Q What if anything did you do after that meeting at  
6 Ibrahim El-Gabrowny's apartment?

7 A I suggested that the family should come to my  
8 house, to my apartment, Sayyid's family, and they agreed.  
9 They came to my apartment.

10 Q Who was it from Sayyid's family who came to your  
11 apartment?

12 A His wife and his children.

13 Q Where did they stay in your apartment?

14 A They occupied the bedrooms and, you know, I slept  
15 outside in the living room.

16 Q At the time that you took in Sayyid Nosair's  
17 family to stay in your house, were you aware of any death  
18 threats or retaliation threats against Sayyid Nosair and his  
19 family?

20 A Yes, I was very concerned. There had been  
21 threats of retaliation, and I was very concerned, to the  
22 degree that I, I remember the first night they slept over,  
23 or the first few nights, I slept on the sofa with a crowbar  
24 under the sofa. I thought somebody was going to jump



25 through the window and try to kill them.

♀

14252

1 Q How long did Sayyid Nosair's wife and children  
2 stay in your home?

3 A For about two to three weeks.

4 Q During that two-to-three-week period, who if  
5 anyone was supporting Sayyid Nosair's wife and children?

6 A We were getting donations from a lot of people,  
7 and as far as their daily needs, we tried to, you know,  
8 fulfill whatever they needed, my wife and myself.

9 Q Did you attend any community meetings concerning  
10 supporting Sayyid Nosair during the period while he was  
11 awaiting trial?

12 A Yes. There was a meeting at El Salaam Mosque to  
13 discuss what should be done regarding supporting his family  
14 and his defense.

15 Q Who else attended that meeting?

16 A Members of the board of the El Salaam Mosque and  
17 other people who were interested, Muslims.

18 Q Do you remember the names of anybody who was at  
19 that meeting?

20 A Yes. There was Abdel Rahman Haggag and Sheikh  
21 Abdul Khalek, and Hamdi Moussa, and many others.

22 Q Was Ibrahim El-Gabrowny at that meeting?

23 A Ibrahim would come sometimes to El Salaam Mosque  
24 to discuss the arrangements and so on, yes.

25 Q Did you ever attend Sayyid Nosair's trial in

♀

14253

Si raj Wahhaj Testimony

1 state court?

2 A Yes.

3 Q Why did you attend Sayyid Nosair's trial in state  
4 court?

5 MR. FITZGERALD: Objection, 401.

6 THE COURT: Sustained.

7 Q When did you attend Sayyid Nosair's trial in  
8 state court?

9 A At the very beginning of the trial I attended  
10 maybe twice or once, I don't remember. Then I would go just  
11 once in a while. After that I couldn't go every day because  
12 I had a job. Then at the day that the verdict was rendered,  
13 I was there. Also on the day of the sentencing.

14 Q Describe, if you would, how the courtroom was set  
15 up when you attended the Sayyid Nosair state trial.

16 MR. FITZGERALD: Objection, 401, 403.

17 THE COURT: Sustained.

18 Q You stated just a moment ago -- withdrawn.  
19 Do you know who Emad Salem is?

20 A I heard of him.

21 Q Did you know who Emad Salem was in 1991 and early  
22 1992?

23 MR. FITZGERALD: Objection, competence.

24 THE COURT: May I hear the question again.

25 (Record read)

♀

14254

1 THE COURT: Sustain the objection as to form.  
2 How did you know him in 1991 and 1992, if you knew him?

3 MR. STAVIS: We haven't established that he did

4 know him, your Honor. He knows him now. He has been in the  
5 paper.

6 THE COURT: Was it the same guy?

7 Q Did you know who Emad Salem was in 1991 and 1992?

8 A No, I didn't.

9 Q Had you met Emad Salem in 1991 and 1992?

10 A No.

11 Q You stated that you were in court for the verdict  
12 in Sayyid Nosair's state trial. What happened after the  
13 verdict at the courthouse?

14 A Someone from our side yelled Allahu Akbar and --

15 Q When you say "our side," what are you referring  
16 to?

17 A The Muslims, the Muslims who were there to  
18 support Sayyid.

19 Q And what happened?

20 A Someone from the other side cried something like  
21 death to Nosair, or something like that.

22 Q Did you witness any fights on that occasion,  
23 after the verdict?

24 A No. There was excitement but, you know, people  
25 yelling Allahu Akbar and the other side was yelling things

♀

14255

1 against Sayyid, but there was a lot of security. There  
2 could not have been a fight.

3 Q What are the kinds of things you heard were said  
4 about Sayyid Nosair?

5 MR. FITZGERALD: Objection, 401, 403.

6 THE COURT: Overruled.

7 A In the courtroom you mean, during that day?

Si raj Wahhaj Testimony

8 Q Yes, and immediately thereafter.

9 A As I said, they said death to Nosair, and, you  
10 know, murderer, stuff like that.

11 Q Before the trial and in the days immediately  
12 following Sayyid Nosair's arrest, did you speak to agents of  
13 the Federal Bureau of Investigation?

14 A Yes.

15 Q Where did you see them?

16 A First time I spoke to them was at Ibrahim  
17 El-Gabrownny's apartment. I happened to be there to discuss  
18 things related to supporting Sayyid's family, and while I  
19 was there one of the agents just came in. I mean, he  
20 knocked on the door and came into the apartment, and he  
21 talked to Ibrahim, and while I was there he decided he  
22 wanted to talk to me, so I talked to him.

23 Q What time period did this happen in?

24 A That was within a few days or a week after Sayyid  
25 was arrested.

♀

14256

1 Q During the time of Sayyid Nosair's trial, did you  
2 have occasion to attend any demonstrations about the case  
3 other than at the courthouse?

4 A Yes. There was a demonstration on the east side  
5 of Manhattan, across the street from the judge's house, and  
6 I attended that demonstration.

7 Q What went on at that demonstration?

8 A We were there to, to protest something regarding  
9 the trial, although I really don't recall exactly what it  
10 was, but I think it was maybe regarding the sentence, or

Siraj Wahhaj Testimony

11 something like that. It was before the sentence, but, I  
12 mean, to try to convey to the judge that Sayyid deserved  
13 lenient sentence. And the followers of Rabbi Meir Kahane,  
14 the JDL people, you know, they came also, and they were on  
15 the opposite -- not across the street but on the next block  
16 from us.

17 Q Where was this located, this demonstration?

18 A On the east side of Manhattan. I don't remember  
19 the name of the street, but it was one of the avenues. They  
20 were there, and there was some barricades between us. They  
21 did some things to try to intimidate us at first. Some of  
22 them would come in front of us and take pictures. And then  
23 at some point they got some of the people excited, and there  
24 was some potential of, you know, clash, of physical clash  
25 between them. But I don't think any physical contact

♀

14257

1 actually happened. But people were excited, they got us  
2 excited at some point.

3 Q Did you hear any threats at that demonstration  
4 outside the judge's house?

5 A No.

6 Q Did you hear any name calling at that  
7 demonstration outside the judge's house?

8 A Yes. The JDL people yelled things to get us  
9 angry, and some of them were remarks about our faith, our  
10 religion and our prophet, derogatory things, and they were  
11 designed to get us excited and aggravated.

12 Q Did you attend any other demonstrations during  
13 the time period of Sayyid Nosair's state trial?

14 A Yes. There was a demonstration, on the day of

Si raj Wahhaj Testimony

15 the sentencing outside the courthouse.

16 Q I am talking about demonstrations other than  
17 those at the courthouse.

18 A Yes. There was one demonstration that was held  
19 at Al Farook Masjid, because the JDL were going to  
20 demonstrate in front of Al Farook Masjid, and it was called  
21 upon us to make sure that it was protected in case they  
22 tried to do something. So we were there. And a lot of  
23 people showed up that day from our side, the Muslims. I  
24 would say maybe 2,000 or more. So it was a good day for us.

25 Q Prior to the Nosair state trial, did you ever

♀

14258

1 have occasion to visit Sayyid Nosair at Rikers Island?

2 A Yes, I visited him twice.

3 Q Can you please explain to the ladies and  
4 gentlemen of the jury how your visits to Sayyid Nosair came  
5 about.

6 A We had to talk to Ibrahim El-Gabrownny. He was  
7 the coordinator, because the family, Sayyid's family had  
8 priority to visit him first, so we couldn't go on a date  
9 when the family was going to visit him. So we would call  
10 Ibrahim and Ibrahim would tell us on such a day it's open,  
11 you can go. So I called Ibrahim and he told me on the day  
12 that I could go.

13 Q Do you remember approximately when you visited  
14 Sayyid Nosair at Rikers Island?

15 A I remember the first time it was cold, it was  
16 winter, and it must have been around February of 1992 -- I  
17 am sorry -- February after Sayyid was arrested. That would

Si raj Wahhaj Testimony

18 have been 1992, yes.

19 Q Could it have been in 1991?

20 A When was Sayyid arrested? Was it 1990?

21 THE COURT: He has to ask the questions and you  
22 have to give the answers.

23 Q Hypothetically, if Sayyid was arrested on  
24 November 5, 1990, when did you visit him?

25 A On the following February.

‡

14259

1 Q Who if anyone went with you for the visit?

2 A First time someone was with me -- I don't  
3 remember.

4 Q Do you remember how you got there?

5 A Yes. I drove my car to a place which is outside  
6 of the jail, and then from there I took a bus that cross  
7 over the bridge into the jail.

8 Q What if anything did you have to do when you got  
9 to the jail itself?

10 A You mean after I got inside?

11 Q Yes.

12 A You go through the security. They search you,  
13 and they made sure that I had nothing with me, and then I go  
14 in.

15 Q Were you required to produce any form of  
16 identification?

17 A Yes. I think I showed them my driver's license.

18 Q Were you required to sign anything before you  
19 entered?

20 A Yes. There was a book that you signed.

21 Q Approximately how long did your visits to Sayyid

Si raj Wahhaj Testimony

22 Nosair last?

23 A About one hour.

24 Q What if anything did you discuss with him at that  
25 time?

♀

14260

1 A The purpose of the visit was just to give him  
2 some encouragement and to let him know that his family was  
3 OK.

4 Q Do you remember any -- withdrawn.

5 When you went to visit Sayyid Nosair, did you  
6 always go with someone else?

7 A I remember the second time, there was somebody  
8 with me and one of his sons was with me. The first time, I  
9 don't remember whether -- I think maybe I have been by  
10 myself the first time.

11 Q At the time that you went there, did you know the  
12 person that you were going to visit Sayyid Nosair with?

13 A You mean the second time?

14 Q The second time, right.

15 A Yes.

16 Q Do you know that person's name now?

17 A Yes, Hussien Saafan.

18 Q And how did Hussein Safan come to go with you on  
19 that particular day -- withdrawn.

20 The second visit, do you remember approximately  
21 when that was?

22 A It was in the summer of that same year. I  
23 couldn't tell you which month, I don't remember.

24 Q How did Hussein Safan come to go with you on that



25 second visit that you paid to Rikers Island?

♀

14261

1 A I really don't recall, but I think we must have  
2 talked over the telephone and made arrangements to meet over  
3 there.

4 Q Do you know if you spoke to Ibrahim El-Gabrownny  
5 prior to going on that second visit to Rikers Island to  
6 visit Sayyid Nosair?

7 A I always did, because he was the coordinator. To  
8 the best of my recollection, I always called him first  
9 before I went.

10 Q Did you ever visit Sayyid Nosair in Attica  
11 prison?

12 A No.

13 Q Did there come a time when you went to  
14 Afghanistan?

15 A Yes.

16 Q Tell us how that came about.

17 A As I mentioned earlier, I had listened to the  
18 lectures by Sheikh Abdullah Azzam about Afghanistan, and I  
19 was very inspired by these lectures. Also, I had been  
20 reading Al Jihad magazine. So anyway, I had prepared my  
21 wife that some day we should go, and in the summer of 1991,  
22 I finally got around to actually go. So I went to Pakistan.  
23 I took my family with me. I went to Peshawar, Pakistan, and  
24 I rented a house and put up my children in schools over  
25 there, and I stayed for about a month in Peshawar, and then

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14262

Si raj Wahhaj Testimony

1 I came back here to the United States.

2 Q Why did you take your family with you to  
3 Peshawar?

4 A I wanted to participate in the jihad, but I also  
5 saw an opportunity to provide for my family a more Islamic  
6 atmosphere, and I thought that Peshawar would be a better  
7 atmosphere for my children and my family, and because of the  
8 fact that there are many Muslim brothers over there who  
9 shared my same belief, which is that you have to participate  
10 in jihad and so on, therefore I thought that would be a  
11 better environment for them to live in.

12 Q Describe what Peshawar, Pakistan was like when  
13 you first got there.

14 A It's a town. It's not a small town, actually.  
15 It's a town of about 2 or 3 million people, population, and  
16 there was a section in Peshawar which was a more modern,  
17 that had nice houses and so on, and this is where most of  
18 the Arabic-speaking brothers stayed. We rented a house in  
19 that section of town.

20 Q How did you find a house to rent?

21 A I called ahead by telephone. I had somebody rent  
22 a house for me before I went.

23 (Continued on next page)

24

25

♀

14263

1 MR. STAVIS: Your Honor, may we approach at the  
2 side bar?

3 THE COURT: Yes.

Siraj Wahhaj Testimony

(At the side bar)

MR. STAVIS: Your Honor, would it be possible to break six minutes early, because I am moving into a very large area and I would rather not have to revisit it on Monday.

THE COURT: Larger than Afghanistan?

MR. STAVIS: That's as large as it is.

THE COURT: No, no, we have had enough. All right.

(In open court)

THE COURT: Ladies and gentlemen, we are going to break six minutes early. Don't tell anybody. Please leave your notes and other materials behind. Please don't discuss the case. Have a pleasant weekend, and we will see you again on Monday.

(Jury excused)

(Witness excused)

THE COURT: I got two letters from the government this morning. One of them related to that report that you are talking about. I haven't seen the report. Do you have it?

MR. STAVIS: Mr. Khuzami has the original file, I

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14264

believe.

THE COURT: I will take a copy. I am not proud.

MR. KHUZAMI: I have it. You want just the one document, your Honor?

THE COURT: The document that they propose to offer.

MR. STAVIS: I think it was somewhat

Si raj Wahhaj Testimony

8 mi scharacterized by Mr. Khuzami . If your Honor reviews the  
9 file, each side in the litigation had a physician. The  
10 doctor who completed that form is not a doctor for either  
11 side, but a doctor, and if you read the small print, of the  
12 New York State Workers Compensation Board. That is why I  
13 sought to introduce that under the 803(8) public records.  
14 The doctor is paid by the State of New York and works for  
15 the State of New York. He is not a doctor for either party.

16 MR. NOOTER: Excuse me, your Honor. I hate to  
17 interrupt your chain of thought. My client is feeling very  
18 ill --

19 THE COURT: He is excused.

20 MR. NOOTER: He needs to be taken out during the  
21 colloquy.

22 THE COURT: He is excused.

23 MR. NOOTER: Thank you very much. I am sorry.

24 THE COURT: I am sorry, go ahead.

25 MR. STAVIS: That is all I had to say. I read

♀

14265

1 Mr. Khuzami's letter this morning which seemed to indicate  
2 that the doctor was employed by one of the party litigants.

3 THE COURT: Let's assume this doctor is employed  
4 by the Workers Compensation Board. There are two problems  
5 with this report. The first is that as to the kind of  
6 defect that he is talking about, there are tests for that.  
7 The tests have names. There is no indication of what if any  
8 tests he did. He simply in essence states a conclusion.

9 Secondly, there is no indication of what that  
10 conclusion means.

Siraj Wahhaj Testimony

11                   So first of all, I find a problem of reliability  
12 with the report, because there is no statement of what the  
13 tests were that were performed. There are tests that are  
14 performed to make sure that somebody is not malingering and  
15 those have names. Nothing like that is in this report.  
16 Even if it were, there is no explanation what it is that a  
17 15 percent disability means. So under both, because there  
18 is no indicia of reliability and because the report, even if  
19 it were admitted, would not tell the jury anything about  
20 what the man can or can't do, I am not inclined to admit it.

21                   MR. STAVIS: I had understood that the  
22 reliability element in subdivision (8) referred to the  
23 motivation of the employee of the public agency, and this  
24 employee --

25                   THE COURT: If it refers to the motivation, then

♀

14266

1 fine. There is no motive if the employee works for the  
2 Workers Compensation Board, that still doesn't get past  
3 explaining what it means.

4                   MR. STAVIS: Your Honor, I would argue to the  
5 court that that goes to the weight the jury should give it  
6 and not to its admissibility, because it fulfills the  
7 requirements of subdivision (8) of Section 803.

8                   THE COURT: I don't think it does, but even if it  
9 does, as admitted it calls for speculation on the part of  
10 the jury as to what it means in terms of what you are going  
11 to argue in terms of his ability to pull a trigger. So it  
12 is excluded.

13                   Let's talk about the other letter. Did you want  
14 to respond to the other letter at all?

Si raj Wahhaj Testimony

15 MR. STAVIS: I am at somewhat of a loss to  
16 respond to it, your Honor, because I really haven't read it.

17 MR. LAVINE: Excuse me, your Honor. I hate to  
18 interrupt but I have an immediate problem here. My client  
19 needs a break.

20 THE COURT: He may be excused. This all relates  
21 to Mr. Nosair, so if he wishes to be excused --

22 MR. LAVINE: Thank you.

23 THE COURT: Does he?

24 MR. LAVINE: Yes, he does.

25 THE COURT: This relates to the Rule 29 motion.

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1 MR. STAVIS: I understand, your Honor. I got it  
2 seconds before I came in.

3 THE COURT: They in essence taxed me with having  
4 misquoted the Kwong case. I admit I misquoted the Kwong  
5 case. However, although I didn't quote the Kwong case  
6 correctly, I think I was right about what it said. It is  
7 possible to be incorrect and right at the same time.

8 The discussion in Kwong about what was or wasn't  
9 an attempted murder had nothing to do with the facts of  
10 Kwong. It had to do with the quotation that appeared in  
11 that opinion immediately before the words that I tried  
12 unsuccessfully to quote, and that case dealt specifically  
13 with shooting a weapon.

14 More to the point, Rule 29 motions are really  
15 fact-specific. If we were dealing with a situation like  
16 Kwong where somebody on a premeditated basis had set a gun  
17 trap of the sort involved in Kwong, then yes, you can infer

Siraj Wahhaj Testimony

18 an attempt to kill. This is a situation that developed  
19 fleeing from a murder -- on your view of the facts,  
20 developed rapidly, in fact instantly. I can't see any basis  
21 for a jury to do anything other than speculate on motive,  
22 and the business about his having been trained, as far as I  
23 am concerned, proves nothing at all. If anything, it cuts  
24 two ways.

25 MR. McCARTHY: Your Honor, first of all, two

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1 things. I don't know how that conclusion can be justified  
2 in light of what the Supreme Court held in Yates with  
3 respect to the intent to murder with respect to Mrs. Wood,  
4 who was the murder victim in Yates. In Yates, Mrs. Wood,  
5 after the accomplice and the first victim were involved in a  
6 scrap, intervened in the scrap, they rolled around on the  
7 floor, and she ended up stabbed. There was less opportunity  
8 for observation than Nosair had with respect to Acosta. The  
9 Supreme Court felt that that was an issue to be resolved by  
10 a jury. The facts of that case, for the Supreme Court to  
11 say that on those facts that ought to go to a jury, I just  
12 cannot understand how it is that your Honor can find that a  
13 person who has an opportunity to fire pointblank -- and the  
14 reason the training is relevant is because it is a rational  
15 inference that when he shot at the man's head and at the  
16 man's chest he intend to shoot at the man's head and the  
17 man's chest.

18 MR. STAVIS: I don't think there is any evidence  
19 that he shot at the man's head.

20 MR. McCARTHY: There is testimony in the record,  
21 which we cited in the letter, which has to be taken on a

Si raj Wahhaj Testimony

22 Rule 29 motion to be credible in the light most favorable to  
23 the government that the first shot whizzed past Mr. Acosta's  
24 head, the second shot hit him in the chest, was deflected by  
25 the bullet and lodged in his shoulder. The fact of the

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1 training is relevant to show that when Nosair chose to shoot  
2 at places where anybody would know hitting with a bullet  
3 would kill the person, he intended to do that. That is a  
4 rational inference that this jury can draw.

5 MR. STAVIS: No one who is trained in weaponry  
6 would shoot at somebody's head, your Honor.

7 THE COURT: Not in that situation, they wouldn't.

8 MR. STAVIS: But that is not a fact in the  
9 record.

10 THE COURT: Also, you left out one thing, which  
11 is that Mrs. Wood died. Yes, she was stabbed in the chest,  
12 which is a direct -- the hand accomplishes, presumably, what  
13 the brain intends. She was stabbed in the chest and she  
14 died.

15 MR. McCARTHY: First of all, that is exactly what  
16 they say you can't do, which was presume that the person  
17 intended the consequences of his action. But the fact that  
18 the woman died as opposed to an attempted murder count is  
19 irrelevant. The issue that the Supreme Court was dealing  
20 with was specific intent to murder, which is the same exact  
21 issue in this case, precisely the same issue.

22 THE COURT: Same issue, different result,  
23 different facts.

24 MR. STAVIS: Has your Honor ruled?



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THE COURT: I have. Understand, it applies only

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1 to that part of Count 9 that charges attempted murder.

2 MR. STAVIS: And it applies to Count 10, your  
3 Honor.

4 THE COURT: It applies to all of Count 10. The  
5 jury would have nothing other than speculation to determine  
6 that kind of intent in this case.

7 MR. STAVIS: Thank you, your Honor.

8 THE COURT: Anything else? Good night.

9 (Adjourned until 9:30 a.m., January 17, 1995)

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