



United States District Court

MWW:ph

STATE AND

DISTRICT OF

MINNESOTA

UNITED STATES OF AMERICA
V.
MOHAMAD KAMAL ELZAHABI
aka "Abu Kamal al Lubnani"

CRIMINAL COMPLAINT

CASE NUMBER:

04 MS 261 JSM

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my

knowledge and belief. On or about the dates alleged in Hennepin county,
in the State and District of Minnesota

See Attachment

in violation of Title 18 United States Code, Section(s) 1001 (a) (2)

I further state that I am a(n) Special Agent and that this complaint is based on the following
Official Title

facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: [X] Yes [] No

Kiann Vandover

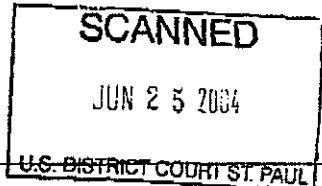
Signature of Complainant

Kiann Vandover

FBI

St. Paul, MN

City and State



Sworn to before me, and subscribed in my presence.

Janie S. Mayeron 6/24/04

Janie S. Mayeron,
U.S. Magistrate Judge

Name & Title of Judicial Officer

(i)

Janie S. Mayeron

Signature of Judicial Officer



COUNT 1

On or about April 18, 2004, in Hennepin County, in the State and District of Minnesota, in a matter within the jurisdiction of the FBI, an agency within the executive branch of the United States, that is, an international terrorism investigation, the defendant,

MOHAMAD KAMAL ELZAHABI,

did knowingly and willfully make a false material statement and representation, in that the defendant stated that he, doing business as "Drive Axle Rebuilder" ("DAR"), had merely accepted delivery of shipments and packages for another individual, that he was unaware of the contents of the packages, and that he had merely held them for pickup by that individual, whereas, in truth, the defendant actually opened, repacked and reshipped the packages to overseas addresses in Pakistan and elsewhere, and knew they contained radios and other communications equipment and physical assets; all in violation of Title 18, United States Code, Section 1001(a)(2).

COUNT 2

On or about April 20, 2004, in Hennepin County, in the State and District of Minnesota, in a matter within the jurisdiction of the FBI, an agency within the executive branch of the United States, that is, an international terrorism investigation, the defendant,

MOHAMAD KAMAL ELZAHABI,

did knowingly and willfully make a false material statement and representation, in that the defendant stated that he had not assisted an identified third person to obtain a Massachusetts driver's license and had not allowed that third person to use his address, whereas, in truth, he did so assist that person by allowing that person to falsely use the defendant's address as his own, by transporting that person to the examination facility and by facilitating that person's eventual physical receipt of the license; all in violation of Title 18, United States Code, Section 1001(a)(2).




UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

STATE OF MINNESOTA)
) ss. AFFIDAVIT OF KIANN VANDENOVER
COUNTY OF RAMSEY)

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since May 2002. Currently, I am assigned to the Minneapolis Division of the FBI and the investigation of international and domestic terrorist organizations. The information in this affidavit is based upon my participation in the investigation, my conversations with other law enforcement officers and my review of documents and reports prepared by others. Where statements are reported, they are reported in substance and in part. Because this affidavit is being prepared for a limited purpose, I have not included everything I know about this investigation.

2. Both before and since the terrorist attacks of September 11, 2001, the FBI has been engaged in the investigation of Usama bin Laden, the al Qaeda terrorist organization, and any persons who have provided material support to such terrorist organizations or supported in any way such terrorist attacks. In connection with these investigative responsibilities, your affiant and other agents of the FBI Joint Terrorism Task Force (JTTF) have been engaged in an investigation of MOHAMAD KAMAL ELZAHABI for the provision of support to terrorist organizations.

3. As part of this investigation, on or about April 16, 2004, Special Agents of the FBI approached MOHAMAD KAMAL ELZAHABI, identified themselves, and asked ELZAHABI if he would voluntarily answer questions about his past travels and associations. The investigators informed ELZAHABI that they were investigating international terrorism and persons who may have provided material support to organizations involved in international




terrorism. During the course of the interview, the FBI agents repeatedly told ELZAHABI that he was not under arrest and he did not have to answer any questions and that he could have an attorney present if he wished. ELZAHABI repeatedly said that he understood that he was free to go and also signed a written statement that "I acknowledge that I have been repeatedly told by [the FBI] that I may leave at any time and that I may refuse to answer any questions. . . . I have not once asked to leave or terminate the interview" and "When not engaged in interviews, I have been staying in a nice room at a hotel in downtown Minneapolis. I have been accompanied by other FBI agents but at no time have I ever been restrained in my movements in any way."

Personal Background of Mohamad Kamal Elzahabi

4. Over the course of the voluntary interviews, ELZAHABI stated that he was a Lebanese national who entered the United States in 1984 on a student visa. ELZAHABI admitted that he thereafter paid a woman in Houston, Texas to enter into a marriage with him and help him obtain legal permanent resident alien status. After obtaining his green card, ELZAHABI was divorced in 1988. The woman who ELZAHABI paid to enter into the marriage has also admitted the fraud. As a consequence of the admitted fraudulent marriage, the Bureau of Immigration and Customs Enforcement (BICE) has initiated formal removal proceedings seeking to deport ELZAHABI and an immigration detainer has been filed against him.

5. ELZAHABI stated that he first decided to travel to Afghanistan in approximately 1988 after he attended a multi-day religious conference which was held in the Midwest United States. ELZAHABI stated that he thereafter traveled to and entered Afghanistan via Pakistan. ELZAHABI stated that he there attended a jihad military training camp and fought in Afghanistan in 1988 and 1989. ELZAHABI stated that while in Afghanistan he knew Abu



Musab al Zaraqawi, Raed Hijazi and Bassam Kanj, a/k/a "Abu Aisha." ELZAHABI identified photographs of each of these persons. (For the Court's information, Abu Musab al Zaraqawi is a Jordanian al Qaeda associate who is believed to be directing current terrorist attacks against U.S. and coalition personnel in Iraq. Raed Hijazi was convicted in Jordan for his part in the failed Millennium bombing plot that had targeted American and Israeli tourists in that country. Bassam Kanj was killed by Lebanese troops in 2000 while he was leading an attempted violent coup which sought to replace the Lebanese government with a fundamentalist Islamic state.)

6. ELZAHABI stated that he then again traveled to Afghanistan in 1991 and remained there until approximately 1995. ELZAHABI admitted that he acted as a sniper in combat during this time and that he also acted as an instructor in small arms and sniper skills for other jihadists attending the Khalden training camp in Afghanistan. While in Afghanistan during this time, ELZAHABI admitted personally knowing Abu Zubaida and knowing of Khalid Sheikh Muhammad. (For reference, Abu Zubaida is a senior al Qaeda associate and Khalid Sheikh Muhammad later became al Qaeda's leading operational planner and organizer.)

7. ELZAHABI stated that he returned to the U.S. in 1995 because he was in need of medical care after suffering an abdominal gunshot wound in combat. ELZAHABI stated that he and a relative moved to New York City and operated an axle repair business there from approximately late 1995 to early 1997. Thereafter, ELZAHABI stated that he moved to Boston, Massachusetts where he lived from 1997-98. ELZAHABI stated that, while in Boston, he worked as a cabdriver and he again associated with Raed Hijazi and Bassam Kanj a/k/a "Abu Aisha." ELZAHABI stated that, in 1998, after he had left the United States, he received a telephone call from Abu Zubaida who was soliciting ELZAHABI's support and assistance for the



Khalden training camp in Afghanistan. ELZAHABI claims that he declined to help Abu Zubaida but admitted that he became inspired to return to the fight in Afghanistan as a result of the call.

Consequently, ELZAHABI stated that he made preparations to travel to Afghanistan by obtaining a visa to travel to Pakistan and that he intended to return to Afghanistan. However, ELZAHABI claimed that he did not return to Afghanistan and instead traveled to Lebanon where he stayed for a time. ELZAHABI said that he first traveled to Saudi Arabia for the Hajj and then returned to Lebanon where he helped in providing small arms training to the group of fighters that Bassam Kanj had formed to overthrow the government of Lebanon. ELZAHABI claimed that he thereafter decided to travel to Chechnya to join in the fighting in that country. From late 1999-2000, ELZAHABI stated that he served as a sniper fighting under the command of Ibn Khattab in Chechnya. ELZAHABI admitted that he shot at and struck several human targets in Chechnya including a man driving a bulldozer. ELZAHABI stated that he re-entered the United States in mid-August 2001 and came to Minneapolis.

Alleged False Statements

A. Equipment Shipments

8. On approximately April 18, 2004, ELZAHABI stated to the FBI agents that he and a relative moved to New York City to start a business called "Drive Axle Rebuilders" ("DAR"). ELZAHABI was specifically questioned by the agents about the nature of the business and persons and associates with whom he did business while in New York. ELZAHABI acknowledged that he accepted shipments for other persons at his New York business.

*From 1995-1997. Jm
ELZAHABI KN.*

ELZAHABI stated that a man who was originally from Afghanistan, who was previously known to him and his relative, and who operated an "import/export" business, had asked them if he



could have shipments sent to ELZAHABI's New York City business. ELZAHABI stated that he agreed to accept the shipments. However, ELZAHABI stated to the FBI that he, ELZAHABI, did not know the contents of the packages he received and that he did not open them. ELZAHABI further claimed that he merely received the packages and would then telephone the Afghani man, who would then come to New York and pick them up.

9. Subsequent to these statements by ELZAHABI, your affiant and other investigators have reviewed documents and records contradicting ELZAHABI's assertion that ELZAHABI did not know the contents of the shipments received at his New York business in 1995-97. Documents obtained in 2002 from premises associated with the same Afghani businessman uncovered numerous purchase orders and other documents related to the equipment purchases that were shipped to the ELZAHABI address in New York. The documents detail purchases and shipments of radios and other electronics worth hundreds of thousands of dollars and all shipped to DAR in New York. Among the items shipped to ELZAHABI's New York business were large quantities of portable field radios or "walkie-talkies" suitable for communications in extreme rural locations without regular or even cellular telephone service. Field radios of the same make and model as was shipped to DAR in New York have been recovered in Afghanistan by U.S. military forces during military actions following the attacks of September 11, 2001.

10. The purchase orders associated with these shipments directed the vendors to ship the purchased equipment to "Mr. Zahabi" at "DAR" at 47-33 5th Street in New York and provide a telephone number for "Mr. Zahabi" of "(718) 706-1313." Finally, among these documents, investigators obtained a copy of an April 17, 1996 letter from the company operated by the



Afghani man identified by ELZAHABI which was addressed to "Mr. Zahabi" of "DAR." That same letter provides "Mr. Zahabi" with detailed instructions as to the source, nature and the specific contents of the packages that "Mr. Zahabi" would be receiving in the future. The letter lists in detail various items of electronics from various suppliers that should be expected. The letter also instructs "Mr. Zahabi" to remove the items from their original boxes, to "[p]lease remove all the shipper address and your address from all the boxes," and to "please remove all the packing list, invoices or other papers that were sent with these shipment and we will, insha Allah, pick it up later . . ." Finally, the letter provided "Mr. Zahabi" with addresses and shipping labels for use in re-shipping the packages to a specific address in Lahore, Pakistan.

B. Association with Raed Hijazi

11. On approximately April 19, 2004, ELZAHABI was questioned about his association with Raed Hijazi while ELZAHABI was living and working in Boston. In response, ELZAHABI initially stated that he saw Hijazi sleeping in a cab but denied knowing him very well. ELZAHABI stated that he knew Hijazi from Afghanistan but that they were not close friends or associates and stated that Hijazi did not live at ELZAHABI's then residence at 15 Appleton Street in Everett, Massachusetts.

12. ELZAHABI was again questioned about Raed Hijazi on April 20, 2004 and again denied knowing Hijazi very well. ELZAHABI was specifically asked if he had ever allowed Hijazi to use the 15 Appleton Street address as his own or to receive official mail such as a driver's license. In response, ELZAHABI specifically denied letting Hijazi receive mail or otherwise use the 15 Appleton Street address. ELZAHABI also specifically denied assisting Hijazi in any way to obtain a Massachusetts driver's license.



13.

Your affiant and other investigators have determined from official records that Raed Hijazi did apply for a driver's license from the Commonwealth of Massachusetts on October 10, 1997. As part of the official record and for the purpose of ensuring that unlicensed drivers do not drive themselves to the examination office, the employees of the Department of Motor Vehicles (DMV) are required to identify and record the name of the licensed driver who transported the applicant to the examination facility. According to the official Massachusetts DMV records, a license was issued to Raed Mohammed Hijazi at 15 Appleton Street, Apt. No. 1, Everett, MA 02149. The application was submitted on October 10, 1997 and the "sponsor" bears the signature of MOHAMAD ELZAHABI with an Massachusetts license number recorded as 460-67-6573. That same number is listed in Massachusetts DMV records as that of MOHAMAD ELZAHABI and that number is also the social security number of MOHAMAD KAMAL ELZAHABI. After obtaining these records, agents again questioned ELZAHABI about his association with Hijazi. In response, ELZAHABI conceded that Hijazi "may" have received mail at the 15 Appleton Street address but ELZAHABI denied any recollection of his assisting Hijazi to obtain a driver's license.

14. On April 16, 2004, special agents of the FBI interviewed another resident of 15 Appleton Street, Everett, Massachusetts during the fall of 1997. This resident confirmed that he lived with MOHAMAD KAMAL ELZAHABI at that time. In addition, the individual stated that during this time a letter arrived at the house from the Massachusetts DMV and the resident mistakenly opened the letter. Inside the envelope, the resident found a Massachusetts driver's license in the name of Raed Hijazi. The resident told the FBI that he intended to send the driver's license back to the Massachusetts DMV but was told by MOHAMAD KAMAL



ELZAHABI that he, ELZAHABI, had allowed a friend to use their address to get a driver's license. The resident stated that a few days later, Hijazi came to 15 Appleton Street at which time Hijazi retrieved the driver's license.

Conclusion

15. Based on the foregoing, your affiant believes and submits that there is probable cause to believe that MOHAMAD KAMAL ELZAHABI did knowingly and willfully make a false material statement and representation in a matter within the jurisdiction of the FBI, an agency within the executive branch of the United States, that is, a criminal investigation into international terrorism, when, on April 18, 2004, ELZAHABI stated that he had merely accepted delivery of shipments and packages for another individual, that he was unaware of the contents of the packages, and that he had merely held them for pickup by that individual, whereas, in truth, ELZAHABI actually opened, re-packed and re-shipped the packages to overseas addresses in Pakistan and elsewhere and knew they contained radios and other electronics equipment; all in violation of Title 18, United States Code, Section 1001(a)(2).

16. Based on the foregoing, your affiant believes and submits that there is probable cause to believe that MOHAMAD KAMAL ELZAHABI did knowingly and willfully make a false material statement and representation in a matter within the jurisdiction of the FBI, an agency within the executive branch of the United States, that is, a criminal investigation into international terrorism, when, on April 20, 2004, ELZAHABI stated that he had not assisted Raed Hijazi to obtain a Massachusetts driver's license and had not allowed Hijazi to use his address, whereas, in truth, ELZAHABI did assist Hijazi by allowing Hijazi to falsely use ELZAHABI's address as his own, by transporting Hijazi to the examination facility and by



facilitating Hijazi's eventual receipt of the license; all in violation of Title 18, United States Code, Section 1001(a)(2).

Further your Affiant sayeth not.

Dated: 6/24/04

Kiann Vandenoever
KIANN VANDENOEVER
FBI Special Agent

SUBSCRIBED and SWORN to before me

this 24th day of June, 2004.

Janie S. Mayeron
Janie S. Mayeron
United States Magistrate Judge
District of Minnesota