



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Case No. 8:03-CR-77-T-30TBM

UNITED STATES OF AMERICA

-vs-

9 November 2005

SAMI AMIN AL-ARIAN
SAMEEH HAMMOUDEH
GHASSAN ZAYED BALLUT
HATIM NAJI FARIZ

9:00 a.m.

Defendants.

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TRANSCRIPT OF PROCEEDINGS
(CLOSING ARGUMENTS)
BEFORE THE HONORABLE JAMES S. MOODY, JR.,
UNITED STATES DISTRICT COURT JUDGE

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(appearances continued on next page)

STENOGRAPHICALLY REPORTED
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SAMEEH HAMMOUDEH (Defendant)
GHASSAN ZAYED BALLUT (Defendant)
HATIM NAJI FARIZ (Defendant)
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E X H I B I T S

(None received)



9:00 a.m.)

P R O C E E D I N G S

THE COURT: Bring in the jury.

3 MR. MOFFITT: Your Honor, am I correct I've got
4 approximately an hour and a half?

5 THE COURT: No. You've got approximately an hour.

6 MR. MOFFITT: Your Honor, as I recall, we asked
7 for four hours.

8 THE COURT: That's true.

9 MR. MOFFITT: I started at 4.

10 THE COURT: You started at ten minutes of 4, but
11 co-counsel used up --

12 MS. MORENO: Two hours, Your Honor.

13 THE COURT: No. You started at 1:30 -- you
14 started at 10 minutes of 4. Let's see if it's a problem
15 before you -- I have a hard time imagining you're going to
16 go another hour and a half, but we'll see.

17 (The jury entered the courtroom and was seated.)

18 *CLOSING ARGUMENTS*

19 MR. MOFFITT: Good morning again, ladies and
20 gentlemen.

21 I'm going to get right to it, and I want to start
22 by telling you this case is unlike any other case that you
23 may -- that you may have ever heard about or been involved
24 in. This alleged conspiracy is even more interesting when
25 you look at it in its totality.



This, ladies and gentlemen, is T-1103, and I'd like you to pay particular attention to T-1103 and pay particular attention, first of all, to page 6 of 11. Page 6 -- this is a conversation between an unidentified male and Sameeh Hammoudeh, and I want to read part of it to you. It's on the screen. "Now you have American elections and that mess. In the opinion of Nabil Sha'ath and other politicians, it needs to resume talks in six to eight months." Abu Ammar -- Abu Ammar is Yasser Arafat, the head of the Palestinian Government at the time, the former terrorist who is now the head of the Government. "Abu Ammar is of the opinion it is useless, not today or ten years from now, that's it. This phase has passed suddenly. For this reason, he called for military action. Yasser Arafat is calling for military action. That's it. Do whatever you see fit. Military action, if you want to, or whatever. You understand the idea? I will not interfere. Yasser Arafat will not interfere. This is what about Barak of the organization. Abu Ammar has left everything, and truly Abu Ammar has left everything.

21 "Yes.

22 "Left everything on the ground. Left everything
23 on the ground. Proceed on your own. I will not interfere.
24 I mean, he does not talk politics even to the most
25 influential people around him. Those with popular support.



Instead, he tells them to proceed on their own.

"Yes.

3 "Do you understand what I'm saying? He tells
4 them, 'Proceed. Do not be afraid. Anything I do or say,
5 ignore me. I mean, this is what the current situation is
6 like."

7 Ladies and gentlemen, everybody agrees that that
8 conversation is a conversation where Yasser Arafat, the head
9 of the official Government, is calling for military action
10 by what is commonly called the terrorist groups.

11 Now, let's understand what's happening here.
12 Mr. Arafat has no army. He has -- when he goes into a
13 diplomatic discussion, he cannot threaten the use of
14 violence like every country in the world, because he has no
15 army. So, he has to resort to the threat of violence on
16 other terms.

17 And threatening to unleash the so-called terrorist
18 groups is what this conversation is about. That, ladies and
19 gentlemen, is a negotiating and a famous diplomatic tactic.
20 It's called the madman theory. It's perfectly reasonable.

21 "Negotiate with me, or else I'm going to turn you
22 over to the crazies."

23 And if you think back to the Vietnam War, this was
24 exactly the negotiation tactics that Richard Nixon used. He
25 sent Henry Kissinger out and said, "I'm the reasonable one.



If you can't make a deal with me, you're going to have to deal with these other folks."

3 But more importantly in the context of this case,
4 let's apply Miss Kringsman's definition of conspiracy to
5 these conversations. Is the Government of Palestine
6 involved in this conspiracy? If I threaten the use of the
7 terrorist organizations or the so-called terrorist
8 organizations to further my diplomatic ends, am I part of
9 this conspiracy? That's why, ladies and gentlemen, this is
10 not a criminal conspiracy.

11 Tony Soprano is not utilized by the United States
12 Government to gain an advantage over anyone in a diplomatic
13 context.

14 This conversation tells you why I tell you this is
15 politics, and it is the politics of the Middle East. It is
16 the politics of one day Yasser Arafat being recognized by
17 this Government as a terrorist -- and Mr. Myers testified to
18 that. So did Mr. Levitt -- and the next day him being taken
19 off the list.

20 Did Yasser Arafat change overnight? Did he become
21 a different human being? No. What happened was our policy
22 towards him changed, and it wasn't convenient for us -- for
23 him to remain on the terrorist list, because now we had to
24 actively negotiate with him.

25 Ladies and gentlemen, that's politics. You call



at whatever else you want to call it. That's not a crime.

That's politics. And here, this very same man, because he

3 is powerless in the face of a negotiation, is saying he will

4 unleash the terrorists.

5 So, Hamas and the Palestinian Islamic Jihad are

6 instruments of foreign policy. This is what Abu-Amr was

7 talking about when he said, "You don't understand the Middle

8 East. These are not hated and despised groups within Gaza

9 and the West Bank. You don't understand. What we are

10 concerned about universally is the occupation."

11 Now, I have one more thing to show you in this

12 conversation before I leave. This, ladies and gentlemen, is

13 the preceding page of this conversation; and in the

14 preceding page of this conversation, there is a discussion

15 (pointing) again. "Yasser Arafat, Abu Ammar, is of the

16 opinion that if we trifle with resolution 242..."

17 Well, what are they talking about? What are they

18 talking about there? They're talking about UN Resolution

19 242. What is UN Resolution 242? UN Resolution 242 condemns

20 the acquisition of territory by force.

21 MR. ZITEK: Objection, Your Honor.

22 THE COURT: Sustained.

23 MR. MOFFITT: May we approach?

24 THE COURT: Yes.

25 (Bench conference as follows:)



MR. MOFFITT: This is a conversation that the United States Government put in. It's in evidence. It's in evidence for the truth of it. Why can't I now talk about what's in that conversation?

THE COURT: What rule are you referring to?

MR. MOFFITT: The rule that has been -- that you can discuss anything that's been in evidence.

THE COURT: Well, you can discuss it. You just can't start reading stuff that's not in evidence.

MR. MOFFITT: But it's 242 in Evidence. Why can't I explain that conversation?

THE COURT: All right. Response?

MR. ZITEK: The text of U.N. Resolution 242 is nowhere in the evidence that I'm aware of. I've been here for the entire trial.

THE COURT: Reply?

MR. MOFFITT: Well, Your Honor, they've explained -- they put Mr. Myers on to explain numerous things that weren't in the text of the conversation.

THE COURT: Well, if you put somebody on that had put that into evidence, you'd be allowed to discuss it; but since you haven't, you can't. Sustained.

MR. MOFFITT: Note my exception.

(Bench conference concluded.)

MR. MOFFITT: Let me read from this. "Abu Ammar



2 is of the opinion that if we trifle with Resolution 242, if
3 we trifle with the foundation, we're agreeing, I mean, that
4 we will no longer have the United Nations resolutions as
5 reserves."

6 The negotiation then become references. Abu Ammar
7 insists that everything -- the reference should be the
8 resolutions so that Israel cannot use its power to force us
9 out of these resolutions. So, if you want land, what do you
10 want of me? You must first implement the resolution."
11 Resolution 242. "You completely withdraw, like the 4th of
12 June. And after the formation of a Palestinian state and
13 the signing of a peace agreement and the complete
14 withdrawal, two committees can be formed to deal with the
15 border exchange known as the 'Minor Border Exchange.' For
16 this minor exchange of borders, Abu Ammar agrees that
17 2 percent, which can be taken, for example, from the Qualla
18 Quarter, that they will expand their thin strip at Tulkarm
19 in exchange for us widening the Gaza."

20 What this conversation is about is not giving up
21 on the resolutions of the United Nations without gaining
22 anything. What this is about is saying, "Before we
23 negotiate, you have to implement 242."

24 Ladies and gentlemen, this is Exhibit Number 9,
25 and I ask you to pay particular attention to Exhibit
Number 9 (changing demonstrative aid). Miss Krigsman read



to you the portions of Exhibit Number 9, which is the
Abu-Amr affidavit, the one which has caused so much

3 consternation with respect to the obstruction of justice
4 charges. She has read to you those provisions of Exhibit
5 Number 9 that the Government contends are not true.

6 She didn't read to you Number 7, and let me read
7 it to you. "The military wing of the PIJ was known as the
8 Sarya Al-Jihad, the Jihad brigades, during the early period
9 of the PLO's foundation. Later it simply used the name
10 'military wing of the PIJ.'"

11 The military wing of the PIJ is a small, separate
12 from other activities and are composed mainly of young
13 members, 18 to 25 years of age. This wing is autonomous --
14 autonomous from the political wing. The Government concedes
15 and agrees that that's what the military wing is.

16 The next thing I'd like to address with you is the
17 so-called al-Shatti letter. Okay? Now, there was testimony
18 in the case about the al-Shatti letter. That testimony came
19 from Mr. Myers. The Government asked him, "Had they seen
20 Sami Al-Arian's speak in a public place about the al-Shatti
21 letter after it had been seized?" and Mr. Myers testified
22 two things: One, Sami Al-Arian said he never mailed it.
23 Two, he did not know -- he did not know whether it had ever
24 been mailed.

25 Now, Mr. Furr, when he got up, said in the opening



statement that they were going to take conversations and
prove to you that that letter was mailed. Miss Krigsman

3 (pointing) points to two conversations. She points to a
4 conversation involving a man named Al-Amoudi and a man named
5 Makki.

6 Now, in neither of those conversations -- she
7 showed them to you -- did anybody say that the al-Shatti
8 letter was the so-called package that was to be delivered.
9 And you examined -- she gave you those -- she gave you those
10 conversations. You go through them, and you look at them.

11 We have no witnesses. We don't have
12 Mr. al-Shatti. We don't have Mr. Makki. We don't have
13 Mr. Al-Amoudi.

14 Now, I guess we're supposed to substitute what
15 Miss Krigsman says for evidence, because she says a lot of
16 things that she doesn't have any reason to believe. She
17 says, "Oh, this letter was not written at a time that
18 Sami Al-Arian was angry." How does she know that? What
19 evidence does she have of that? Where is the evidence?

20 "Oh, and it must have been important to him,
21 because he kept it." Well, we've all kept a lot of things.
22 How important it is is something that remains to be proven.

23 Now, let me tell you one thing that you probably
24 all realize about Sami Al-Arian when you think about him in
25 the context of this case. This is a persistent, pushy man.



Is there one phone conversation with Mr. al-Shatti in the entire 417 -- 472,000 units of conversations? Is there one?

3 Now, knowing the way you know Mr. Sami Al-Arian,
4 you think he might have pushed Mr. al-Shatti; that if he
5 really wanted a contribution from him and there might be
6 some additional evidence of that? Ask yourself the
7 question, and ask yourself if this was so easy to prove why
8 Mr. Furr would tell you he could prove it through these
9 conversations and why Miss Kringsman would say, "Oh, we don't
10 need to prove it. We don't need to prove it was ever that."

11 Ladies and gentlemen, if you think there's proof
12 beyond a reasonable doubt of this, there's not much more I
13 can say to you. You should convict him. But there is no
14 proof here. There simply isn't. And Miss Kringsman's
15 fantasies about proof is not proof.

16 Is there one follow-up in anything that you've
17 seen in the evidence to this so-called letter that was
18 mailed; and is there one piece of testimony or evidence that
19 contradicts what Mr. Myers said, the case agent, who got on
20 the witness stand and quite candidly said, "I don't know
21 whether it was mailed"?

22 Now, you may think if the case agent wouldn't know
23 whether it was mailed, you think that would be the case.
24 You have to decide. You have to decide. But this is not
25 about fantasies.



The final thing I'll say about the al-Shatti letter: It can't be a solicitation if it wasn't mailed, if we don't know whether Mr. al-Shatti was ever solicited. And God forbid somebody searched my place. Gosh, there must be things that I kept that I don't have any idea that I kept, maybe some of them that would have been completely embarrassing.

I want to talk to you a minute about WISE. I'm not going to take a long time to talk about WISE. The evidence is that it was an academic institution, that it produced peer-review articles. What I mean is people wrote articles, and it was reviewed by peers in the scholarly world before they were published to determine their efficacy and their value academically.

Now, the Government has talked about WISE in every way that it could but never about what it produced, never about the roundtables, never about the academics that were produced, never about what Mark Orr said was the importance of the academics, never about any of that. They walked in here and declared it a front; and for you to believe that it was a front, it produced nothing. It did nothing.

Well, what I would ask you to look is at T-1508. Okay? I'll just show you the front page, because I'm concerned about my time. These are the articles that were produced in the *Al-Qiryah'at Al-Siyasiyyah* -- please forgive



my pronunciation -- who they were produced by, what they
were. You'll see that John Esposito, Ziad Amr, and others
3 produced article after article after article after article
4 after article. This goes on for several pages, and the
5 Government has tried to suggest to you that anything that
6 was produced by either WISE or the ICP is nothing more than
7 propaganda. Well, they cheapen all the academic efforts of
8 every person who participated. You don't peer-review
9 propaganda. You don't peer-review propaganda.

10 And ask yourself about what Mark Orr said about
11 the academic value of WISE. He said that there was great
12 academic value in what happened at WISE from scholars from
13 differing points of view.

14 Now, let's see -- what does that mean, "scholars
15 of differing points of view about the Middle East"? Does
16 that mean that only Middle Eastern radicals were invited to
17 WISE? We asked him that question, remember, and he said no.
18 People from all political perspectives came to WISE to
19 debate in front of people their positions.

20 This evil man over here (pointing), here only for
21 the purpose of furthering the goal of the PIJ, was involved
22 in inviting Middle Eastern scholars from all perspectives to
23 academic conferences where their ideas were debated.

24 Now, if my sole goal was to further the aims of
25 the PIJ, why would I do that? Why wouldn't I just invite



radicals and people who believed what I believed? Ask
yourself that question; because if the end as you go through
3 the conversations, as you talk about this some more, you
4 will get the sense of how important WISE was to this man.
5 This was an academic forum where his people, people with
6 like ideas and like mind as him, were placed in the context
7 of debating with people of other ideas their concerns about
8 the Middle East one on one in a fair academic forum.

9 There's no place else in the world that that was
10 happening. There's no place else in the world where
11 Palestinians were given that level of humanity and their
12 position can be debated on an equal footing with those of
13 other people.

14 Mark Orr was grateful for that. Whatever you can
15 say about Sami Al-Arian, the creation of WISE and this body
16 of scholarship was valuable. You have not heard one word
17 about that from these people, not one word. The
18 Palestinians don't deserve a forum, and they certainly don't
19 deserve a forum here. Not one article.

20 This is not the product of one article per year or
21 a "no" value. Whatever you do in this case, this will be
22 left for future generations to look and examine, and its
23 academic credentials are beyond repute.

24 Let me tell you about WISE, because that's what
25 WISE was. You heard about the research at WISE and heard



there was all kinds of things there, all kinds -- shelves of books that ran through the top. These people were actually working there. They were actually producing something there. They were actually producing something for all of us.

Let me ask you a question: In light of what Abu-Amr said, in light of what Dr. Levitt said, do you think that this kind of academic production could have been produced in Palestine in the early '90s? Do you think that the Government of Israel would have censored this kind of academic production? Do you think there is anyplace else in the world that would have allowed the Palestinians to produce this kind of academic production? You want to know why he was here? Look at 5808.

I hope this is not too disjointed for you, but these are areas that I think I need to cover.

I want to talk to you about fairness for a moment, what's right. In all the videos that you've seen, I want you to ask yourself the question, who was the most angry person in those videos?

THE COURT: Let's -- let's take a five-minute break. Sherry needs to drink some water or something. Let's take a five-minute break.

(Recess.)

MR. MOFFITT: As I said, ladies and gentlemen, I



want to talk to you a minute about fairness, and I want to illustrate for you how you can construct whatever you want.

3 You can take facts and make them into whatever you want to
4 make them into. It's for you to sort this out. It's for
5 you to understand what happened.

6 I ask you this question, and I obviously don't
7 want you to answer it, but I want you to think about it. Of
8 all the people, of all the speakers you heard, who was the
9 most angry? Who was the most threatened by it --
10 threatening? Who was this person? Is he in the courtroom?
11 Have you seen him other than on film? And what do we know
12 about him? We know from Matthew Levitt's testimony that
13 this person was never charged with RICO or any other
14 conspiracy. Where in the world is Fawaz Damra? Where in
15 the world is Fawaz Damra? (Shrugs and points.)

16 What is it about Fawaz Damra exempting him from
17 being here? Over and over you heard this United States
18 Government refer to Fawaz Damra. Is it fair for Sami
19 Al-Arian to be sitting there and Fawaz Damra be given some
20 sort of exemption? If there was a RICO conspiracy, was he
21 part of it? If there was a conspiracy to maim and kill in
22 this case, was he part of it? What exemption did he get?
23 Where in the world is Fawaz Damra, the person that was so
24 angry that he was debating with Mr. Awda? How did he get
25 left out of this party?



And let me point out something else to you. I want you to look at Exhibit 929. It seems Exhibit 929 is a letter from an Assistant United States Attorney written to a judge in the Southern District of New York on February 2nd, 1995, and it is a list of unindicted co-conspirators in another case, a case I can't talk to you about, but a case -- a large case. I think I can describe it as a terrorism case; and low and behold, on that list, Fawaz Damra is an unindicted co-conspirator. So, he's been an unindicted co-conspirator in two cases.

What is it about Fawaz Damra that gives him the ability to walk away from these things? Is it fair to contend that these four gentlemen are guilty of a RICO conspiracy and give a pass to the individual who was clearly the most inflammatory speaker in the case, a man who the Government contends is the head of the PIJ in Cleveland?

So, if you think -- if you have bought the idea that these gentlemen here are dangerous, what is Fawaz Damra? And if you haven't bought that idea, is it fair -- just fair -- just genuinely fair at the end of the day to give Fawaz Damra a pass? Because that's what they did. That's what they did. Why isn't he a RICO defendant? Why isn't he a defendant in a conspiracy to maim and kill? What are his credentials that give him a pass, and how was it that he continues to get a pass? Ask yourself the



question.

Now, let's compare him for a second. Fawaz Damra
3 didn't produce any peer-review article. He didn't write a
4 thing. He just came in and screamed. So, if you're
5 threatened by these folks, why wouldn't you be threatened by
6 Fawaz Damra? And what does all of that mean? Because these
7 are the people, these people right here who made that
8 decision. Is that fair?

9 And how was it that Fawaz Damra escapes twice?
10 What sort of armor is he wearing? Whatever he's wearing, I
11 want some of it. What is his immunity? Remember that when
12 you go back and you play the tapes -- play the tapes that
13 Miss Krigsman asked you to play.

14 Look at Fawaz Damra and ask yourself the question,
15 is it fair? Is it right? Is it just? And I don't have to
16 tell you what the answer to that question is. You'll come
17 to that answer by yourself. You don't need me to tell you.

18 Also, I would suggest that you examine Exhibit
19 929. This is a letter from our Government identifying Fawaz
20 Damra once again as an unindicted co-conspirator.

21 There are a lot of legitimate reasons to put a
22 wiretap on somebody. There are a lot of legitimate reasons
23 to ask the question about what these people are doing. And
24 one of the legitimate reasons would be to certainly prevent
25 anything that smacks of an act of violence. So, we have



472,000 call units in this case, and certainly it would be responsible law enforcement that if in any of those call units there was an indication that somebody was going to be killed in Israel or in the United States, to certainly inform people. That would be responsible law enforcement. I think you would agree with me; but yet, in all of the 472,000 units -- and let's even give the Government the notion that some of them happened as a foreign counter-intelligence wiretap. All right? -- that there was no discussion -- although that's not true. There was some discussion -- that if these phone calls revealed that these people were engaged in violence, the moment they came -- became public, you would have arrested them to stop the violence. That's responsible law enforcement. That's the kind of law enforcement we certainly like to believe that Mr. Myers was engaged in.

There was nothing in those phone calls that allowed anyone to predict any violence; and nine years -- in nine years, do you think by the end of three years they knew that Sami Al-Arian wasn't committing any violent acts? Do you think at the end of five years they knew that Sami Al-Arian wasn't committing any violent acts? Do you think in the middle of ten years or nine years, by that time, certainly they knew that Sami Al-Arian wasn't committing any violent acts?



There's not even a discussion of future violence.
And let me talk to you about violence for a second, because
3 it leads me to places that I need to go.

4 We know from the 800 series of calls and
5 Mr. Myers' testimony who controlled the money in the PIJ.
6 We know that. And who never gave up control of the money to
7 the day of his death? Fathi Shiqaqi. Fathi Shiqaqi.

8 So, if you had control of the money, who was it
9 that was ordering the violence? Who could order the
10 violence? Fathi Shiqaqi, the military wing. And we know
11 from Mr. Myers' testimony -- in the early part of his
12 testimony -- and I asked him this question, and you think
13 back -- he told us how Ramadan Shallah ordered violence. He
14 said, "Ramadan Shallah called up the military side, talked
15 to someone, and they prepared someone to go out and do it;
16 and Ramadan Shallah paid for it."

17 And in all the discussions that were had in this
18 case, there is not one discussion about that -- that's
19 Mr. Myers. That's the Government's expert -- that Ramadan
20 Shallah, when he became in control of the money and
21 controlled it, who was going and when there was going to be
22 a suicide bombing. Not Sami Al-Arian, not any of the four
23 people sitting there.

24 And remember, I asked him also, was there a
25 non-violent side to the PIJ? He couldn't think of one.



Now, this is very interesting, because this is a man who, quote, was investigating these people but not allowed to enter the Occupied Territories. I guess these people are easy to investigate. You don't have to go to where they are, you know, because we can just surmise about who and what they are; and that's a bit, I would suggest to you, dehumanizing. They are not complicated at all; they just have one direction.

Now, that belies yet Abu-Amr, who is a legislator for Gaza. Of the two, who would you guess knows more about what's going on in the Gaza Strip and the West Bank, Agent Myers, who was never allowed to set foot in them, or Ziad Abu-Amr?

So, at the end of the day when you think about the wiretaps, think about what's not there. Think about all the calls and everything that was said, but think about what's not there, because we're coming to talk about the wiretaps in a minute and some of the products. There's not one discussion about planning any violent activity, not one.

There has been a lot of talk about sharing information, and there's been a lot of talk about people's attitudes towards information. So, let me talk to you about that for a moment.

My client is a Palestinian. He supports -- and we're not going to stand here and tell you that he



doesn't -- didn't have right to end the -- the Palestinian's
right to end the occupation. He is in favor unabashedly of

3 the Palestinian side of the war. He celebrates when the
4 Palestinians gain something, and I'm sure there are Israelis
5 that celebrate when the Israelis gain something. Does that
6 make him a violent man? Does it make him any more violent?

7 I want to take you back a couple of years to the
8 day of the verdict in the O. J. Simpson trial and the scenes
9 from Howard University Law School where one group of people
10 cheered and one group of people were appalled, and the
11 reason for the cheering and the reason for being appalled
12 was the perspective that each group came from. It was the
13 perspective that each group came from; and we are a world
14 pulled with perspectives and differences. Does that make us
15 violent because we differ from what you think our
16 perspective ought to be? Do you have a right to have an
17 opinion on my perspective of the world that I live in and
18 the experiences that I have experienced?

19 Perhaps people would have a different perspective
20 if they came from a brutal military occupation. That sets
21 perspective, and you and I both know that. Is he to ignore
22 his history? Why should he? Is that the answer, to forget
23 about where you came from, to forget about what happens to
24 your people, to leave that all aside and say, "Hell, I got a
25 degree in computer science. I can forget about those people



in Palestine." And he certainly could. But that's not what
he's about.

3 I have in my hand -- and I -- please, again
4 because of time, I'm not going to go through each one of
5 these conversations with you. All right? But I'm going to
6 ask you to look at some of them, because I think some of
7 them give verse to what we're talking about here.

8 In Exhibit T-803, the January 16th, 1994, call --
9 and let me also talk to you first -- most of these phone
10 calls, the great majority of them, are involving Sami
11 Al-Arian; and most of these faxes occurred in the period
12 1994, 1995. In a portion of that time frame there was no
13 prohibition against material support. So, be mindful when
14 you look at these conversations of what the law was at that
15 time.

16 803 is a conversation between Sami Al-Arian and
17 Tasir Al-Khatib, and the important piece of 803 is
18 Tasir Al-Khatib tells him there's no money for WISE, and I
19 want you to read and think about what Sami Al-Arian's
20 reaction to that was.

21 I want you to look at 804. Now, 804 is an
22 interesting conversation in the context of what was said --
23 what has been said over and over and over in this courtroom.
24 Sami Al-Arian became the most powerful man in the PIJ. What
25 did Fathi Shiqaqi say to Sami Al-Arian in 804 when



Sami Al-Arian complained to him about WISE being closed? He said he's not bound by anything. He really doesn't care

3 what Sami Al-Arian thinks or does. If he wants -- if
4 Sami Al-Arian wants to leave, he can leave. Powerful?
5 Powerful? How powerful is that man at that?

6 I want you to look at 805 and 806. They're
7 discussions about a peaceful organization, a non-political
8 organization, a religious movement. Now, Miss Kringsman
9 conceded something. She said, "This was another one of
10 those benign things that Sami Al-Arian knew a lot about
11 this. He could certainly propose this, because he had been
12 involved in the same kind of benign thing here, WISE and
13 ICP."

14 Ask yourself the question about, what is
15 Sami Al-Arian's statements? What is he saying? Is he
16 asking for military operations? Does he ever ask for one?
17 He was in a position to do that. He certainly was in a
18 position to talk to the people; and he certainly, at the
19 early part of this wiretap, had no idea that there was a
20 wiretap on.

21 Look at 808, 812 -- and there's a whole series
22 here that I'll tell you sort of disclose the state of
23 affairs within what the Government calls the PIJ. It runs
24 through 818, and it shows that these are people who are not
25 agreeing on anything. They're fighting. And there's



something that you need to understand about organizations,
and it -- it's very casually talked about here as people
3 being on the inside and people being on the outside.

4 I want you to think about the difference between a
5 person who is living in the Occupied Territories involved in
6 this and a person who is living in the United States
7 involved in it. The people on the inside are suffering at
8 the pangs of all that is going on. They're confronted on a
9 daily basis without the right to speak, without any civil
10 rights; and the jealousy that might exist between these
11 people at the time for people who are living outside and not
12 taking the same level of risk is real important, and you've
13 been a part of organizations, and you know what that's like.

14 Those who were living the occupation must have
15 thought that Sami Al-Arian had it pretty easy over here; and
16 that dispute is what you're beginning to see, that dispute
17 between those living the occupation and those not living.
18 And at some point, people who are outside are asked to make
19 certain commitments to the people that are inside, and
20 you're going to see what happens -- because it happens in
21 1995 -- how that breaks out.

22 813 is another "go your own way" conversation,
23 again discussing this with the so-called most powerful man
24 in the PIJ; and throughout you get the sense that
25 Sami Al-Arian is really concerned about WISE and really



wants to save WISE. And then we come to the conversations on the 16th -- on the 22nd and 23rd, and this is where these proposals begin to start moving back and forth, and there's discussions about the Beirut Agreement.

Ask yourself when you read these conversations whether anybody ever acted consistent with the Beirut Agreement or whether ultimately the Beirut Agreement was another proposal that was never acted on, because there was a dispute about the Beirut Agreement. And Sami Al-Arian will say that "You're acting outside your authority. You can't do that."

Remember, Fathi Shiqaqi was really almost a dictator at this particular point; and around T-820, 821, 825 are discussions about the votes, who wins the vote, and what have you. Now, ostensibly Sami Al-Arian wins the vote, sends the letter demanding things from people; and what happens? He gets nothing. He is ignored. He goes from demanding in 821 to begging a hundred conversations later. But he's described as the most powerful man in the PIJ. He can't get anything.

Al-Khatib says, "I'm not giving you money." Money passes between -- we find out that Fathi Shiqaqi is getting money from Awda. We find out that money has come from the Iranians and is being spent. We find out that Fathi Shiqaqi has stolen money. We find out all of these things; and



According to Mr. Myers and Miss Krigsman, the most powerful man in the PIJ can't prevent any of it.

3 When was he the most powerful man in the PIJ?
4 When did that happen, that little bit of literary flourish?
5 He's ignored. He's ignored so much that in 1994 he tells
6 them that he doesn't really want to be involved.

7 Let me give you a list of conversations for a
8 second.

9 Look at 833. Look at 838 where Fathi Shiqaqi is
10 making his own deal with the Iranians.

11 Now, ask yourself -- we've heard a lot of
12 discussion about the Shura Council, and this was part of the
13 charter and what have you. Examine the conversation and ask
14 yourself, was there ever a Shura Council meeting, ever? Did
15 anybody ever get together on the Shura Council? There is
16 one fax that talks about a Shura Council meeting, 853.

17 And it's not a Shura Council meeting of these
18 people; it's a Shura Council meeting regarding members on
19 the inside supposedly showing their allegiance to
20 Fathi Shiqaqi. This was not a Shura Council meeting of any
21 of these people. Fathi Shiqaqi instituted his own
22 Shura Council so people could show allegiance to him. 853.
23 That's the only Shura Council meeting that is revealed in
24 any of these conversations.

25 865 was the conversation that talks about the



differences between the inside and the outside and Shiqaqi
paying his cronies.

3 I have a few more.

4 886, Al-Khatib is still getting money. This is
5 after the so-called order by the most powerful man in the
6 PIJ.

7 Please bear with me for a second.

8 844, 851 -- 851 is an important conversation
9 between -- it's a conversation right after the Hebron
10 massacre.

11 859, 875, 876. 876 is important. It's the last
12 conversation between Sami and Awda.

13 886, examine, please, because it's a conversation
14 that shows what's happening to the relationship between Sami
15 Al-Arian and Fathi Shiqaqi.

16 895 is a fax talking about Shiqaqi's regard for
17 Sami's programs.

18 904 is a conversation where Sami talks about this
19 whole thing should be removed, this proposal, from any
20 military activity. The -- in the 900 series.

21 And I won't go through each of these.

22 901 is the last call in 1994, and the rest of the
23 communications with Sami are faxes.

24 902, Shiqaqi pleads for Sami to work with him.

25 904.



Look at 908, 923, 929, and 946.

In the 1000 series:

3 1001, Tasir Al-Khatib after all of this is still
4 holding on to the money.

5 Look at T-1003. Again, Al-Khatib and Sami are at
6 it.

7 T-1078, a very important conversation.

8 I just don't have the time to go through it all.

9 I'd ask you to look at 1026, 1022.

10 1082 talks about the INS litigation with regard to
11 Mazen Al-Najjar.

12 1086 is a discussion about experts. I ask you to
13 take the time to examine these conversations and understand
14 them.

15 Now, in summation I will say this to you: Any
16 discussion of Sami Al-Arian being the most powerful man in
17 the PIJ is fantasy. It never happened. He never had
18 control of the money, never was allowed to make any
19 decisions. Any proposals that Sami made in this whole thing
20 were non-violent -- non-violent, just proposed non-violent
21 activity on the telephone at a time that he did not know
22 that he was being wiretapped.

23 Walk away, and there are conversation where he
24 threatens. There are conversations that show that he walked
25 away from any supervisory role at all in anything.



understand that. He never was the most powerful man in the
PIJ.

3 And I guess why that had to be said was to give
4 some context outside of the context of what happened here,
5 what he did here.

6 Remember, I asked again Mr. Myers if there was a
7 non-violent part of PIJ. He refused to tell me. He didn't
8 say. He said, "No, I don't know of any non-violent" -- then
9 I asked him about WISE, and I asked him, "What violence did
10 WISE commit on anybody? What violence did the ICP commit?
11 What violence did the IAF commit?" None.

12 Let's assume they were part of PIJ. Is that the
13 non-violent part of the PIJ?

14 I want to talk to you briefly about 1995. This is
15 the year of the designation, and this is the year that
16 people had to decide how deeply they were going to involve
17 themselves in the violent portions of the PIJ, because the
18 issue was joined at that point. The thing that I ask you to
19 examine here is the juxtaposition between Sami Al-Arian and
20 Ramadan Shallah. Compare how the two of them behaved in
21 1995. The faxes and -- and phone calls between Fathi
22 Shiqaqi and Sami Al-Arian decreased. The faxes and phone
23 calls between Ramadan Shallah and Fathi Shiqaqi are
24 increased.

25 Once there was a designation, it was clear that



This was a different world. It was a different world for these people. And very shortly after the designation,

3 Ramadan Shallah made a decision to return to the Middle
4 East. He grew closer to the leadership of the PIJ; Sami
5 Al-Arian grew further away.

6 At some point, Ramadan Shallah returned. He
7 returned, and then he assumed leadership later on in the
8 year.

9 Now, let's not be silly for a second. Ramadan
10 Shallah returning and assuming leadership had significance
11 to what was happening to the people here in Tampa, because
12 suddenly they had to explain Ramadan Shallah. Suddenly they
13 had to explain Ramadan Shallah, and I suggest to you that
14 everything that Sami Al-Arian did was motivated to keeping
15 WISE alive. Why? Because WISE was the place where
16 legitimacy was given to the Palestinian side of the war.
17 So, when asked about Ramadan Shallah, he denied.

18 Let me ask you a question, because I want to put
19 you in his seat for a moment. I'm going to do it a couple
20 of time towards the end of this. I come from a place where
21 I can't speak out, where I can't have articles written,
22 where I can't hear the cry of my people, where I can't
23 write, where I can't produce, where I can't do anything to a
24 place where I'm able to do all of that freely and openly.
25 Do I want to go back to the place where I have no civil



rights or liberties? What would you do to stay? What would
you do to stay? What would any of us do to stay, to go

3 to -- to not have to live like that?

4 Sami Al-Arian, contrary to Ramadan Shallah, chose
5 to stay. Was there any impediment in Sami Al-Arian leaving?

6 Well, you could say his family; but all of his kids were
7 born here. They were all citizens of the United States.

8 His oldest kids were nearly adults. Was there any
9 impediment to him going back other than wanting to keep WISE
10 alive?

11 Ask yourself now, what would you do if you were
12 asked, you see? Because once Sami was asked and once he
13 admitted that he had a relationship with the PIJ, the story
14 was never going to be about the abuse of people in
15 Palestine; the story was going to change. It was going to
16 be about this relationship and why had he come here to
17 discuss that abuse.

18 So, he lied. Confronted with the same thing, what
19 would you do? Is it evil? Is there a time that a lie is
20 not evil? Is there a time where a lie is expedient and you
21 could consider it the right thing to do? You lie to the
22 newspapers. There's no question about it. And I'm not
23 going to stand here and tell you there's a question about
24 it, but I want you to think a little bit more sophisticated
25 with me about it. Confronted in the same way, what would



you do?

3 You also had to know that once the story changed,
4 certainly there was going to be a backlash and various other
5 things, and he was going to lose whatever voice he had in
6 this struggle, because nobody was going to be concerned
7 about this. Nobody was going to care anymore. The only
8 thing that anybody was going to care about was that
9 relationship.

10 1995 is an interesting year because you can just
11 see the decision-making process that went on with
12 Ramadan Shallah and Sami Al-Arian. Ramadan decided, "I'm
13 going full board. These people don't -- I can't do anything
14 else, and I'm going full board." Sami Al-Arian stayed. He
15 kept his family here. He didn't have to do that.

16 If you look at 691, these are discussions of
17 Ramadan Shallah, page 6 of 12; and I'm not going to read it
18 to you. He starts talking about his decisions were made at
19 691. Why did he stay? This was an open forum, ladies and
20 gentlemen. This was a place where the story of his people
21 could be told, where he had created an academic environment
22 where people thought it was an important story to tell, and
23 he wanted to continue to tell that story.

24 I want you to think about that with regard to
25 things like obstruction of justice in this case. I'm not
going to stand here as a lawyer and tell you that



Sami Al-Arian wrote the right thing on his citizenship application. Some of those questions are difficult, and I

3 ask you to perceive for me a moment a man who is persecuted
4 how he might perceive the world.

5 But I am going to tell you that his purpose and
6 intent was not to do anything illegal. He needed to keep
7 WISE going. He is accused of obstruction of justice by
8 producing an affidavit that Ziad Abu-Amr said was true.
9 Ziad Abu-Amr was an expert witness. This was his opinion.
10 It remains his opinion. It's not Sami's opinion. It's
11 never been represented as Sami's opinion. It's been
12 represented as a scholarly affidavit produced by a scholar.

13 You've heard a lot here about security concerns.
14 Let me ask you a question: If you were raised in a place
15 that was the product of a brutal military occupation and you
16 knew that there was no privacy or anything else, might you
17 wake up one morning and be security concerned? Might you
18 not live that way? Ask yourself about that. Is that a
19 product of being here or being somewhere else?

20 I'm running out of time, and I -- there are -- I
21 really have about 20 or 30 minutes, but I don't have 20 or
22 30 minutes worth of time that I need to talk to you, so I
23 want to talk to you a little bit about my conclusions here.

24 I want to also talk to you about reasonable doubt.
25 How do you define "reasonable"? Well, we sort of made an



effort. A verdict of not guilty includes the finding that Sami Al-Arian is absolutely 100 percent innocent of any of the charges. All right. It also includes, based upon the evidence, "We, the jury, cannot be absolutely sure that Sami Al-Arian is absolutely innocent of any -- or guilty -- is guilty of any of the charges. We can't be sure that he is innocent of any of the charges." It also includes, "Based on the evidence presented, we, the jury, are confident that Sami Al-Arian is innocent." It includes, "Based upon the evidence presented, we, the jury, believe Sami Al-Arian is probably innocent."

A jury -- a verdict of not guilty also includes, "Based on the evidence presented, we, the jury, are not really sure one way or the other whether Sami Al-Arian is guilty or innocent. Based on the" -- it also includes, "Based on the evidence presented, we, the jury, believe it is more likely than not that Sami Al-Arian is not guilty." But that is a verdict of not guilty. It also includes, "We, the jury, believe that Sami Al-Arian is guilty on the evidence, but falls a little short, and we cannot find that he's guilty beyond a reasonable doubt." Those are things that a verdict of not guilty includes.

I'm going to end my remarks with you today. Part of my pride in being here is that I believe that it is the great value of our society that we are defending here. I



will tell you that without a First Amendment there is no United States. Why do I say that? In order for you as

3 human beings to exercise your franchise in an intelligent
4 way, you must have information. You must hear both sides of
5 the argument.

6 The founders were clear and unequivocal on that,
7 that the First Amendment opened the marketplace of ideas to
8 evaluation by you, the people. The more ideas, the better.
9 The good ideas would defeat the bad ideas in the marketplace
10 of ideas. That was what the First Amendment was about, and
11 you can see that in today's world.

12 The struggle in our country right now is for the
13 citizens' rights to have -- and the Government -- and part
14 of the Government's right to have information. That's what
15 the struggle is about with respect to weapons of mass
16 destruction.

17 Were people misled? If we as citizens can be
18 misled, how do we exercise an intelligent franchise? And I
19 suggest to you that when you walked into this courtroom, you
20 knew a lot less about the Middle East than you do today.
21 The story of the Palestinian people is not covered here.
22 It's not talked about here. The Palestinians are not our
23 allies. So, for a Palestinian to come to this country and
24 believe that the coverage in this country is slanted and
25 there needs to be another side discussed and talked about in



a public forum and people educated, how evil is that? How
evil is that? Is that a conspiracy to commit a RICO
3 offense?

4 Who would ever come here and speak out about
5 anything if that was the case? And don't we defeat the very
6 purpose upon which this Government rests by suggesting that
7 the words and speeches of an individual are evidence of a
8 conspiracy?

9 So, ponder what the First Amendment means in this
10 case. For the first time, you have the say. You have the
11 say. The words were angry. The words were frustration.
12 Some of the words were even words of the bravado.

13 I suggest to you that somewhere very close the
14 people who wrote those words, "we the people," are listening
15 and observing these proceedings and wondering whether we
16 have the courage to maintain what they set out for us,
17 whether we will remain the beacon in the world to someone
18 like Sami Al-Arian to come here and to speak his piece.

19 I will also say to you that Sami Al-Arian is not a
20 perfect man. I'm not here to tell you that. Did he make
21 mistakes? Yes. But let's ask yourself -- ask yourself
22 about the mistakes he may have made. If the mistakes he
23 made you believe were to further the cause of his people, to
24 allow his people, people who can't be heard in their own
25 country -- was to come here and give them a forum,



peer-review articles about the Middle East, was his intent
criminal? Ask yourself that question. Was his intent

3 criminal?

4 Ladies and gentlemen, I will tell you that if I
5 was denied the right to speak, the right to write, the right
6 to think, I would hope that I would have the courage to do
7 anything I could to see that my people were able to be
8 heard.

9 And let me say one thing -- a couple of things in
10 finality: The Nazi party, the Ku Klux Klan -- recently the
11 Nazi party spoke in Toledo. There was a riot. People
12 complained about it, but the one thing nobody complained
13 about was their right to speak their venom. No one
14 complained about it. No one called it criminal. People
15 realized that perhaps a riot may result from it, but no one
16 called it criminal.

17 Let me give you another example. Throughout the
18 South, we talk about heroes here. We talk about their
19 heroes -- a terrible idea for them to have heroes.
20 Throughout the South, high schools are named after
21 Confederate generals. Those are not my heroes. I am
22 confronted with that. I must accept that. That's part of
23 my bargain as a citizen here. So, when you think about
24 people's heroes, understand that everybody's heroes are not
25 the same, and some selections of heroes are offensive to



other people, but it is your right to decide for yourself
who your heroes are. It's not their right to tell you, "Oh,
3 you have bad heroes. Those are bad thoughts."

4 So, I hope, as we are looked down on by those
5 people who created this great country, that in my attempt to
6 defend Sami Al-Arian and to defend some of those principles,
7 along with Miss Moreno, that they thought we gave it a good
8 run.

9 I have a daughter. I hope that she will live in a
10 country where she can speak her mind and believe what she
11 wants without fear of these people. That's what this case
12 is about.

13 I thank you for the opportunity to share the last
14 five or six months with me, even though it was sort of
15 forced upon us; but I thank you for that. And I am happy to
16 be in an American courtroom where I can speak what I
17 believe.

18 Goodbye.

19 THE COURT: Fifteen-minute break.

20 (Recess.)

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CERTIFICATE OF REPORTER

3

4 I, SHERRILL LYNN JACKSON, Official Court Reporter
5 for the United States District Court, Middle District of
6 Florida, Tampa Division,

7 DO HEREBY CERTIFY, that I was authorized to and
8 did, through use of Computer-Aided Transcription, report in
9 shorthand the proceedings and evidence in the above-styled
10 as, cause stated in the caption hereto, and that the
11 foregoing pages numbered 1 to 42, inclusive, constitute a
12 true and correct transcription of my shorthand report of
13 said proceedings and evidence.

14 IN WITNESS WHEREOF I have hereunto set my hand
15 this 30th day of January, 2006.

16

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SHERRILL LYNN JACKSON, RPR
Official Court Reporter

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