The seal of the United States Court of Appeals for the Second Circuit is a circular emblem. It features a blue and white concentric ring pattern. In the center, the letters "IPT" are prominently displayed in a large, white, serif font. The text of the court's name is positioned to the right of the seal.

United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

ROBERT A. KATZMANN
CHIEF JUDGE

Date: December 12, 2017

Docket #: 15-211

Short Title: United States of America v. Mustafa

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 1:04-cr-356-1

DC Court: SDNY (NEW YORK
CITY)

DC Judge: Forrest

NOTICE OF CLIENT SUBMISSION

Court records in the above-referenced case list you as counsel to Mustafa Kamel Mustafa. The Clerk's office received the enclosed papers from your client in the above referenced appeal. Because you represent the sender as counsel the papers are forwarded to you for appropriate action.

By copy of this notice your client is advised of this action.

Inquiries regarding this case may be directed to 212-857-8514.

one of one

United States Court of Appeals In the Second Circuit

Dec 4, 2017

The respected Clerk of the Court
40 Foley Square, New York, NY 10007

United States v. Mostafa Kamel Mostafa

Docket No. 15-211

Trial Case: 04 Cr 356 (KBF)

Deft. Appellant's Pro Se Motion To Leave To file an Amended Pro Se
Supplemental Brief in conjunction with Deft's Direct Appeal

Please find the amended motion enclosed.

- 1- The Deft move in this motion to seek leave from the respected court to file the enclosed amended pro se supplemental brief in addition to his direct appeal.
- 2- The reason for the amendment is that the Deft received a call from his attorney on wed Nov 15, 2017 after the attorney received a copy of the Deft pro se from the respected court, and that the attorneys said that they are having some difficulties in reading some pages. And that the court might have the same issue.
- 3- The Deft, therefore amended the pro se of Oct 05, 2017 with the enclosed one for hopefully a better presentation and less words and clearer phrases, to assist the respected court.
- 4- The Deft apologize for any inconvenience; as it is completely non of Deft's fault: the respected court could notice from records that the Deft is not afforded a suitable size and place writing table for his disability, nor a pen which is compatible with his prosthetics. Also, the Deft skin problem does not allow him to wear the prosthetics for more than half an hour at the time and rest for the same or more.

Conclusion/Request

- 5- For all the above the Deft appreciate the patience of the respected court, and asks the court to, accept the filing of the enclosed amended pro se Supplemental brief.

Respectfully Submitted

Deft: Mostafa K. Mostafa #67415-054

12-04-17

United States Court of Appeals in The Second Circuit

To: The respected Clerk of the Court
40, Foley Square, New York, NY 10007

Dec 4, 2017

United States v. Mostafa Kamel Mostafa

Docket No. 15-211

Trial Case No.: 04 Cr. 356 (KBF)

Deft. Appellant's Amended Pro. Se Supplemental Brief Motion.

(Please find leave to file motion enclosed.)

- 1- The Deft move in this amended prose supplemental motion Brief that:
 - (i) This motion is an amended motion to the Deft previous Oct 05, 2017 received by the respected Court, and, as mentioned in the enclosed leave to file motion, to better present the Deft's issues of concern regarding possible forgotten trial errors and/or unreasonabilities, misconducts, or unprofessionalism occurred against the Deft during the trial, and might be not included or severely under stated in the Deft Direct appeal.
 - (ii) The Deft is very grateful that the respected Court has sent a copy of the Oct 05 Deft supplement to the Deft attorney, who advised the Deft to improve the presentation for them and the respected learned Court. Thus, this amendment.
 - (iii) The Deft, in this pro-se is trying to prove to the respected Court that the Deft suffered cumulative unreasonable rulings, and limitations, which were Couppelled by the unlimited privileges afforded to the prosecutor and his expert witness, and all other witnesses, especially the very extensive "blank cheques" in the use, and repeat, of the Deft's opinions, and the harshly related prejudice inflammatory circumstantial material/evidence, to prove the conspiracy charges and distract the average rational juror from the specific evidence and the specifics of the charges.
 - (iv) The learned Court is invited to consider this supplemental prose in conjunction with the Deft Direct Appeal. And that the Deft deeply apologizes for the limitations, lack of legal knowledge, and physical, and S.A.M.
- 2- The Pro Se Supplemental brief consists of five parts as follow:

Part One:

Introductory foundation points

- (a) About the Defendant (3-3)
- (b) History of releasing hostages (5-6)
- (c) Dept medical conditions effect on trial (4-4)
- (d) Dept's pre-trial requests to judge to allow Document and Arguments (5-6)
- (e) Several inter-active points with multiple reference:
Witness, Gov. lacks of transparency ... (6-12)
- (f) The Indictment, charges circumstances & context (12-19)

Part Two

Possible Judge error for not responding to Dept psychological need (20-23)

Part Three:

possible Gov. unprofessionalism And Judge errors regarding the Gov. expert witness Kholmann's testimonies (24-45)

part four:

possible Gov. unprofessionalism And Judge errors regarding Gov main witness Ujama And The extensive use of Dept's Opinion and Circumstantial evidence to prove conspiracies (46-54)

Part Five:

The Conclusion And Request (67-69)

List of Exhibits (70-70)

The Exhibits. (71-122)

3-Part One: Introduction and Interactive points for all subsequent parts of the motion,

In this part the Dept is trying to mention some backgrounds and context to several important issues which had effect on or more of the other parts of the motion causing trial errors, confusion or misjudgment. But they are not the full argument for any matters. Some can be a foundation, or a sub foundation, for addressing the Dept's trial grievances. Others are just for historical related information to flag a certain issue, or point at an area needs the special attention from the learned panel and offer to them its suppressed context or extra needed data which could be useful and/or saves time or space by just referring to it from different parts without repeating.

The Dept in some of the points is not trying to reopen the case, nor to submit any ripe conclusion or a request at this stage of part 1. Only to furnish the respected learned judges with what The Dept believes and saw causing many errors during the trial; the root causes. And only because many of which do not exist fully or correctly on the Gov Case.

The Dept clearly appreciates the precious time and patience in reaching the following points, and as always apologizing for the poor presentation and his many limitations.

(A) The Dept, 57yo British civil engineer with post graduate study and working experience. Sustained severe disability during helping in a rehabilitation Program in Pakistan 1993 (Exhibit 01). Also, had an interim position ~~at~~ at the Finsbury

(a) Continued in park mosque in London, after returning from Pakistan due to his severe injuries in Aug 1993 while working with the Pakistan army in a rehabilitating program for the ex-Arab Afghanistan veterans (Detail given on trial stand).

(b) The Deft since, is a severely disabled, no hands to mid-arm loss of sight in the left eye and many other medical complications. Deft can't, without assistance, do many of the essential daily tasks unless encountering some form of injury, anxiety and compromised health and safety. And had never been confined alone without assistance since injured till the extradition took place Oct 6, 2012, after using PK's use of legal work, in U.K. prisons, to ensure similar E.U. Compatible disability rights. All assurances were given to UK and EU Judges, by US government representatives, on behalf of the American nations, never materialized, some have been reversed to harm and very few have been poorly provided. Such conditions had worsened the psychological problems the Deft diagnosed with and developed during the last 3-5 years of his detention in U.K. awaiting extradition, and had its manifested impact during Deft's stand at the trial. Please see Exhibit 01 Deft Disability.

* A letter to 'respected judge Forrest, pre-trial, seeking finalizing the U.K. psychologists reports is Exhibit 02. Page 2 and entered and Docketed "252"

* The two reports are Exhibit 03 including US & UK attorney's letters. (The last 3 pages from one of the reports never been sent to Deft yet).

(C) History and experience in Releasing Captives:

(6) Deft's intensive exposure to the media has been since 1993 before his injuries, and was never intended. It was due to the change of ~~the~~ US Policy towards Afghanistan, and ordering Pakistan Gov. to arrest & deport the Arab Volunteers to their countries, though they were always encouraged to display their Arab Tyrants, and never return till all Soviet influence is over! Sending them back to Tyrants meant death and torture. The Deft was appointed by the Community to raise the issue in the high court after 54 Arabs were arrested at random to scare the Community to flee (the details given during Deft's story). After winning the case, the respected judge recommended a dialogue between the Deft (and staff) and the Pakistani Gov. to stop the deportation & any more arrest and negotiate a rehabilitation program. Eventually the army took the task over and was dealing with the Deft till Deft was injured later some years.

7- The Case was covered by all international media it had stopped and stilled the Arab tyrants expectation, and exposed to the public the dangerous miscalculation of president Bush senior and warned against:

- 1st. ~~the~~ Bringing the ex-volunteers might attract retaliations.
- 2nd. Forcing them to scatter over the world would make them Role model magnets to all sort of people, and shift the focus & struggle against the Soviet to America and the West with all the uncertainty that follows (the above legal case & media still achieved).

* With regard to the above, linked circumstantially to the Case in the context of: The ability, history and success of Deft to negotiate release of Captives through direct talk and/or court litigations.

8. Similar, but unsuccessful experience, when British intelligence M15 (equal to CIA homeland division) asked the Dept in 1997 to try to release British hostages from an Islamic jihadi group in Pakistan during a mutual non-investigative interview. See please Exhibit 04: page 1. Dept also engaged with them to release some Algerians from UK custody and after long informal discussions and undertakings they were released "no sufficient evidence to charge". Exhibit 04: page 2. (US Govt Representatives received all interviews from U.K. courts & Dept U.K. attorneys extradition appeal.)

9. Dept's trial attorneys were negative and compromised with the prosecutor not to allow this available document (against the Dept's request).

(10) The Dept wrote to the respected judge, seeking judge permission to allow these documents and others to be available to all parties to prove and show the limits, boundaries and contours of freedom of speech and the context of many of the ~~circumstances~~ circumstantial evidence the Gov. could overwhelm them with, when trial starts. please see Exhibit 05 & Trial Docket No. ~~351~~ 351.

It was also important to shed more light, based on facts, about Dept's history & habit and experience in discussing & negotiating release of captives and Dept's mind set etc. away from emotional and hardly relevant other circumstantial evidence used repeatedly.

(11) Extensive media, historical events to Dept showed how Dept has been also, vulnerable to all kind of twisted mind opportunist who seeks to use his name to collect money or control them directly or both without his full awareness, eventually harming themselves, others and the Dept.

Deft's disabilities made him more vulnerable than other former persons. However, there were signs, documents and witnesses the Gov. knew about and easily make ~~aka~~ available to the Court and Deft counsel but failed to disclose any during Deft's trial about the opportunists such as but not limited to:

(i) the mental disorder of alleged conspirators Kassir & Hassan
(ii) the chronology of Kassir's criminal records and the Swedish intelligence report about him

(iii) The immigration status of Ujamaa in UK and its implications on all the charges 3-11. Such as, he can't work in UK or stay more than 6 months; hence, can't support his UK family and having to lie, steal and invent projects -- to support his traveling costs and family, and other important crimes undisclosed to Court & Deft.

(iv) The laptops & hard drives the Cooperating witness Ujamaa had when escaped and re-arrested in Blis; within many emails explaining how he pushes him to say other than the truth to strengthening the case against the Deft. It also shows how he lied to Judge Kersa when the respected judge asked him about this issue & other in 2009 trial.

(v) The close relation between the wives of Kassir and Ujamaa as they are both from the same Somali tribe and both attended and witnessed events in the alleged Camp.

(vi) The case against Ujamaa and his wife in US when he ordered her to shoplift tops and hide under her Islamic veil and similar charges during the same period of him inventing the "project" and sending the fax, explains his dire poverty for any even petty money even when taxes of this drug/said

12-

(VII) The reason to exclude the person named in the fax as "General" next to him unlike sending the faxes, even though he was, as the fax said, the leader of the Seattle mosque and the people.

Deft submit the Gov. knows that Giano invented the entire idea about the Camp without any protest or self knowledge only to be allowed expenses from the Seattle mosque ^{donation} ~~box~~ which can only be done by the "Council" of fax who need to be impressed first. Hence, why he sent a fax not email at Allco. Deft attorney refused to subpoena the "General" or any witness. And the Gov. was allowed to use the only "in trouble-money seeking" witness, to enhance the main witness Giano's credibility for all charges.

13-

(VIII) many other important details had been unprovided to the Court and Deft; negatively effected the respected trial judge judgement regarding the Credibility of the main witness Giano and some of the objection and Gov. request of excluding documents & advancing lines of defense to allow the Judge and Jury to look closely at the witness Credibility set of mind & endorse lying behavior; Not only as a liar but a lying instructor; who had a business to teach and charge fees for teaching people how to lie to Banks, fill forms with false information, forge signatures, body language to fool interviewers and impress others, hardly suitable for any credible Jurisdiction and/or Courtrooms standard or sanctities, especially U.S. Courts! Please see Trial transcript of Deft T3767 a little brief part of Giano's history of lying & deceiving, however even the content of T3767 was never mentioned in direct and hardly any of it was done in case! Such had rendered the ~~shortcomings~~ and Plans to allow transparency of witness credibility a shared error by Gov., Deft attorney and Judge.

11-
(X) The Deft seeks permission from the respected panel to occasionally quote references from Kassin 2009 trial as it shows the same charges related to the same witness(es) but manipulated more transparently by the Gov. and allowed the respected trial judge to permit meaningful cross. It is also noteworthy that the Deft has never been provided by any 350 material or shown or informed by his Council of any agreement about any of the signed/agreed stipulations; allowing Gov. to use material and exhibits selectively, unchanged, concerning the resources of many (including all the sources about Yemen charges Count 1 & 2 when the U.S. Gov. had never sought interest, or done any effort, or conduct any investigation while UK has been on the ground in Yemen within hours of the incident, arrested the defendant, and produced a conclusive report "Operation Yemen" which Gov. used. But used the judge limitations, and unwaveringness of their unprejudiced conduct, to deny the Deft from using the same or even to mention about the 1999 charges in UK or mention the report and/or its Exhibit.

15- The Deft, wrote to the respected judge about the importance of this issue in the same previously mentioned Exhibit 5:3,4. The Gov. had all the Yemen Bunkers for the extradition counts several times and from the UK Gov. Also, used Exhibits from the Deft home Search march 1999 such as Mr. Malik Harharah's will and the airplane SOS net (which was not returned among the returned material to Deft) the phone records but refused to disclose the records or allowing Deft to use what he needs to prove his narrative and a more true and focus context of events. The Deft enclose some of base pages of the UK Gov. Operation Yemen as Exhibit 66 for the learned panel to examine the consistency, professionalism and transparency of the Gov. and the performance of the Deft Council as well as Judge's role.

16-
 (X) The respected learned panel are invited to judge and question the Gov
 timing for changing and seeking extradition in May 2004. And that not only it had no
 a grain of effort in the Yemen investigation but also when Ms. Quinn provided
 the tapes of the interviews with the Deft to US & UK Gov. The US Gov. never done
 any forensic, review or documentation since 2002; but suddenly in 2003 it was copied
 and provided to different places to digitalize or transcribe without a trace of any
 forensic! As the Deft has over a thousand recorded tapes Audio, video, interviews
 analogue & digital, it is so simple and easy to edit the tape once it is digital
 and even re-record it into a tape again! The stipulation about the tape and
 its handling is flawed; both the Gov. and Defense attorney avoided the issue in
 direct a Cross with Ms Quinn. Yet the Gov. only rely on the useless
 unauthentic Pronouns "We" "He" to implicate the Deft in the Conspiracy
 of Kidnapping. Also, both the Gov & Defense attorney avoided to ask
 Ms. Quinn if she thought during or after the interview that the Deft was
 one of the Conspirators? or what did you make of him say "we didn't
 think it would be that bad"? The Gov. Concealed from the Court that
 17- Ms. Quinn also visited Yemen and interviewed all the British detainees
 including Deft son and Step son, as well as many Yemeni officials before
 she wrote her book "Kidnapped in Yemen"; she never said in the book that she
 ever thought Deft was a conspirator; in fact she wrote in the draft that
 the Deft was not a conspirator and shouted to the leader "why did you
 do this? you destroyed everything" please see T2936: 1-8 and T2944: 9-12
 T2945: 8-28 and T2947: 11-20 and T2949: 11-11, T2953: 12-22 & T2957: 1-13
 Ms. Quinn again was not asked who is the publisher or was she heamed on
 to remove such draft? in any case, it is near to impossible that she heard the
 Deft saying "we" and still write as such, and even after pressure, not accusing

The Deft. T2962:5-25. In fact, after she visited Yemen agencies and interviewed Zafar's son, a 16 year old, she understood why I said in the interview "they should go to Yemen because they carry my name" and she wrote "I felt that child needed his name". The Aljazeera Arabic media hinted he was raped "to degrade his father" and one of the attorneys who travelled from Britain to litigate confirmed that.

18. Despite her hardship she was honourable and working investigative lady and did not compromise her ^{truth} in testimony. T2962:5-25

The Deft. could not find one of the questions she offered to answer, and lied to him saying "you see the importance of people like me." as in T2962: 14-18, not in the transcript nor in the CD discovery. The context was the Deft. asked "why didn't you use the satellite phone to call the embassy or your own phones?" Ms. Qumari answered "we couldn't remember the number" and about their phones she said "we left them at the hotel to have a break from them". That was the context, and the Deft. asked his attorney to check the authenticity of forensic for the tape and find the original and, at the late stage ~~at~~ near the trial, to ask her and me about the context of that answer but no answer was done! The Deft. repeatedly asked Mr. Schneider Esq., because of most of the above and other reasons, to raise those issues in motions, and the need for the jurisdiction and that the denial of proper forensics, document, witnesses especially for 1/2 Qumari, as well as the passage of time, and now would events make U.K. the more appropriate place. The attorney promised to get witnesses and experts from Yemen, eventually none was done.

19- In regard to the call from the kidnappers after the hostage taken, to the Deft. it was one minute duration only, 3 hrs after the kidnapping →

and it was the last call made by the Satellite phone before the car was hijacked and was taken. In this minute call the Deft was told about the Kidnapping for the first time. Could only ask the caller to remember that the phone is in Deft's name and the action he took will destroy everything, asked him to put the phone down to save air time, allow the hostages to use it and/or their phones, and the Deft will call him immediately from his phone to know more. The rest of the details are clear in direct. However, Deft repeatedly asked his attorney to get a yes or no answer from gov. about their resources of the phone data and more important if they had obtained records of phone tapping of the calls, as all calls from Luxer were tapped before and after the incident (that's how they got Ujwani's fax) because of the many previous interviews and the Algerian conflict. But the attorney refused to act. Even current attorney refused to send a Brady request for any material including phone tapping.

(f) This last introductory point is about inviting the wise learned judges to exert their good prudence and valuable expertise to have a broader examining thought about the context of the indictment and the charges.

(i) ~~the~~ Indictment contained untrue and unprofessional insertions and injections very inflammatory and prejudicial not only within the "Over act" but also in the main body of the charges; such as, but not limited to, in count 1 & 2 substantial changes the Yemen Kidnapping: "The defendant, and other known and unknown, at least one of whom was first brought to and arrested in Southern District of New York unlawfully and knowingly combined, conspired..." page one Count 1 & page 4 in Count 2.

The underlined statement is untrue, prejudicial and inflammatory and

and was preserved in all versions of the indictment, in spite of the many time Gov. Superseded the indictment. It simply stipulate that the Dept. is monitoring US citizens in their homeland to kidnap them at their holiday destination and many other inflammatory perceptions. The jury find the indictment and relayed and related their thoughts and analogies to the syntax and semantics of the indictment and went on to organize their assessments.

And as an example of the same in the overt acts see Count 3 ~~and~~ (f.g.h.i)

21. It is hard to conceive that such repeated in all indictments is just an improfessional mistake (Dept had never been in the area and as for counts 1 & 2 never done any lawful or unlawful action in New York or US Just Jurisdiction).

The above also means that all juries, Grand and Trial, all judges, Grand and Trial had not been accurately and/or professionally advised. It could be, as it is persistently kept & repeated, a bad faith act!

22-

(15) The Context of the over all 3-11 charges manifests contradictions and inconsistency in many of the Gov's stipulations, circumstantial evidence and all the magnifications of Dept's role and "high position", and the size of followers and influence at the times & places of the incidents or in general.

While the Gov stipulating all the above and that the Dept is like a "General" with many followers, and on top of all their actions and behaviors, in many places in the world, the "General" is totally dependent on a now convert to Islam from who only introduced himself to Dept two months before he sent his fax, and hope even becoming a "former follower" (as he admitted in Cross 2009 Trial V. vs Kassin), and in the midst of ongoing Yemen investigation with the Dept's children in jail and torture in Yemen and suggesting to the disabled Dept to leave his family, people, Yemen and the 5-story Central Mosque to go and live in a no man's land. Then after it became that he

Al-Jamali had tried about everything and cost Dept too much money and had spins the Dept still trusted him to send a young Black man to a land none of them knew anything about, where there is no Black people, despite the Gov. & witnesses saying that the mosque full of ex-Afghan veterans who move in and out regularly, and the Dept has the strong link to send anyone by himself with a letter to Pakistan where he would be picked, housed then taken to Afghanistan (as the expert repeatedly said), and when the cooperating witness leaves the person in a hostile environment alone obliterating him and disrobing the "Shell" he still come back to the mosque with a straight face, and used again by the Dept to do other work and even to go back to Afghanistan again with Dept's money. If the suggest above by the indictment are the actions & behaviour by the "high general" what would be the actions & behaviour and judgements by an enjoyed Vegetable!

23 Similar notes can be examined for Counts 1 & 2 when the Dept was only acting as a mouth piece, fully transparent with UK authorities, never used anything but his name, phones, computers and open statements & loud media till the incident of kidnapping took place and destroyed all the long term hopes to desert the boys ruling yemeni tyrant Mr. Ali Salih.

(ii) More important is the Context and Timing of the charges, and the sudden ^{effort} 24 tireless after a long time of stalling indifference. Particularly Count 1 & 2 where the many needed witnesses are in U.K. but unwilling or can't be subpoenaed in US jurisdictions, and their many written witness statements which the U.S Gov representatives received during the 8 1/2 yrs of extradition litigations in UK can't be used by the Dept in US, nor the UK Field-work investigative report, so far. And no one involved in US that can be witness for the Dept. Also, passage of time and new world events in New York all obscuring to

The Dept. The extradition agreement signed only a month before the indictment is one sided only allows extradition from Britain to US but not vice versa, because it doesn't allow any litigation about the indictment on a *prima facie* case; only human rights, and has been mentioned in the media as "rented for Hogue".

25. Count 3-6. Dept. Can't bring any witnesses and Gov. can only the witnesses that are afraid of their indulgence in crimes, that they could be charged with, and to date, and for years, have been paid generously, with the main witness history and reputation in lying, to courts especially, are subzero. As for counts 7-10,

26. The same witnesses, and all other alleged co-conspirators had been chopped from the case, without any explanation not cooperating nor witnesses all had been released or disappeared by the gov. without been charged after the Dept. indictment. Mr. Alibassi the core and back bone of the charges, had many court-hearing in Guantanamo bay regarding all his activities then released in 2005 to England, compensated nearly \$100k and since written two statements one in 2005 the 2nd in 2011 saying how witness Youssef forced him to take him, then left him and that the Dept. told him not to go repeatedly and never news about his Youssef management. The US Gov. had been given the statement more than once in U.K, as well as U.K. courts & EU, and when

U.K. attorney visited the Dept. after extradition gave him and the U.S. attorney a CD of all the Bundles including the statement. Dept. has a copy but no one wants to print it out. Current attorney and Gov. prosecutors both have a copy too. Mr. Mustafa Kil, Taliban Secretary of State, had been in US custody in both Bagram & Guantanamo then released without charge and for years is working with the new Afghan Gov. And Mr. Alibi the "Front Line Commander" had been in rendition since caught in 2002, used by

Mr. Bush 43 and Mr. Colin Powell, in 2002 Iraq war committee, to justify the war against Iraq with their famous phrase "Ibn Al Sheikh Alibi told us about the link between Saddam and Al Qaeda" and in news conferences and Congress. (Kindly also see Defense Intelligence Agency report, 2002 about Iraq; and document: DITSUM No. 044-02). The Dept mentioned this fact during the stand to explain how the Gov. expert was lying, after been briefed by Gov., he said "Ibn Al Sheikh was killed in 2001 on the border between Pakistan & Afghanistan"; For the jury not to ask the Gov. about him and the other co-conspirators; but the Gov. asked the judge to remind the jury that the Dept is not an expert. Essentially Ibn Sheikh was handed over to the Libyan regime in 2008 and pronounced dead in 2009.

27. Count 11 the Gov. exhibited ~~every~~ Two Emails, contained, and clearly showing that the money Yjama had in 2001 he took from two people after using Dept's name, and the Dept was only communicating with him to return the money to them, and when he escaped and traveled earlier the he promised them, to return it to their relatives not to use it for his self. But the Gov. was only reading a small part other than the context of the Emails. ^{Gov.} Exhibits 930 and 931. It also shows witness Hate and anger ~~towards~~ Dept for not allowing him to rob off others; its not worthy that the Dept repeatedly asked his attorney to make contact with the two fund raisers to testify about Yjama's hate & anger ~~towards~~ the Dept, and the witness Yjama repeated try to use Dept name to raise money without Dept's knowledge; at one occasion asked them to quietly raise 10,000 pounds "to bribe Yemeni officials to free the Sheikh's sons and make it a surprise for him". The attorney promised but never done,

3. None of the above is compatible
or the merits of its Constitution.
The learned judges are invited
to consider the cost of using the syntax and
and transparent procedures.
That was for the content of a
Reason, presented to the respective
the specifics are in place in the

3. None of the above is compatible
or the merits of its Constitution.
The learned judges are invited
to consider the cost of using the syntax and
and transparent procedures.
That was for the content of a
Reason, presented to the respective
the specifics are in place in the

3. None of the above is compatible
or the merits of its Constitution.
The learned judges are invited
to consider the cost of using the syntax and
and transparent procedures.
That was for the content of a
Reason, presented to the respective
the specifics are in place in the

3. None of the above is compatible
or the merits of its Constitution.
The learned judges are invited
to consider the cost of using the syntax and
and transparent procedures.
That was for the content of a
Reason, presented to the respective
the specifics are in place in the

3. None of the above is compatible
or the merits of its Constitution.
The learned judges are invited
to consider the cost of using the syntax and
and transparent procedures.
That was for the content of a
Reason, presented to the respective
the specifics are in place in the

The steel was contracted for a "speedy recycle" 2 weeks after as the Deft said during Trial Stand, "this should be considered as destroying evidence from mass murder site" explained in media as also during the stand: "for those kind of frame structures, with a structural core, the only way to collapse concentrically like we saw, is when all structural vertical supports are removed simultaneously at least at one level"; fires don't do that; only explosives ...

³⁴ What made us was governments and intelligence both sides of the Atlantic more furious about the Deft, and resulted in the chain reaction of punishment and intimations till the tailored extradition treaty and charges, was as Deft said, and repeated in his Trial Stand, and undoubted fact, and "tapped" by British Police, that Deft received a call from Afghanistan on Friday Sept 07, 2001 from 2 of his old neighbours in his Pakistan time 1991-93, saying "something very big will happen very soon" for ... (mean USA) the speaker phone was on and others could hear, the Deft knowing that they are not from Al Qaeda, and not a "high rank" in any group understood that this news is widely spread, and everyone is phoning his friends to tell them, and the intelligence of many countries must had ear full about it. But then The Deft continuously tried to find out from Taliban Coss as they were very keen to be recognized by the rest of the world and such action could destroy everything. Deft eventually was able to speak to an assistant of Taliban head of intelligence ^{on Sunday}, and when he told what he knew from the two callers and that he need an urgent contact with the Secretary of State, Musharraf, Deft was told (as Deft said in Trial) "Not to worry, the minister Musharraf and Taliban (the head of intelligence) both met with US ambassador and a big CIA man in Peshawar on March (2001) and warned them about that, with all the

The details; they never seem to bother, they kept changing the subject, their only interest was to recruit minister Mubankil to work for them".

31- Deft couldn't say any more on the stand; not wanting to abuse the patience of the respected trial judges and also, not been helped at all by Deft attorney to say anything down that line. In fact Deft was threatened not to mention what he was campaigning about in London, last threat, conveyed by current attorney Mr Schmidt esp. just before sentencing day "Don't provoke them they will make your life in prison very difficult". But Deft still requested the Towers Collapse investigation in sentencing day and demanded that people who used it for wars to see their days in court. Now Deft is subject to sleep deprivation since moved from M.C.C New York to date 30 months.

32- When the Deft saw the 9/11 took place despite what he was told, it was very confusing, and when the Towers collapsed as they did the Deft saw all the symptoms of a "partially controlled demolition by explosives" the top to be severed and fall on the lower part.

By saying and repeating this in the world's media including us a media (see 2002 interview with an MSNBC 9/11 survivor lady 2 hrs "The Iron Mosque" and many others), the pro war Gov, media, intelligence of US & UK conspired against the Deft, frozen accounts and stopped income, then closed the Fajr Mosque and when the Deft resumed sermons and campaign on the road next to the closed mosque, attracting exponentially more world media and listeners, the nationality was withdrawn in 2003, then all over the news "the Deft will be extradited to us and never see the light again"

The Deft never escaped or even jumped bail or even stopped his requests we street sermons etc at the gate of the closed mosque for 16 months till the day of arrest for extradition May 2004.

End of part one and apology for the lengthy introductory points. (32 1)

33- Part Two: Possible Judge Error in Not Addressing Dept Psychological Problem

Because of the medical complications and psychology diagnosing described in part one (b), and trial attorney's indifference to address the psychological memory issue and the medical report, the Dept wrote to the respected trial judge to address the issue of allowing an MRI scan to be taken and sent to the two U.K. Doctors as in Exhibits 2 and Exhibit 3. The Dept explained how & some of the hard conditions of detention had worsened the Dept, and sought relief.

34- The Dept also mentioned the assurances provided by U.S. Gov. representatives to the U.K. & EU Courts, on behalf of the American nation, to provide the Dept with a compatible care to EU standards; particularly at the Oct 5th, 2012 emergency court hearing to delay the extradition till the MRI scan done and Dr's reports completed for the US Courts. The respected U.K. judge accepted the US representative that it could be easily done in US and sent to the Doctor to conclude the reports (US Gov. has the minutes of the Day).

35- U.S. Gov. also, has a similar report, done in 2007 in UK to postpone Court hearing six months due to a psychological problem during the extradition process. One of the reports author had given evidence then and the judge was convinced and deferred the case.

Dr. Taylor, who gave the evidence and wrote many reports over the past, was available to testify, as before, in US court, but the trial attorney's negligence never even tried to contact him; hence, Dept wrote to court.

36- The Dept also, despite his complicated medical problems, had no choice but to take the stand and testify. Mainly because of his attorney's broken promises to procure and present important documents, evidence or experts or witnesses; many of these are hinted to the respected Trial judge in Dept's letter. And other more specific attorney problems, ~~can point out~~. Also, the Dept wanted to mention important historical related issues and their proper contexts to be documented; to assist Trial judges and researchers in those kind of cases and position advisors.

37- By seeing & interacting with several people during the first three weeks of the trial The Dept gained more confidence to overcome the cash memory problem during the stand, and also, found that he was right about his attorney; no witness, documents of the voluminous available had been obtained to support his defense; The Dept was alone; and had to speak to mitigate such expanding problem; which added more deterioration and stress during the Dept's stand. Because the Dept alone can not, and will not, be provided with needed proportional time, or the appropriate questions to address and/or correct many of the Gov. witnesses statements; especially the expert witness, Mr. Kholman Committee errors, and the ~~main~~ main circumstantial evidence from the Gov. Not least when the Gov. repeatedly asking the respected judge to remind the jury that the Dept "is not an expert".

38- As the reports said The problem of Cash memory, Concentration and choice of words, Presentation become much worse and apparent in a stressful situation. Without realizing, the Dept manifested the same

after less than an hour, The Deft start speaking very fast and for very long after each question, with many bad choice of words, and the fast stuttering made the Deft's accent much worse. In taking the stand after a break, the lady transcriber said to Deft "you're speaking very fast". And the respected judge, after checking the monitor, said that The Deft is speaking in a strong accent and in half-sentences and it challenging for the Jury.

39 - Those symptoms were among what Dr. Taylor expressed his concern about to the Deft in U.K; the natural reaction for the worry to forget what the patient want to convey is to try to quickly discharge what ever he catches in his head, and he wouldn't be concentrating if he is interrupted by anything or questioned till he finishes. Those patient's worries also, combined with succeeding to let out many of whatever in his head at a certain point can cause false confidence, resulting in misrepresentation of himself.

40 - The Deft felt many of that toward the middle of his stand time but still wanted as much more time in direct and cross as it could be only to address and comment about the huge circumstantial evidence which overwhelmed the Jury, and to expand the very narrow little said about the real evidence from the Gov. But both Gov & Deft attorney declined to address the missing issues of the facts and witnesses.

41 - When the Deft received the transcripts after the trial finished there were many missing sentences, and words that doesn't make

sense even Ben. The Dept does not know, till now, if the many missing pieces because he never said them or because his speedy talk had been faster than the transcriber. And when requested the trial tap recording, as in England, he was told no such thing.

Conclusion of part 2 Error

42- The Dept respectfully submit to the learned panel that: with all the above mentioned, the exhibits, the fact that Dept subjected to S.A.M allowing no choice of attorney or any other legal/human-rights contacts and the repeated undertaking of EU compatible treatment, as well as the MRI scan on the day of extradition, And that the Dept never knew how bad he performed on the stand till he spent six months in ADX which allows 2 hrs a day of talking to other inmates, and told about the significant improvement by many, and the fact that the Dept had no one to turn to but the judge, it is, in the Dept's view that the respect trial Judge was in error by not addressing the matter to its concluded end for a fair trial. And by not raising the issue with the M.C.C new york and/or the negligence attorney or following it.

It is submitted to the learned panel that such an error had a significant harm and effected all the charges/counts and allowed the Gov. representatives to U.K & EU courts to tarnish the reputation of US undertakers.

Therefore, The Dept seeks a relief from the respected Court of appeal for a retrial ^{after} a new psychologists assessment.

End of part two

Modified Part Three:

43 - Possible Gov. Unprofessionalism And Judge Errors Regarding Gov. Expert Witness Mr. Kholmann And Other Witnesses And Rule 702.

This part contains seven possible errors regarding Mr. Kholmann's testimony. Each of the errors has an argument and a conclusion. There is also a summation argument for the entire part 3 and a conclusion.

The testimony of Mr. Kholmann has been the back-bone of The Gov. Case against the Dept. It was very long, complicated and unconventional in its settings format, as he was allowed to testify in two tears & back to back: one as an expert witness, the second as an ordinary witness.

He was the only unchallenged expert witness in the entire trial, commenting and offering opinions about: every charge, act, aspect, people, and incident in or out of the scope of the indictment and the charges, including what the Gov. knew, and the judge was also told, to be beyond his claimed scope of his expertise and/or qualification. Yet his testimony had been the most exerting influence in the jury's mind and final decision.

44 - During his testimony, he inserted many unfounded even false statements and injected inbetween substantial amount of inflammatory words phrases and false contexts, as the respected court will see below.

45 - Although some courts had previously excluded and precluded Mr. Kholmann fully or partially, from being an expert, many others had accepted him. However, during the Dept. trial many new information had appeared for the first time, and his own admission, that can challenge his adequacy as an expert, especially the information surrounding his interview with the Dept. in 2002 as a new graduate of law but "want to pursue a new career", but within few month from that interview he is used as an expert! See direct

Mr. Kholmann, 23 yrs young graduate at the time, arrived at the Fincham park mosque in London, and was allowed to join two professional journalists from Time magazine already engaged in an interview with the Dept. He was allowed to record and participated with some questions. And they were all offered a tour to the mosque various areas; including the area hired for business: the restaurant, bookshop & nursery.

46- The timing of the interview, the sudden use of Mr. Kholmam as an expert by Gov. Prosecutors, together with the special relation with the FBI see: T1377-80, and being exclusively used by Gov. prosecutors T154, T164 could be revisited by the learned judges to evaluate Mr. Kholmam path to such a special hard-earned expertise status.

Also, many other new admissions by Mr. Kholmam prove that the proper academic and training route to expertise had been bypassed crudely and dangerously such as:

(a) His only Islamic related qualification is a certificate of a course offered by Saudi Arabia, in Muslim-Christian relation (one of many pleasant attendance courses in Europe & US, no course work or exams and maximum 3 weeks as well as it is never relevant to terrorism). Direct

(b) A self-taught person in terrorism matters and Islamic terminology T168. Thus his readings, writings, understanding and opinions and expressions are unsupervised, unevaluated and unapproved by senior experts or think tanks. Thus, in very short of the criteria of expertise according to the rules of expertise qualification, and route to expertise. See 701-702-703 and others. Yet some prudent judges precluded him from their court as an expert T165:13-24 in 2003.

(c) Accumulated wealth and transformed from working from his bedroom to a Millionaire T1384,5.

47- The prudent wise judges are invited to consider: Whether or not the above lack of qualification and/or supervised experience had contributed to the following seven possible errors.

(1) For instance: an expert simple standard route for qualification is after the relevant academic study, And contains a chart of all the elements of the needed tasks of the field and the level and date of the trained expert for each task and element of the field such as:

Awareness / Date - Knowledge / Date - Experience / Date - Expertise / Date.

For each task then the date and over all marking till the pass.

48- Error No. 1:

Deft submit that allowing the expert witness Kholman to testify as an expert and as a normal witness on the same day and without a meaningful felt break had confused the jury, even when the trial judge gave a brief note to the jury that he finished his direct as an expert and he will speak as a normal witness during his two direct on April 23, 2014 T1169.

However, on the following day, before cross started, no one told the jury if the witness is going to be cross examined as an expert or just an ordinary witness T1312:3-10.

The same unprofessional error was again repeated after the cross in the Gov. Redirect; no one alerted the jury if the redirect was for an expert witness or ordinary T1389. And the same plain error done in Re-Cross T1406.

Thus, the entire testimony of Mr. Kholman, ^{on the following day} after direct, had been without a break or boundaries between what is an expert testimony and an ordinary testimony.

Deft submit: If the professionals fail to notice and/or safeguard the jury from the complexity of the format of the testimony, no chance that the ordinary juror will ever notice or set the needed boundaries between the two different gravities of the two testimonies.

49- During the testimony the witness inserted many unqualified, unfounded statements and opinions, injecting his own "personal" feelings in a highly prejudicial and inflammatory subjects and contexts. Such as, but not limited to: his "impression"/opinion about the connection between the Deft and the "Shore Bomber" Richard Reid, without explaining that such was before his "expertise" status in 2002 see T1364:1-20.

The jury can not but to follow the judge instructions to accept his opinion as he is an expert; they had no reason or mean to separate; they never even asked or noticed he was 23 yrs at the time.

50- Conclusion of Error No. 1 of Part Three

The Deft Submit the average juror 'ration' can not draw the essential boundaries between the two testimonies by himself, without timely clear alert and instructions by the respected trial judge.

Such situation entails that the trial jury unanimously unconscious-ly perceived all the statements, opinions, impressions and phrases as uncontested facts or derogation of facts without exception, including the personal unqualified inflammatory ones.

The respected court of appeal had previously warned and granted a retrial for such double expert / ordinary testimony. And without even the plain error of failing to alert the jury about which testimony of the two is taking place at the time.

It is respectfully submitted that the above mentioned many complex plain errors by the respected trial judge had undoubtedly rendered the entire testimony of the Gov expert witness to be flawed as unbounded / indeterminate in its entirety. And that the respected court should consider granting a retrial.

51- Error No. 2 of part three (The Expert).

Possible Gov. unprofessionalism regarding using the expert to give opinion and address issues which the Gov knows he has undeveloped knowledge about; such as Bosnia. And never told the judges until it's too late.

The Gov. admitted it did that knowingly; For example, the Gov. allowed, and even exhorted, the expert witness to a lengthy very inflammatory statement and unsubstantiated claims about Bosnia and particularly those who went to help during the conflict of the early 90s. The expert witness was 11 yrs old at the time; and never shown the court any source of his claims!

52- But during his cross examination, the Gov. objected repeatedly about its own witness answers about Bosnia; though he was only cross-examined about common knowledge available in public domain.

When the respected trial judge wanted to know the merits of the Gov. Objections, and called for a side bar argument, the Gov. prosecutor only then admitted that his expert witness is not an expert or qualified to talk about Bosnia (He is NOT qualified as an expert in Bosnia) TI342, 3, 4 And TI355, 6.

53- Despite this too late admission by the Gov. and the uncontrolled inflammatory statements against the non-Bosnian who went to help, including the Dept himself with his recently encountered disability, the respected judge did not notify the jury about the expert's unqualified statements and opinions. The judge also never ordered the Gov and its "unqualified witness to Cease talking about Bosnia."

Further worse, the respected judge agreed that the Gov. Continue to question the unqualified witness Kholmann about the same issues, Bosnia and the Conflict. Though the Dept attorney was also allowed to cross but neither he or the Dept would ever be equally accepted by the jury, as "the expert" they were instructed by the judge to accept unchallenged! The Dept and the jury never been told about the side bar. Dept knew long after the trial.

Then, more emboldened, unfounded, unheard of, claims were dishd to the jury about Bosnia, in redirect and recross, such as: foreign fighters wiped out a Bosnian town, then later admitted in recross that the only ones indicted for war crimes and charged were 40 Bosnian/Serbs and 5 Bosnian nationals, no foreigners TI406. But the jury can not cut/paste or patch the "only expert" statement!

He even linked the foreign Bosnian fighters of 1992-1995 to Al Qaeda! and said they participated in the 9/11, 2001 without a shred of evidence! and never asked for his sources! TI404. As always gesturing & linking the Dept to Al Qaeda!

54- Dept Submit that such misconduct could have been avoided or at least stopped and rectified as soon as the Gov. admitted it. And that both Gov. & judge are in plain error by allowing

it to continue and worsen till the trial ended.
 Further more, When the Deft tried to prove many of the lies and wrong said about the foreigners who helped Bosnia by the Gov and its "unqualified expert" the Gov. prosecutor himself repeatedly asked the judge to remind the jury that the Deft is not an expert! and even called the Deft a "Liar" T 1355, 6

Yet the Gov. has in discovery evidence and a video showing the love and respect Bosnian people and Bosnian army had for the Foreign Helpers in the summer of their enrollment officially to the Bosnian army in 1994.

The respected judge allowed, unwittingly, the Gov. to use an unqualified expert witness knowingly and gave the Gov. and its unqualified witness, the unchallenged upper hand for all their lies, inflammatory prejudicial statements and analogy to the adversity of the Deft and called him a "Liar" and not to be a corrector of the unqualified expert.

55- The Conclusion of the above second error of part 3
 The Deft respectfully submit to the learned panel to consider the disqualification of the "disqualified" Gov. expert witness testimony based on his misconduct of addressing issues beyond his qualification.
 And the combined error by the Gov. and the trial judge to allow him to do and continue the same without alerting or advising the jury.
 The respected Court should consider such as a complex plain error and consider a new trial.

56- The Deft submit that the following third error of this part of the motion is also linked to the harm of the above Bosnian (2nd error). The harm extended and particularly targeted one of the jurors personally; as he was a Bosnian harmed by the conflict and migrated to US; he nearly broken in tears at the jury selection time while describing to the judge the impact of the conflict on him; the "unqualified expert" and the inflammation certainly and immorally targeted his emotive adversely to the Deft. 29-

57. The Gov. Witness Kholmenn had been briefed before his combined testimony on April 23 of the trial. The respected prudent panel is invited to consider whether or not the existence of an immotional juror motivated the Gov. to allow and exhort its "unqualified" expert witness about Bosnia to take about Bosnia and inflame the Bosnian juror against the Dept. and only objected when some of the well-established information favorable to the Dept. start to immerge.

58. The Dept. Submit that such an immoral and unprofessional Gov. & Gov. expert witness behaviour in targeting and surging the Bosnian juror grievances and emotion is an error, which when added to the plain previous error about Bosnia makes both and each errors beyond repair. And drive the trial judge to an unwittingly plain error.

Thus, the Dept. Submit that the respected Court dis-qualify the expert witness testimony and permit a new trial.

59. The Error No. 4, in this third part regarding the expert witness, for the learned panel to consider is also, about allowing and exhorting the Gov. Expert to address and comment about Substantial charges; Counts 1 & 2 in the indictment using very un-reliable sources, and knowingly by the Gov.

for the Yemen Kidnapping charges 1 & 2 The Gov. knew that the expert witness does not have any special knowledge about the matter, nor experience.

The Gov. ^{that} knew long time before the trial, from his report just like Bosnia; but in this case the Gov. did not admit like it did in Bosnian Errors.

The Gov. knew that its witness ~~App~~ sources for these two Counts

Will violate the Def's right to the Sixth Amendment. Also, the Gov. and the expert witness can not ignore the fact that such source for these major charges, fall way below the same very standard the expert described and categorized as the unreliable sources and should not be used. ~~T1057, 8.~~ yet he is using, and allowed to use, much less than that.

In an important lengthy conference during the trial, on April 23, 2014 (the Def was excluded from this conference!) the Gov. admitted that their expert witness source for his testimony about Yemen will be a book written by Mr. Ahmed Rassam.

The Gov. never explained to the respected judge: who is Rassam? or any of his details, or relevance to Yemen, if any, or why him and his book? or the sources of Rassam's book or any special knowledge he has about Yemen! Unfortunately the judge also never asked or challenged.

The Gov. should have told the judge about certain facts about Rassam which are ~~in~~ intrinsic to satisfy the Sixth Amendment such as:

- (a) Rassam is a convicted terrorist, for trying to blow up Los Angeles airport and known as the Millennium Terrorist.
- (b) Rassam is a government co-operating witness.
- (c) Rassam is still in US custody since his early teen age.
- (d) He is an Algerian, unknown to Yemen.
- (e) He will not be challenged or testifying if needed.

60 - The Deft knew what took place in the April 23 Conference after the trial ended, and from the transcript T1050:7-9 and T1072:2-14. There was other hearings to Deft. occurred during the same conference could have been avoided as will be mention in part four of this document.

The respected trial judge acknowledged receiving a letter in early April regarding Deft requesting to address issues during the trial (witnesses and documents) Exhibit 05. Many of those issues were discussed in the April 23 conference, but the Deft context of the letter was not address nor the Deft was allowed to attend.

61 - Deft submit that using Rassam's book as the source of the Gov. Expert witness is unconstitutional, and also, unprofessional; as ~~being~~ neither the expert nor Rassam have any special knowledge or experience about Yemen, as shown in the report and even the testimony.

It is almost like the Gov. itself wearing the expert gown, exhorting the dummy expert to establish any sort of link between the Deft and Al Qaeda without a shred of evidence and opposite to all the established facts about the Army of Abyan T1228. In fact such army only lasted from 1997 to the date of the Kidnapping Dec 1998. And disapproved by Al Qaeda as a rival.

The Gov. and Deft have the U.N designation list with the details of the Army in 2002, completely different from Al Qaeda.

62 - Submitted also, that the witness lacks and/or ignores the very basic but important information relevant to the Yemen case, though in public domain, and of the highest authority and resources.

Such as, but not limited to, the U.S Department of Justice annual reports for the past 3 decades about Yemen, and its endemic cultural/Custum Kidnapping, with all the useful statistics and analogies. Such are indispensable to any researcher let alone an "expert" to prosecute in such substantial charges.

The "expert" witness answer regarding this endemic issue, which is essential, had been shaky, understating the facts T1407. Thus, could burden the Deft with an extra undue responsibility for a cultural matter, which occurs often and triggered spontaneously, as DOJ and think tanks published.

Deft invite the respected court to Contemplate if there is an issue of incompetence and/or dishonesty in these particulars.

63- The expert witness claim of being interested about the Dept organization Supporters of Shahrh (S.O.S) is false. Since 1992 (the time of the kidnapping and SOS statements about Yemen) is completely false.

Not only because he was way before his graduation in law, 2001, but more important that he never raised any question or a mention or awareness during his well planned long travelled and costly interview with the Dept in 2002 in F.P. Mosque; this fact is in his tape, which is used as evidence against the Dept; and proves self-contradiction (see Rules).

Such a false claim had camouflaged his lack of knowledge and unreliable source about Yemen.

Also, another technical issue proved his false claim and unfitness to address the Yemen charges; in when he was allowed to read a document he claimed he downloaded from an SOS web site in July 23 2005 about the Army of Abyan T1231. though the Dept was arrested in May 27, 2005! and the SOS web never existed in 2005. Gov Exhibit 250T.

For the Court to allow reading material which had been subject and material of the Dept arrest in 1999 regarding Yemen in U.K, without allowing the Dept to talk about the arrest, is morally and technically cumulative against the Dept and impaired Dept defense.

64- Dept respectfully submit the Conclusion of this 4th error in the 3rd part of the motion, that the testimony of the Gov expert witness about Yemen should be considered flawed as explained above and resulted in unsafe conviction in counts one and two. And the respected judge Erred for allowing it without close examining the Gov. and its expert source (See who is the Author Passam T1394:20) particularly with clear guide lines of Rules 702, 703, 705 and 104 and other court rules.

The respected learned Court should consider a demand for Counts one and two (Yemen) and a retrial.

* Fifth Possible Error in This Part Three is:

64- Gov. Unprofessionalism / misconduct, And judge possible plain error in allowing Gov. expert witness to lie and/or mislead the jury under oath.

And allowing Deft Mostafa to be excluded from April 23 morning Conference which could prevent or mitigate the error, especially when the Deft warned/alerted the respected trial judge before the Conference in a letter see Exhibit-05.

65- The witness was exhorted by the Gov to lie/mislead the jury about one of the alleged Co-Conspirators of the four Charges 7 → 10, Ibn Shaykh al-Libi, in a way which increased the burden on the Deft, and denied Deft his line of defense in those charges. Even worse, the expert misconduct discredited the entire Deft's testimony on the stand. When tried to correct the expert misleadings and state the important facts, the Deft was called "not an expert" and sometimes "a Liar" just for disagreeing with the misconduct(s). This error also effected indirectly, but badly Counts 3 → 6.

66- In April 23 Conference the respected judge knew from the Gov that expert will address, in his presentation of his power point and testimony, aspects of Al Qaeda and high rank jihadi persons including Ibn Shaykh al-Libi. And there was a legal argument (Deft only learned that from transcript) T1066 → 8.

The Conference was only hours before the expert testimony, and the Gov. admitted in that that the witness had been briefed. And also, admitted / accepted that Al-Libi had been captured and "tortured all over the place" "But not in this Country" though in U.S custody since 9/11 Afghan War T1067:20 → 25 and T1068:1 → 5.

All parties knew and accepted that (Al-Libi) was alive and in torture long after 2002. In fact until he was finally handed over to the Libyan tyrant Gathoffi in 2008 and shortly announced dead in 2009. See Gov. Document sent to Deft Mostafa about Al-Libi in Deft's Special Administrative Measures of 2015. please see Exhibit 07.

67. In spite of all the facts, the Gov. exhorted and encouraged the witness to phrase misleading contexts, if not naked lies about the co-conspirator alleged status, conditions and role during and after 9/11, and during and after the 2004 indictment against only the Dept with no one else on the 7-10 charges.

In direct the Gov. asked the expert "Raising on the last bullet point in this slide what if any, Al Qaeda did when Ibn Shaykh al Libi died?" The witness answered "The then deputy Commander of Al Qaeda Dr. Ayman al-Zawahiri, issued a public statement mourning the death of Ibn Shaykh al-Libi calling him a heroic martyr and identifying him as indeed the person who who had led Al Qaeda's ground forces during the battle of Tora Bora in November 2001." T202.

68. Dept Submit: the question and the answers gave the false impression to our average rational juror that:

(a) Al Libi was a high rank of Al Qaeda.

(b) Martyred in 2001 while leading Al Qaeda Ground forces (as if Al Qaeda had other Sea and Air forces) and belied himself that up to Sept 2001 Al Libi was not Al Qaeda T201:22 and the fact that none of the high rank founders of Al Qaeda who are qualified and experienced would be led by an inexperienced "New Communist Joiner")

(c) There was a public statement (even though never known or seen by any public or the expert himself have a copy or dare to write the web page address in his Report or testimony).

69. The Gov Document of the Dept S.A.M 2015 as well as the al-Libi portion of the April 23 indicate the non-transparency of the Gov. and persistent jury intriguing to intrap the Dept during his testimony should he try to put the record right, or even raise the issue of: under what circumstances or premise Ibn Shaykh al-Libi and/or all other alleged co-conspirators of the 7-10 charges, were not indicted or charged?

It also denies the Dept right to obtain any document regarding the alleged co-conspirators despite the fact that all have been in U.S. custody and some convicted by a military court (like ABBAS). The Gov and witness never produced single document to support its/his lies.

70- The Deft was perceived as a "liar" during the stand by the jury about Ibn Shykh al-Libi and circumstances of role and death, even though Deft was not allowed to mention torture or rendition.

And even when Deft used the undisputable historical facts and President G.W. Bush and his then Foreign Secretary Colin Powell famous phrase in 2002 and 2003/4 "Ibn Shykh al-Libi told us about the strong link between Saddam and Al-Qaeda" and to prove that al-Libi was still alive till the fabricated evidence to invade Iraq, in the Iraq war community & the Court, the Deft was called "more expert" "a liar".

71- As also mentioned in part one of this motion in the relative introductory point, it is impossible for any expert about terrorism and its relevant world events, such as the Iraq war above, not to know about al-Libi's existence and that the poisoned fruit of his rendition and torture to invade Iraq and all its horrific after-math to date. Such lack of knowledge and/or crafty endeavor to suppress it are major indication of the incompetant and/or dishonesty of any expert and, as happened, resulted in many advertisements against the Deft being discredited and severed from true and important points of defense.

72- In the Conclusion of this fifth error of the third part of the motion, the Deft respectfully submit that the mentioned above error/misconduct was preventable should the respected trial judge addressed the relevant points of Deft letter to the Court (Exhibit 07) and/or allowed the Deft to attend the April 23 Conference to raise awareness and/or to be prepared to instruct his defense team during the Gov. witness misconduct timely. And allow better foundation for Deft time on the stand regarding the issues of his plain errors.

And/or write a quick note to the respected judge to request any form of evidence for any or all the unheard of unfounded claims made and driven by the Gov. and infamously disped to the jury by the expert, none proven and harshly allowed a challenge.

Such behavior from the Gov. and its expert was a clear deviation from many expert rules of evidence, including Rule 702 and Rule 403, and should and could have been prevented by the trial judge.

The rules stressing the need to evaluate the reliability of the claims made by the expert even when the expert and/or his appointee say it is "from multiple sources" - as the Gov. said to the judge regarding many of this part errors in the April 23 Conference - because, as the rules said, "all these different sources could be copied by an unqualified or dishonest copying from just one unreliable source."

Deft Submit that this scenario occurred in most of the expert mentioned errors and/or statements in this part three including this fifth error.

And that the rules do not allow "a blank cheque" to the claim of "multiple sources" or exempt or avoid the providing reliable evidence. In this trial and the fifth error not only the rules were ignored but also, the expert was allowed to insert and inject many prejudice: claims, phrases, expressions and wrong contexts.

Citing also Rule 104 and what the Supreme Court ruled in: Daubert 509 US 579 at 589 (1993) for this error and the relevant to the rules before and after ones.

The Deft submit to the respected panel, for this fifth error, and all its misconducts, to consider a Remand the Case for retrial

73- The Sixth Possible error in this Part Three is, using the expert witness to translate and comment about Arabic and multiple meanings of complicated Islamic terms and titles, knowing from his report and trial admission that he is not academically qualified, only self taught without supervision and does not speak Arabic or understand it or write it.

Yet the jury were instructed by the judge to believe him and reject the "non expert" Arabic qualified Deft. Should Deft try to correct

any of the expert using an exaggerated way of translation.
 There were no limitation or additional instructions to jury about the expert lack of basic understanding of the Arabic tongue or its scope of use. See T1382:17→25 and T1383:14→8 and T1160:10→12.

The Gov. could and should have brought any of the millions Arabic Speaking and academically qualified, who know the boundaries and contents of the Arabic words and expression and their relative context.

For example: the expert lack of understanding when the word is used in only a religious context or shared as equal or more in the custom/cultural or even just a habit. Such as his stipulation of exclusively defining the word "Sheikh" as a "Sign of Respect traditionally". T1209:15→20. Yet the expert himself calls the leader of Al Qaeda "Sheikh" and the leader of Taliban "Mullah" (which means a grand religious leader), the prosecutors also do so while having no love nor respect for any of the leaders. T1209 and T1212, they do unwittingly like many Arabs do as a habit.

Again the Dept had to struggle during the stand to explain that the term is even famously and daily used for the rich and powerful as well as the over fifty of age regardless of their status --- etc but Dept called "not an expert". Causing further discredit to the overwhelmed Dept by Gov and witness misleadings.

74- The same struggle occurred because of the expert translation to the term ~~Kuffar~~ (Kufar) (it means in Arabic disbelief or blasphemy) The expert translated that as "Kuffars" (which means the Disbelievers) of us. The term was a part of a title of a Friday Sermon re "The Believers vs the Kufar of America" and is among many other titles and sermons the Gov had and gave the Dept a copy in the Discovery CD26 and CD153 which are SOS web site till 2003 when the mosque was raided and the CDs taken then.

Although the expert claimed he is monitoring the SOS web since 1998, he never used the original copy or even the version of the sermon in the Gov. Discovery. Instead he claimed he got his version which he made his

trial testimony about from "a web site" in 2007th i.e. 3/15 after the Dept arrest and the termination of all SOS web sites, But the reason became very apparent to the helpless Dept, when the expert wrote in his personally downloaded little, "The Believers is the ~~Kuff~~ the Kaffirs of US" ~~Can Exhibit~~ 114 T.

He switched the word "Kufr" with the word "Kaffirs" to inflame the jury and Court by making it mean as it is against the non Muslims or non-believers of US. Just the disbelieve (ideology).

And by mentioning the year 2007 again to mislead the jury and Court that the Sermon was at least after 9/11, while it is clear in the Discovery CDs that it was before 9/11.

The Dept had to struggle with this misconduct and dishonest use of translation on the stand and suffered further discrediting from the jury ordered to accept but the expert See T1243:5-6 T1244 T1245:3-17 (Similar misconducts in the next error)

75- The Dept do have the original discovery of the SOS web from 2003 raid and clearly shows the dishonesty of the expert. Both: the Arabic and the English version of the same sermon had only the term (Kufr).

76 In the Conclusion of this expert sixth error of this 3rd part of the motion.

The Dept submit that such error and/or misconduct could have been prevented should the Court allowed the expert only to his claimed area of expertise to be compatible with the instructions given to the jury. By allowing the expert into areas of he admits he is not academically qualified nor trained for or even understand, partially or fully, the judge overburdened the Dept of unnecessarily harm to his credibility and sounding of his testimony on the stand while trying to correct the complexity of the expert twisted comments and sources and wasted the time in unreliable opinions and deviating from the real evidence.

Submitted it is against the Rules of evidence to use an expert beyond his field and qualification and still instruct the jury to prepare his opinion and as to rules in the previous error never challenge his sources. The respected Court should remand the case for new trial for the above.

77. The Seventh Possible Error in this third part is the respected trial judge allowed the Gov. expert to expand way far from his alleged/claimed knowledge and expertise and severely overlooked the expert misuse of the combination of: "Special expert knowledge" And "multiple ~~sources~~". Against the prudent recommendations and guidelines of the Rules of Expertise, Mr. Kholman and the Gov. were allowed to expand uncontrolled; Complicating the case, confusing the jury, deviating from real evidence to opinions and using unreliable sources and making a much worse than a hear say unfounded opinions. And as clearly manifested in the most prejudice inflammatory fashion.

78. This seventh error branched and resulted in many of the followings:

(a) pattern of plain self-contradiction by the expert, yet the jury had no choice but to believe him. But it increased the Dept burden to demistify matters at the expense of Dept ~~the~~ testimony Credibility

(b) pattern clear deviation from clear undisputed facts by our main-stream reliable researches and think tanks and even published Gov. security advisors work and analogy.

Such as but not limited to: Claiming in his multi parts testimony that all the many different Islamic jihadi group are somehow linked to Al Qaeda and fully connected in its structure. Similarly to individuals all over the world who even have opposed Al Qaeda methodology/tactics.

Such is unheard of and against all facts and reports. But when the expert is cross-examed or slightly faced by facts he uses his "Special knowledge" and "multiple sources" card without showing any, to introduce Buggy terms like: "but not officially Al Qaeda" or "they help" "getting help" and many other loose non-evidential phrases.

79 - the loose application of the "multiple sources" had resulted in the expert avording existing discovery material to any "a web site" to download or distorted unreliable

versions permitting more prejudice and inflammatory opinions and confusing the jury about its training and context ~~to~~ to link them to 9/11 or other "New Yorkers" disturbing matters as in the previous error six downloading in 2007 only to switch the word "Kufr" with "Kuffar" and evading responsibility of nakedly playing with the discovery material simply by going somewhere else.

The Gov. do have a big share in such behaviour and mis-use of the Trial Judge's trust in the professionals "under oath" and/or committed to the Constitution in good faith.

The same misconduct when downloading other titles of Deft sermons or speech; somehow the expert found "a web site" which had extra terms than the titles in the Discovery versions like:

In exhibit 28 Exhibit 111 T1234

Expert Downloaded "the importance of Military training"

In the discovery (the original) it is "The importance of Training"

Exhibit 122 Downloaded "To Iraq to day Mecca tomorrow"

In the Discovery "Iraq today Mecca tomorrow."

Again adding the two words "Military" and "To" and saying down-loaded in Iraq after 9/11 while all but the Iraq title were before 9/11 and all before the Iraq invasion. All the originals in Discovery CDs 26 and CD 153.

80- The unchecked "Special Knowledge" also created a pattern of deviating and changing the context of exhibits or evidence in a prejudice inflammatory manner systematically harming the Deft and any line of his defense. Such as but never limited to:

a sermon/conference by the Deft in 1999 about the then allegiance of Ben Laden to the Afghanistan leader Mullah Omar and titled "Biat Ben Laden" it had an Arabic and an English version.

The context was clear, and no one stated that context ^{more} than Al Qaeda while all other jihadi groups and

and most ordinary Muslims who listened to the sermon welcomed the Context, as it allowed the Afghan gov., who wanted to join the International Community and be leg recognized, to function peacefully and have a break from long wars.

The Context simply prohibited any one from giving Al Qaeda or any other organization any form of allegiance, including the Deft. And his SOS, as the matter is exclusively for the heads of States.

The implication of that is no group inside Afghanistan including Al Qaeda is thereby allowed to behave as a state within a state and adventure at the expense of the State. And it was the only way to softly advise someone with the gravity of Sheikh Ben Laden, to stop adventuring and give the people of Afghanistan respite.

The expert witness avoided all the Context and said to the jury that it means that the Deft. have a lot of respect to Ben Laden and Mullah Omer.

During direct the Deft. tried to explain the Context and it is clear that Deft. is using his influence to do stability and peace, but the same hurdle of "Special Knowledge" and the Gov way of stipulating Context without even allowing the jury to hear the speeches or provide them with transcripts, have impeded and further harmed the Deft.

Similar misinterpretation of the clear Context in Exhibit 116.

Conclusion of this last possible error in part three of the motion:

The expert was allowed to expand and deviate from Clear Terms and Contexts by downloading from unreliable sources, un-checked and injected and inserted unheard of opinion and analogies, without any evidence, in the worse possible inflammatory manner, and repeatedly, Against and beyond the rules results in overwhelming the jury to convict the Deft. only based on opinion and distorted Contexts and such is a plain error from respected trial judge

81 - Part Three Cumulative Seven errors Argument

From all the mentioned seven errors and their argument it is submitted that they do have cumulative harming effect to the Dept entire case, as Mr. Kholmann was not excluded from any part of the indictment and was allowed to expand uncontrolled without any limits or restrictions to what he say or express and the prejudice way of raging and inflaming the jury.

Even in area he admitted himself he is not qualified for. Even when the Gov admitted to the judge he is not an expert (like the Borwin issue) Still the judge allowed him to continue unlimited, and without any advise or direction to the jury about his lack of qualification or expertise status.

members of jury had no choice but to swallow, unchallenged anything he say or gesture as instructed by the judge before he testified, and they never raised any doubts or concerns.

Even when he testified as an expert and as ordinary witness without any alert by the judge to separate the two testimonies in cross-examining and in re-direct and re-cross examining the jury never noticed or raise any concern and took everything he said as unchallengeable, especially when Kholman was the only expert in the trial. It was overwhelming for any average rational juror but to swallow all the errors and direct their misleading, rage and inflammation towards the Dept who tried to mitigate the Gov. witness errors but failed, and was overpowered.

82 - The Blank Cheque and judge approval to anything the expert say or claim under the umbrella of "Crimes Multiple Sources" and "Special Knowledge", had encouraged the expert witness to fall way behind his own definition and standard of reliable sources as he named and categorized at the start of his testimony: "TERTIARY evidence". Yet he used throughout his testimony much more than the lowest of his criteria and said "Biased and should not be used". T1157, 8. And also, betrayed the judge instructions T1169, 71.

* The only instruction to the jury about all his errors was to say that "The Dept is not an expert" T355, 6

83 - The Deft submit based on all above seven errors and arguments, and based on the following citations, that the expert witness testimony is flawed and caused plain errors and huge multiple damage beyond any repair, and denied the Deft any chance of reasonable testifying conditions to address the real charges of the indictment.

Further more, most of the witness testimony, if not all, was only about the Deft opinions, relations, history and unrelated world events that had nothing to do with the specific eleven charges of the indictment.

It all resulted in denying the Deft and the jury the needed time and reasonable environment to exhaust and examine the real evidence, if any.

It is never far from the truth to submit that the jury convicted the Deft, based on: rage, emotion and Deft opinions spanning decades, against the rules and citations below.

Conclusion of part three (Gar Expert)

The Deft urges the prudence of the Court to consider that the respected trial judge was in plain error multiple and cumulative.

The respected Court to consider remand to the case for a dismissal of all charges counts 1 to 11.

OR remand the case for new trial if the threshold do not reach the dismissal.

Citing also the following rules and cases, and mentioning that some of the citations are more relevant to some of the mentioned above errors than others:

(a) "For each portion of the expert testimony, the District Court is held fully responsible to be a professional 'gate keeper'. That is to say if a Dist Court allowed a portion of the testimony to be said by expert and that portion was, in fact, wrong Contradicting facts or expert own words in that case, or in any

... Case he was called to testify, then the Dist Court has committed a "Plain Error" because it violated Rule of evidence 104". See *Cruz 363 F.3d 187, at 192 (2nd Cir 2004)

(b) "When an expert testimony strays from the scope of his expertise the testimony may well implicate Rule 403 of the Federal Rule of Evidence. Moreover, when a law-enforcement official testifies as both a fact and expert witness, the danger that his expert testimony will stray from applying reliable methodology and convey to the jury his sweeping conclusions about a deft's activities is particularly acute" Dukejiri 326 F3d at 54 And,

(c) "Any expert at in a criminal trial has the potential to deviate from the scope of his expertise. However, these difficulties are more likely to be encountered when the expert is ... a fact witness because such witnesses are introduced to the case primarily through an investigative lens rather than methodological lens..." Case Kt 55-56

Also see Young 745 F 2nd at 765-66.

(d) And "a juror will understandably find it difficult to navigate the tangled thicket of expert and factual testimony from the single witness, thus impairing the juror's ability to evaluate credibility" 1d 54

(e) Also, "Any deviation from any legal Rules is a 'plain error' when it affected the Deft rights" See Dreder 553 F3d 174 at 179 2nd Cir 2007.

(f) Also, "Dist Court responsibility to exclude any portion of any testimony (of an expert or else) it was prejudicial ... or presenting cumulative evidence. Such requirement is an OBLIGATION because it Rule of Evidence #403 if Dist Court did not do that then it committed plain Error" Dreder

Also, Hill 749 F3d 1250 at 1258 10th Cir 2011

(g) Also, "An expert does not have a 'blank Cheque' to state any relevant issue, rather the Dist Court should allow a portion of a testimony not just because its relevant but has to be reliable too." this is what the supreme court ruled.

Daubert, 509 us § 579 at 589 (1993). Thus, deviation from Rules: 104, 403, 702. is a plain error.

The respected Court of appeal is invited to Consider all the above and its own prudence and experience to allow the Deft the proposed relief in the conclusion of this part three and its errors. respectfully Submitted
(End of part three.)

PART FOUR

84- possible Gov. unprofessionalism and/or Judge errors
Regarding: Main Witness Ujama, And Indictment, And evidence.

The Gov. had been less than transparent in denying the jury important material / information which undoubtedly would have helped them to better evaluate and balance the material and contexts of what the Gov. repeatedly exhibited against Dept's lines of defense.

Some of the undisclosed material had already been mentioned in the first part of the motion and their relevance to the specific charges and the damaging effects. For example paragraphs: 8, 9, ~~effect~~ ^{effect} Counts Three to Ten, and all, directly or indirectly important to evaluate the true gravity of the main witness Ujama's testimony and his credibility.

85- The following are more of what the Gov. did not disclose and its negative effect(s):

(a) Main witness Ujama's passport, taken by the Gov. at his very first arrest in 2002. It has the proof of his need to go out of U.K and leave his British Somali wife and daughter every six months as he is not a UK resident nor he is allowed to work see also 17 & 8.

The Gov. also, has information that he was desperate for any money to travel and to support his family since 1999 till his arrest 2002, Even Coersing his veiled wife to shop-lifting and both charged in US, nearly at the same time of him seeking money in the Fox for his imaginary camp project. See also 19 & 10. Such undisclosed information to jury directly effect Counts 3 to 11.

(b) Ujama's laptops and hard drives confiscated in 2006 when he broke his first Gov/Court cooperating agreement and escaped to Bliz.

The material has many important evidence such as but not limited to: his many e-mails to different people to help him to escape because the Gov. asked him "to say more than the truth as the case against the Dept Mostafa" is too weak" see 17 & 8. Such material prob. also that he lied to respected judge Kennan in the 2009 trial and judge Forrest in 2014 Dept trial that he never sent those emails. And show that even after the second SK agreement the witness still lying to judges and jury. It is submitted to respected panel that these are important issues touching Gov. Conduct & Ujama's file.

(C) The Gov has material proves that Ugaama's wife and Kassin's wife are both attended the allege Camp, and that both are Somalians and close to each other long before Ugaama and Kassin introduced themselves, separately, to the Dept in July and March 1999 at the London F.P. Mosque. Both wives are European citizens. (Counts 3 to 6)

(d) Kassin criminal history and full passport when arrested in 2006 and his history of mental problems and encounters with Swedish law enforcement (who gave testimony against him in 2009).

Such contain many important relative evidence such as:

- (i) he had spent all his time in prison and never been anywhere he, or Gov, claims.
- (ii) His criminal and immoral violent character. And
- (iii) His mental status and, as said in the report, psychology of lying bragging and cheating.

Such are important to explain his motive(s) when he stolen the fax from the Dept trash bin in 1999 (and proven during his trial in 2009 that he did so) see also ¶ 10, 11 Counts 3 to 6 and 7 to 10 indirectly regarding links to Aceda alleged.

(e) The Gov. never explained or disclosed how it did get the fax, and when? or any due process or forensic for that? And there are important to understand the real reason(s) for the passage of time delay and/or any political interference or bad faith against the Dept. Was he tirelessly oppose the war against Iraq & Afghanistan and asking for proper independent investigation about the unprecedented collapses of New York Three towers. Also, and as it appears to be the case, if the fax was intercepted by U.K intelligence in 1999, then the Dept has the right to the rest of the file details such as the in/out phone calls content and context ... etc or other relative "Brady material."

Equally important, the Gov. did not enclose or entertained any information or line of Defense about the role and/or its knowledge or encounters with the most important person, mentioned in Ugaama's fax as the "General" and leader of the Group and Daru-Salam Mosque of Seattle. In doing so the Gov denied the Dept vital information and the right to subpoena the alleged "General" see the fax and ¶ 12. Such effects counts 3 to 11.

(f) The Gov. didn't disclose important relative material about the owner of the Bly ranch (the alleged place for the camp). It is also noteworthy that he is more reliable/credible than all the Gov. Bly witnesses who are terrified by their fear of been charged about crimes they committed, if they don't testify against the Dept. and the many large Gov. payments and privileges: Yacuma, Smith, Morris and the owner's wife. The jury need to hear from the only ~~un~~-coerced Bly potential witnesses. Or allow the Dept. to subpoena the ranch owner for his version of the alleged incident.

(g) The Gov. didn't disclose or allowed the jury and/or the Dept. to have access to the set of Yacuma's Emails to many individuals including Dept. Mostafa's U.K. attorney, when Yacuma repeatedly asked for help and support to escape as he is under Gov. pressure to lie to get the Dept. convicted.

Even worse, when the Dept. provided to his trial attorney two Emails from Yacuma to Dept's U.K. attorney, after he broke his agreement in 2006, asking for help to escape with his family. The Gov. refused to allow the jury to see the two Emails or allow any meaningful cross-examination about them, though the emails have the proof that Yacuma lied in court in 2006 when said he did not send any of such context. And also, they have the proof that he (Yacuma) had been under pressure to lie. It is noteworthy that the two emails were only an Exhibit in a long statement made in 2006 by Dept. Mostafa's U.K. attorney to the U.K. Courts during the extradition case to prove the deceptive/uncredible character of Gov. witness Yacuma. In her statement Ms. Arami also mentioned that Yacuma also called her office about getting help to escape 3 times during and after the e-mails.

The Gov. do have such statement and the e-mails since 2007 from their representatives for the extradition case. The respected trial judge also, after a side bar argument did not allow the jury to see or hear a thorough cross about it. - Count 3 → 11.

(h) The Gov. didn't disclose how, when and the process of obtaining the Yemen charges phone records of the 1998/1999 or any of the material regarding Yemen? It is important as the Gov. used the material selectively skimming the Dept. important lines of Defense. See exhibit 6. It is also important to question why they could/didn't obtain the phone records of Bly 1999/2000. See ¶ 14, 15 affect all charges 1 → 11

(j) The Gov. did not disclose material about how, when and process of obtaining Mr. Quinn tape, its forensic and handling, and pre-questions from not been edited. Such, ~~is~~ very important as it ~~touch~~ on the major substantial changes 1-2 in many aspects of real and circumstantial evidence. Also, the jury might be questioning why the delay to change from 1998 or even the time of the tape 2000. The Dept. also question the authenticity as having many (over a thousand) recorded sermons, lectures, etc and the danger of editing for Entrapping especially after long time of inest and Gov of US struggling about Yemen also see 116, 17, 18 Cont 1, 2

(j) - The Gov. did not disclose material about how, when and the process of obtaining Mr. Kohlmann interview with Dept. in 2002 for the same reasons above in (i) Quinn. Cont 1 → 11

(k) The Gov. did not disclose material about any of the mentioned Co-conspirators in charges 7-10 who have not been charged, nor become cooperating witness like Ujaama, or that they were all in the Custody of US; then released without charge, like Abbasi (the alleged core/center of the conspiracy; released after court procedure from Guantanamo & compensated \$100K and now in UK) and Mr. Mutwakil (the former Secretary of state of Taliban, also released without charge and working with US allied Afghan Gov) or Don Shachtel (released/handed over to Gaddafi regime and died in 2009) all information in Brackets from UK & US gov. offices and public domain; but jury are not allowed to hear it, nor the Dept. can ask them to be witness or produce Abbassi statement, nor to obtain the minutes of their trial or interviews with Gov. Courts 3 → 11
For Ujaama credibility

(L) The Gov did not disclose ^{to} the jury, or to Dept material indicating clearly that Gov. expert witness is not qualified in many areas of his proposed testimony such as: the Balkan (Bosnia), Chechnya, Yemen and/or his sources is not at all reliable or fits the Rules of Expertise: some even in violation of the Dept's right of the sixth Amendment; as for Yemen sources. Also, his flat knowledge in Arabic. Yet the Gov. fought hard to the witness to testify about all un-limited. Counts 1 → 11.

(M) The Gov. did not disclose or even allowed available material proving that the Dept had many mutual (non-negative) interviews with all British intelligence and law enforcement regarding his activities and role as an Islamic preacher in a large community nationally and abroad. And also for other reasons related closely to almost all the charges in the US very late indictment, such as: helping them to get British hostages to freed from their captivity in Kashmir, solving an case in the community, explaining world-events related to terrorism, U.K. camping for Muslims, Mosque activities and S.O.S. and many other issues

The US Gov are fully aware and in position of many, if not all, of these interviews which took place between May 1997 to Sept 2000, covering all the time and the events of the very late 2004 U.S. indictment against the Dept, from Counts 1 to 11.

The US Gov. by denying such information to jury or allowing Dept to mention their related aspects to the charges, is bluntly and unfairly denying the jury from seeing the environment in U.K. at the time of the alleged counts, of freedom of speech, literature about all aspects of Jihad and Mujahideen, fatwas completely legal from 1990 → 2004.

And denying the Dept prove of his intent, and endeavour about all or any of the activities the Dept carried out. And support the undeniable fact that the Dept never used but his real name and details for any of his activities and why he was never charged in U.K. after many thorough investigations and quiz. Such are strong proofs that the Dept never crossed the boundaries against Britain or any of its allies or their laws. The Gov. simply had entrapped the Dept unjustly.

The Gov. denied repeatedly despite its assurances to U.K. and E.U. for a fair trial for Dept should he is extradited. The judge said to Defense team "Give me a context" to allow it but the context was in the Dept letter to her Ex 4

(N) The Gov did not disclose, to the end of the trial, any material or explanation or correction about the entire, prejudicial and confusing inflammatory statements in the indictment Count 1 & Count 2 regarding Yemen, where it say about the Yemen kidnapping co-conspirators "at least one of them was arrested in New York". The indictment is now with these phrases since 2014 "it had confused U.K & EU judges but as there was no prima facie allowed during the extradition process, they didn't object. However, it did confused also and dishonestly tricked U.S Grand jury & judge. as it did also, confused and inflamed prejudicially the jury in this trial. Also, hindered the issue of judiciary till now.

See also 920, 21 Cont. 1, 2

Conclusion, un-disclosed material

88 - It is submitted to the respected panel that; all & some of the mentioned above undisclosed material are very relevant and significant to analyze and assess the Case in the mind of an average rational juror; without all, many or any of it he could be impaired in judgement. The respected Court has a rich desire record of remanding the cases for a retrial for much fewer than the mentioned above; sometimes even for one important piece of material or information whether it is withheld, denied or suppressed. The Court should respectfully find the Gov. in Error for not providing the undisclosed material and the respected trial judge in error for not allowing and deny the Delt the use of what was available and Announce the Case for retrial

Secondly, Misuse of Circumstantial And Deft Opinion

87- Material

The Gov. was allowed substantial misuse, and repeat of the Deft's EU Compatible freedom of expression materials occurred before and many years after the incidents of the indictment, and other people material, nearly all of that were unrelated to the specific charges.

However, it was clear that such materials were used to distract the jury from the charges by asking and injecting, through out its presentation, highly unfounded prejudice and inflammatory phrases and concepts, and also used its witness to be vehicles for the same, by asking witnesses to read and/or comment or repeat gov. phrases about material and/or persons which they don't know.

88- Such as: Asking the two British officers, Mr. Alexander, who conducted the 2003 Search of the Mosque, and Mr. Asman, who completed the 2004 Search and arrest of Deft house, to read and comments, from material taken from Deft house during the 1999 Search and Yemen arrest⁽¹⁾, they were not involved in any of that.

They were also asked to read and comment about material found in all public crowded area in the Mosque (like the book-shop-library and shared working areas) though such material are also booklets and/or literature printed and reprinted for, and by the public, free of any marking or highlighting and had no specific link to the Deft and perfectly legal in UK T-1075

89- Meanwhile, the Deft is not allowed to talk or mention the 1999 arrest and/or its material or conditions, or call any witness.

Such as asking the two British law-enforcement and others to read from the publication eleven volumes called "The encyclopedia of the Afghan Jihad" printed in 1993, by US funds, and widely available at EU bookshops and internet.

It was taken from Deft house during the 1999 Search and arrest on March and returned with tons of Deft material in Dec 31 1999, just one day before UK enforced a law to prohibit similar material, without informing the Deft; it stayed untouched till the Deft arrested in 2004 for the US extradition 2004, never but used against the Deft in domestic charges; only to bolster the extradition, in October 2004.

Certainly some prudent fair judges can see the bad faith politically entrapping!

(1) The Deft had been arrested 3 month after the kidnapping and the thorough investigation and released after 5 days without charge please see Exhibit 06.

Q0- Circumstantial material and Dett opinions intensive use, and senseless repeats, proved to be confusing to the jury to the last minute of the trial; the jury sent two notes to the judge, each of them directly related to the gravity of such material and how to understand its use, T3963. A sign of being overwhelmed and distracted, ill advised and mind-tired to balance.

Q1- The Gov. and Gov expert witness crying "Al Qaeda" about every circumstantial material, or opinion, or person(s) was unprofessional, unobjective, almost childish, and immoral to enrage the already hurt New Yorker jurors, who can easily be off balance and unconsciously bias by such tactics.

Q2- The non stop Gov. & Gov expert witness prejudice inflammatory unfounded/unreliable material: unrelated or hardly related, but used to allow and inject jury paraging statements and opinions about circumstantial material had bugged the average rational juror's mind right to the very end of the trial, the following are more examples (but not all) to state the Submitted point.

(A) An inflammatory claim by the prosecutor, only based, as admitted, by the Gov. on an unknown, untestifying, secretly written report by an individual prison guard in UK Belmarsh prison alleging that the guard found an IED drawing in the Dett Cell T3474 & T3573. The Dett stated the fact that he had never even heard about such thing or being called or disciplined or notified till the day of the false question by the prosecutor (Note worthy, was ever found in the Dett homes or even the mosque through out the many years and many researchers). Such Gov. misconduct was clearly to buy and confuse and enrage the juries to convict the Dett biasly. Also, against the rules of evidence and Supreme Court; that both relevance and reliability must be checked before allowing such material. In this case, none of the Supreme Court criteria is met.

(B) Prosecutor false inflammatory statement(s) during the final argument, in rebuttal, such as about Faraz Abbasi (the core of the 7-10 charges, who is alleged co-conspirator but cleared from, or exempted, from the charges and compensated \$100K) saying "Abbasi was caught shoulder to shoulder with Al Qaeda" T3869

(C) And the Claim of the indictment for counts 1 & 2 at the very beginning about the Yemen Conspiracy that at least one of the conspirators arrested in New York. Thus the Gov is targeting the jury from start to the end by false & prejudice, as well as circumstantial material. 53

93- Related, or hardly related, Circumstantial material, as well as Deft's opinion about world events were allowed to waste and consume the bulk of the trial time, efforts and resources; all at the expense of the real specifics and related evidence. One of the many example for that, but the most vivid, is wasting almost the entire time of the lengthy testimony of the Gov expert in commenting and opining about these Circumstantial material, way far from the core of the Case and/or its specifics, and always unobjectively.

Also, most of the offered material are not beyond the knowledge of the average New Yorker, especially about Al-Qaeda; never needed a "special knowledge" of an expert. But Crafting the fabricated links between Al-Qaeda and anything the Deft see or say or knew or touch needed an expert of lying hunting for more Court cases from the Gov. prosecutors,

But real evidence were never touched, such as but not limited to:
 the context and timing of the fax, why an expensive unsecured fax and not an encrypted pop e-mail (the norm and fasion of era late 90s) or the "Proved wrong" from what took place in Abbassi's entering to Afghanistan far from the expert stipulated for entering, and Gov description of Deft as a General who can just make a call for people to wait at the Pakistan border to pick up the "recruit" to the Al-Qaeda houses in Pakistan.

And many other examples persistently prove that the Circumstantial material were mostly to engage and/or deflect/distract juries from the specific charges and the should be real relevant evidence to prove/disprove a Conspiracy.

94 - Citations And Conclusion for Gov excessive Use of Circumstantial "Evidence"

Submitted to the respected Court that the respected Trial judge permitted the Gov. to use, and uncontrolled, repeat, of Circumstantial evidence excessively. Many of which were unrelated and/or unreliable.

And by such permission; particularly during the expert testimony, negatively impaired and strongly influenced the average rational juror's ability to focus on the barely addressed specific charges and their related matters/evidence to prove/disprove a Conspiracy charges. And, thus, based their Conviction to Deft mainly, if not, solely, upon the misuse of the Circumstantial evidence.

A much less severe than what took place during the Deft's trial misuse of the circumstantial material, its methodology and negative outcome, has been proven using several times and rendered flawed by the prudent Court of Appeals; Particularly when Prosecutors try to prove Conspiracy Charges, such as counts 1 → 10 in Deft case

Citing: "As we have held numerous times before, the Deft mere presence at the scene of the crime or association with the wrongdoers does not constitute intentional participation in the crime, even if the Deft had knowledge of the criminal activity. Where, as here, no more direct link between the Deft's actions as a look out and the underlying evidence elements of the crime is offered by the Gov. Circumstantial evidence will be insufficient to support an aiding and abetting connection". (363 F3d2007 CRUZ 2nd Cir 2004).

95- Deft Submit respectfully that, the Deft actions, opinions and even the none existence or any, relevant communication to any of the Conspiracy Charges 1 → 10, especially counts 1 & 2, in any of the places of the conspiracies alleged, indicate that the Deft is even in a better position than the respected 2nd Court described in the CRUZ Case.

And that the Gov. does not have sufficient evidence or the threshold of the underlying elements, of the alleged conspiracies, to offer. And, thus the misuse of presenting the circumstantial evidence.

96- It is surprising that the other side of the Atlantic jurisdiction in UK, is more aware and observant to us 2nd Circuit Court of appeal than this trial prosecutors! The Conclusion of the Yemen thorough investigation is almost identical to the respected 2nd Circuit, since the 1994 operation Yemen report deciding not to charge the Deft for the same citing principles. please see (Exhibit 06 178, 179)

-The Gov. had clearly coupled against the Deft, the excessive circumstantial evidence, as well as the long passage of time between the incidents and the charges and trial (and after many overwhelming world events) and the sensitive issues to an average New Yorker juror, to convict the Deft against the wise and conscious 2nd Circuit repeated ruling & guidelines

97. Thus, the respected trial judge Errod for not weighing the evidence before and during the trial motion repeatedly seeking leaf of dismissals of the Conspiracy Counts 1 → 10. But instead prolonging the trial and permitting such conducts.

98- Permitting the Gov to ask witnesses to read from material printed and widely available to all sects of western public, and also found in public, or crowded area, never exclusive to the Dept, had also been found wrong by the same respected 2nd Circuit, see the case of the Yemeni cleric Al-Moayed 545 F.3d 139 (2nd Cir 2008)

Even worse in the Dept's trial reading from the free distributed booklet of Ben Laden 1996 "Declaration of war" found unmarked in a crowded place only to inflame the New Yorker jury.
More than ten folds of Al-Moayed circumstantial evidence misuse occurred during Dept trial

99- The Dept's history and nature of being open and interactive with media, intelligence, politicians, researchers, Islamic groups, kidnappers, kidnapped and as an angry commentator about some world events make him more vulnerable than anyone to be convicted in any conspiracy of "terrorism" nature, not least, when the prudent wise court of appeals cautions and guide-lines are circumvented to secure conviction at any cost, especially when the lens of 9/11 and Al Qaeda ~~is~~ is glued immorally by a prosecutor to a New Yorker juror.

100- The Gov. also, wrongly strengthened the misuse of the circumstantial evidence by hiding the lies and important material about some of its witness such as the list of undisclosed material about main witness Ujamaa and others.

And even when some of the witnesses lies surface the Gov struggles to suppress them as explained earlier the Ujamaa e-mails and phone calls to Dept U.K attorney seeking help to escape... and the previously mentioned side-bar arguments. And Gov attitude to hide his lies and/or changed story about using what he planned and collected for his own personal/family use (the alleged hijack fund). And his needy U.K wife.

Citing US v. Watter, 2017 BL 303067, 7th Cir 16-1325 1p 16-1209 8/29/17 And under Brady v Maryland "Constitutional due Process requires the prosecution to turn over to the Defense any information that is both favorable and material meaning it could make a difference to the out-come of the trial".

Submitted, such rule closely related to information relevant witnesses,

status that affect counts 3-11, such as Yjeam and 3-6 him and all the others: Smith, Halimah and Morris. All are questionable characters. As also said in Walker:

"~~These~~ were an assortment of questionable characters ... but it could have made crucial difference to the jury to know that one witness who claimed to have ..." 7th Cir Court of Appeals.

101 - Deft Submits the previously mentioned list of Gov. undis-
-closed material and for lies of its witnesses perfectly fit the
Condition of "Walker" above even though it is for a drug case.
In fact the magnitude of the violations ~~is~~ is far worse in
the Deft Case.

102 - particularly the main witness for 3-11 Charges, Yjeam
his financial and U.K. immigration status, where is not
allowed to work or stay in Britain more than six months or
work at all. And the needy wife and daughter,
And the need to sponsor his / their continuous compulsory travel-
-ing expenses. All During the timing of the 3-11 charges
between 1999 and until his first arrest in 2002.
And a full photo of his then passport never disclosed too
to prove the mentioned facts.

Deft Submits that hiding and/or ^{or} suppressing such material from
the court, the jury and the Deft is violation of the Deft and
the civil lines in Walker.

And, in Deft Case, had allowed the Gov to use many of
the ~~ex~~ circumstantial evidence unchallenged by Defense
regarding Yjeam's charges 3-11 and his actions he accused the
Deft with.

Such material, if presented to jury, had strong potential to dismis-
-most, if not all of his allegations / testimony and the ~~ex~~ circum-
-stantial evidence the Gov used his claims to over-
-whelm the jury.
Particularly when the jury could add the information and ev-
-idence of Yjeam's dire need for money and false cunning projects on

and his well documented history of addiction to crime and lying. All the circumstantial evidence allowed from his direction could have been highly questionable, if not completely ignored; as they are all strongly and exclusively related to his criminal nature combined with the need of many Cash Cow Cunning projects to collect money from devout Muslims behind the Deft thoughts or control.

Such as the "hino fund" how he ate it all but lent on by the Gov to change his documented fund, and even Deft trial first statement by him about it.

And "Aljihad" on the Magazine to collect money too, which only existed during his time and only on his English part of the website, none in the Arabic site or the Bosnian or the German site (see Discovery Disk of SAS web CD153 CD26 and CD29) and the magazine Aljihad also stopped when he had to leave after been exposed as a thief cunning man, and he took his work and published his own web "Stop America.com".

Enormous amount of circumstantial inflammatory material had been introduced by the Gov because of the witness Cash Cow Project hijack & the Aljihad Magazine. Kindly see T2516 to T2520 And trial judge jurisdiction concerns T2536 → T2539

All could have been avoided should the undisclosed material about him and status were available and that he is a "lying instruction" too teaching others how to lie to make money and fool banks. T2339.

103- The Gov also did not disclose to Deft or the Court material prove that the main witness Youssef hated the Deft for not allowing him to Cash-Cow devoted Muslims for his own expenses. And for chasing him aggressively to return any money he took from them; particularly when Deft's name was used to trick the devoted Muslims to raise funds for ~~unlawful~~ projects.

However, a tiny glimpse of that hate appeared from Gov. Exhibit 930, 931, 935 and 936, as the Deft was endeavoring to retrieve and help ~~in~~ two individuals tricked by Youssef to get their funds

back from him after he used some of it to exit U.K. to Pakistan the exhibits shows he took the funds from Mr. Ishfaq (a property developer) and Mr. Abrar (Aid worker) as a trust (Amanah) for the orphans. And show that the Dept was "soothing" Yacina till he gave what left to their relatives in Pakistan and the Yacina hate toward the Dept in his last e-mail to the Dept ever and contact titled "Take your Amanah and shove it"

The Gov. did not disclose the rest of the e-mails particularly from and to Yacina and Mr. Abrar for the true extent of Yacina's need to exit U.K. periodically and his use of Dept's name to steal devoted Muslims, and the huge hate he had for the Dept.

The Gov. only introduced tiny selective numbers of the above e-mails to prove contact with the Dept, but used other context as circumstantial evidence against the Dept.

It is note worthy that much of the content of the 930-936 exhibits shows over 6 proposed projects to the Dept, and the fund's owners, to convince them to "invest" in the project, one or two proposals every day only to eat the remaining of their money.

Also, the Gov. did not produce the real Emails as found in Yacina's or Dept's computers, but selected some and photocopied their hard copies as exhibits. Such is unprofessional as it takes the material out of the overall context and chronology and deny the Dept of useful material existed in Yacina's laptops of 2002 arrest and his second arrest laptops 2006 after escaping from the Courts agreement. Even when he escaped in 2006, he never stopped proposing many making cunning projects, after hardly obtained false passport to go to Biz, he is openly advertising on the web "a whole Sale of false passports and weapons" (See Kassir Trial T1516), Dept couldn't find this material in his trial. However, it is true and should be on the record as never denied by Yacina during his testimony in 2009. But more important it is fully compatible with the Big Oregon project and the advertising fax the Dept threw in the trash and Kassir stole it.

104. Deft submits that the extensive and repetitive amount of Circumstantial material used by the Gov because of the Bly alleged Camp and Ujaama's "money making" fund, could have been significantly mitigated in the mind of the jury had they known that the Gov. main witness as a desperate crook in need of fund and more fund to enter and exit Britain regularly for his U.K family and immigration status. Thus his credibility. Also, knowing the witness hate towards the Deft could have been an important factor to evaluate the witness testimony.

Most importantly it can explain why the witness resented, at first, to testify and "say more than the truth" & because "the case is too weak" against the Deft. It is simply because Ujaama would lose the devout Muslim Cash Cow for ever. Once Ujaama became satisfied with his financial gains and priorities with new unexpected cash cow, the FBI he is hired with all his "lying instructor" skills, unfortunately contaminating the sanctity of Courts.

In a "draft" email found in his laptop after escaping, and was a subject of respected judge Kennan interest, the witness Ujaama wrote "I was asked to tell the truth about what I knew which was not good enough for them because the case is so weak which was never a part of my deal" (Kassir trial 2009 T1517, 8)

This was only one of many e-mail Ujaama sent to people to get help to escape including the Deft's U.K attorney Ms. Arant Esq. Yet the witness lied to respected judge Kennan direct question: "Did you send it?" he answered: "No, it was only a draft"

105. The Deft submit to the respected court that in any case or interpretation it proves that the main witness never stopped lying to judges and Court before, during and after his agreement(s). Thus, he is unfit witness. Also, lied again about his e-mails to Deft attorney in UK during Deft trial 2014, and the Gov endeavored to suppress the truth and deny it to the jury to protect the lying witness "credibility" and justify the mammoth Circumstantial evidence to discredit the Deft. See side bar T2522 → T2535 and T2557.

The Gov. claimed that the e-mails were a privilege client attorney email. But that is flawed and belied by the context and content and timing of the e-mails "to get help to escape from US to a place hostile/unfriendly with US."

Similarly the Gov. claim that it never seen the email, before is highly contested, the emails are only exhibits in a long comprehensive statement by Ms. Arami, and a part of the Dept extradition case, about her knowledge of Youssef in which she explained she had only represented him by helping his British wife (not him) to get a Gov. apartment. The US representatives in the Dept extradition 8 1/2 years case had received Ms. Arami statement about Youssef more than one time.

The Dept do have now the full statement, but not allowed to print it out or send the CD to the respected court. The US Gov. also, received a CD, containing the same statement, from the Dept trial attorney when the Dept UK attorneys visited the Dept soon after the extradition and provided a copy of the entire extradition case to all parties, as a useful discovery.

106- In Ms Arami statement she also, mentioned that Youssef made several phone calls to her office during the period of the email and escape offering "important information about your client" (meaning the Dept Mostafa).
Dept submit such can never be privilege client attorney contacts or content, as they are to break US and UK law. Thus, the Gov. suppressed the truth caused the judge to Err and denied the Dept an important line of defense to expose the lying witness, and his real credibility. And also, to prove that the witness financial dire status as a non UK resident with a UK family. As previously explained, these suppressed cumulative facts are essential for a rational juror to balance and evaluate the factual testimony of the main witness Youssef and the huge circumstantial material the Gov. used during his testimony and throughout the trial because of Youssef counts 3 → 11.

107- Dept submit that the few example provided above, are in close agreement with Walker and the rule cited and the respected Court of Appeals other citations as following excerpts:

* Testimony (in this case Ujamaa) was important because of its detailed first hand nature and because it corroborated what the other witnesses were saying about the Dept's involvement in the conspiracy". Chief judge Dean P. Wood.

- And "The Gov's witnesses were all tainted by hefty criminal records and their motivations to secure lenient treatment in exchange for implicating the Dept. Even so, "Forest reaction could have done wonders for the defense" had the defense had the information to challenge him on the witness stand"

108- Dept submit that also, in his case, and as in Walter, all the detailing witness for the charges 3-11 were afraid to be charged, even worse, also paid handsomely for their desired privileges; which surged their motivations to strengthen the "so weak case" against the Dept. And such is immoral, and against the principles of the U.S image and justice.

Also, the personal hate from Ujamaa against the Dept further surged his desire to retaliate. Ujamaa's history and capabilities to trick and deceive Courts had made his performance so natural and convincing; he had tricked and got away with lying to judges at least 10 times before the 2007 and 2014 trials See (Kassir Tr 1405 → 14 and Tr 1447 → 18).

Not least when he is, as mentioned, a paid lying teacher loving his job. It is not the amount of Ujamaa crime, it is rather the deceptive nature of them that should the respected 2nd Court of Appeal should consider to purge the U.S Court rooms, and the system of prosecuting, from.

109- As for the Gov. misuse of material, and circumstantial evidence in Counts one and two (Yemen), the Gov. and the respected trial judge had made it close to impossible for the Dept to present any meaningful Defense. And burdened the Dept. with its own negligence of struggling and ignoring completely the Yemen kidnapping from the start to 2002 when politicians, both sides of the Atlantic US & UK announced their desire to invade Iraq, and to shut up the Dept for ever for his high profile anti-war campaign.

Some of the Gov. misconducts about ^{the} Counts are in part one, plus:

(a) Never done any paper work, interviews, collected any data, fieldwork forensic, or even any meetings with the British and/or the Yemeni investigators, or attended any Court hearings of the Kidnappers. Or even met with British investigating team or even knew about their work and report till 2002 (See deems Operation Yemen Exhibit 06.) nearly four years after the incident.

Even during the stand, the defendant asked the prosecutor (s) "What day did the kidnapping took place?" none of them knew!

The Deft was only trying to prove that the prosecutors never ~~care~~ ~~or~~ studied the real relative evidence and only endeavored to convict the Deft by the misuses and repeat of opinion and circumstantial material.

(b) And after obtaining the results and paper work from the British the prosecutor used it very selectively; denying the Deft from using some of the material inseparable from the ones they used against the Deft. Such as, but never limited to: the list of what was taking and returned after 9 months, from the Deft and his alleged other two conspirators at the time Al-Sirri & Frank Eitm. And the calls made from and to from their phones to the Kidnappers before, during and after, which were more timely and numbers frequently than the Deft.

Some shown in the Operation Yemen report and some were in other places. Also, denied the Deft all reports timely made by professionals visited Yemen as soon as the Kidnap Kidnap violent end such as: Doctors, human rights, researchers, reporters and lawyers.

The Gov and judge used what they were given by U.K first-hand inspectors selectively and adversely to the Deft, without even allowing the Deft to mention the arrest.

(c) The US Gov. sought the extradition of the Deft after securing an immoral lopsided treaty with UK saying that no premium cases would be allowed till the Deft's extradition; only human rights issues should be litigated outside US. And such, in 2004 indictment, had practically denied the Deft the use of any of the statements or reports not only about Yemen but also about other charges like Abbassi long Statement (Counts 7-10) after released in 2005 from Guantanamo Bay.

The lopsided treaty allowed the Gov. to use its negligence and the long passage of time, against the Deft. by the above mentioned. And by impeding the Deft. from calling or subpoenaing any important first hand witnesses, including some British officers from intelligence and other dept.

It is not worthy to mention that such immoral politicized treaty was also designed to scare any witness to come forward to support the Deft., as they can themselves become indicted for some reason or other, no one wanted to stay 8-12 yrs fighting extradition only discussing his human right issues and not allowed to ask "where are the evidence?"

The political interference has been reported and celebrated by all right wing pro-invasion media in UK and US.

The above plus, the far US new and/or unaware of the "norm of UK" jury, who can not understand, or helped to understand, the environment of freedom of act, and expression, in UK at the time of the Yemen incident; similar to the Irish Republic Army spokespersons 1998, allowed the US prosecutor to easily convince the jury to convict the Deft. mainly based upon the Deft. statements and opinion in Courts One and Two along, unaware of the, then, famous nick-name of the British Capital "Londonistan"!

(d) The Gov. also appeared to confuse the trial judge between the interview and/or investigative meetings and the mutual ones with the M15 and Scotland Yrs. And succeeded in prohibiting the Deft. from using or mentioning any of them or their relevance to Deft. intention in buying the telephone in July (to get first hand news about the turbulence in Yemen as discussed in 1997/8 with M15). And most importantly to issue inflammatory statements and Communiqué on behalf of the Yemeni resistance; to have a leverage should needed to help any one or correct any wrong or negotiate with any group of regional/international Gov.

Especially, after the Sudan Hestey Kidnapping (six months after sending the phone) the need to top up the phone Credit Air time to speak to the Kidnappers, the Kidnapped and secure a safe end. please see ~~Exhibit~~ 04 and introductory point "Deft history of Freerby Captives". Such was known, and used by M15 to free UK Kidnapped before.

(e) The Gov. enhanced the extensive use of Circumstantial evidence against the Deft. for Counts 1 & 2 Yemen by lying in the main body of the indictment saying about the Yemen Kidnapping Conspiracy that at least one of the Co-conspirators was arrested in New York and never proved that. It was only to rage the Grand Jury to indict, the U.K & EU to extradite and the trial jury to convict.

It simply meant that the Deft Yemen Conspiracy planned in New York and targeted American in their home-land, another lie to strengthen "the so weak case" against the Deft. Such, distracted the jury from seeing the fact that the Kidnapping was a hastily and randomly done as all the cultural endemic Yemeni Kidnaps.

It is note-worthy that the Kidnappers would have been much happier and safer if the cars were filled with rich Arabs; they would have certainly got their hostages released from the Yemeni Gov and some millions dollars on top, a common knowledge about Yemen best kind of Kidnapped. Also, kind see part one fix about Yemen.

(f) The Gov. also, failed to use and/or do proper forensic about Ms. Quinn tape interviewing the Deft, leaving it open for editing since 2000 to bolster the Circumstantial evidence, and pretended responsibility of edited, and escaped technical responsibility when much later got it digitalized; which can change any "I HE" to "WE" in a second not-least with the huge amount of tapes of all kinds they have of the Deft.

(g) The Gov. never fulfilled its assurances to U.K and EU to allow fair trial to the Deft. because of all above, and using the Deft physical disability against him, denying him of any disability fittings or items. And imposing S.A.M. to also deny any help as promised, and reducing Deft ability to speak and remember, or contact Yemen case witnesses, and/or U.K attorneys, or obtaining any useful documents. And imposing trial attorneys more useful to the Gov. S.A.M. administrators than the Deft; as proven.

110- Despite all above the prosecutor had failed to use or produce but the Deft opinion, statement and the rest of

the circumstantial material, using British officers witness to read from material taken from Deft house during the 1999 raid and investigation (and never returned) such as reading from Malik Harharah's letter (WJL); Material they never seen till Court; such as the statements about Yemen...etc. Also, using Ms Quinn to do the same. While the gov. avoided to touch upon the facts about Yemen and its specifics, particularly when the Deft took the stand! (T3848-9 and Exhibit 246 Malik letter). And used an expert witness who never manifest in his report, or in his testimony any reliable sources or knowledge about Yemen only crying Al Qaeda fabricated links. See Part Three Error four.

It is not worthy that Ms Quinn interview with the Deft in 2002 lasted till the tape ended both sides, yet the displayed digital version shows 5 minutes missing. Also kindly see how Gov suppressing some important aspects of the tape, which is compatible with Ms Quinn's draft of her book that Deft was not apart of the plan of kidnap, as in T3947-50-51. Where Gov say to jury Deft say "Islamically it is a good thing" but as usual stops where the truth follows: "But it's bad", and "Strategically bad because it will end everything". means everything in the long endeavor to change the tyrannical Yemeni regime.

Thus, even the Gov. intensively used circumstantial evidence, it never used it honestly!

Furthermore, not allowing Deft to mention that despite the tyrani of the Yemeni regime and that it committed at least two people in absentia regarding the Yemen incident, it never charged or tried the Deft in absentia or sought his extradition, despite the Yemeni President crying in every opportunity that the Deft destroyed tourism in South Yemen, and torturing the Deft sons in Yemeni jails from 1998 to 2004. Kindly also see summation about Yemen T3831-8.

(H1) To conclude about Counts 1 and 2 Yemen in particular and the use of circumstantial evidence in them. And in all Counts 1 → 10 Conspiracy charges and Citing as above: Cruz and Walter 2nd Circuit, and the Rules regarding the use of circumstantial evidence

to prove a Conspiracy, The Deft Submit that the Gov. Use of substantial amount of Circumstantial evidence, and its repeat uncontroled, and the over lack of addressing the underlying elements of the burden of proof a Conspiracy according to the rules and the respected 2nd Cir. Court of Appeals several rules and alerts, All resulted in jury's conviction mainly due to the use, and misuse of Circumstantial evidence.

112- Therefore the Deft respectfully Submit that the Judge had erred in allowing the Gov. such conduct, and ignored the respected 2nd Court of Appeals many rulings.

And that the learned Court of Appeals, as in the several Cases before should consider the rule of insufficiency of real evidence to prove Conspiracy against the Deft. in counts #2 and 3-10

And that the respected Court remand the Case for recommended acquittal of ten Conspiracy Charges 1 to 10.

113- Part Five and Final Conclusion

The respect Court is invited to sight, as well as the above, other facts:

(i) That Deft Mostafa had not been Captured in Tora Bora mountain, nor hiding, or expressing his opinions / statements or any of his actions or conducts from a cave, or in any manner which is unknown to the authorities or even media. Never used or participation in any secret act or conduct or even used the early available for interceptors, or other than his own real details: land-line phones, Credit cards, own known address(s) since arrived in Britain in the seventies of the last Century as a young 21 yrs; even before practicing Islam in 1983.

(ii) The highly inflammatory statement are originated, and enveloped, in Deft known motto "The harshest of all talks is much better than the carrier of any war" And also succeeded to gain the trust of the angry Muslims in the West, not to be distracted from the big most obligatory task, which is ridding of the then, existing threats of the middle east and Muslim lands leaders to return to

to our countries and practice our faith safe and in dignity; and appreciate and use the vast space allowed of freedom of expression allowed in "Londonistan". Thus the first terrorist act occurred in Britain was exactly a year after the Deft's arrest in 2004 for the politically orchestrated charges by the pro war politicians and nearly two years after the invasion of Iraq.

(III) The Deft was not arrested and placed in high security status, because he would other wise disappear but rather because the Deft refused to disappear or stay quiet about the fabricated pretents reasons to invade Iraq provided by the UK, US, and Governments and Intelligence. And also and more important The Deft Squeechy noise about the 9/11 Towers very questionable demolition.

(IV) It is true, and the norm, that Deft(s) should not use Courts for political reasons. But it is also, more important and highly respected that Courts protect the separation of powers principle. And, should the Court sense the slightest interference by Other power, like in this case the topsided Extrusion treaty and unexplained negligent passage of time, the S.A.M. etc, that the prudent wise respected judges use their "Gate-keeping" power to purify the Courts (by any power they have) ^{and} may also send a chastizing hints to those who crossed the line trying to use the "Synax and Samentics of law" to undermine the very Purpose and essence of the law.

114 - It is clear from all previous 4 parts, that the Gov beefed up the Circumstantial evidence (as in GRUZ) and, "protected" and suppressed many of their witnesses information, and even lies, and fed them very well (as in Walter).

And, by that, succeeded, despite the well known phrases and fact "The Case is so weak" and "by saying what I know ~~but~~ which was not enough for them", managed well to Cause the respected Trial judge to Err.

And Overwhelmed the jury with conglomerate acts of exagguration and mispresentions.

115 - Such behaviour from the Gov, ALSO, compelled against the Deft with the many restrained and limitations imposed by the respected judge, to pursue intrinsic lines of Defense, or produce documents or witnesses.

As well as, the very harsh conditions of detentions, the Gov & judge also, denied the Deft psychological treatment/assessment needed, against all assurances and/or undertakings made to UK & EU Courts.

Thus, Unsurprisingly, the Jury Convicted the Deft on all the one to ten conspiracy charges with the insufficient Circumstantial evidence against the many Rules of the respected end Circuit Court of Appeals.

And the eleven count based on the unreliable main witness Yacuma conflicting testimony. And the flawed expert testimony which confused the jury about all the charges.

Motion Conclusion And Request

116 -

The Deft respectfully submit, as for all aspects set forth in part one, two, three and four of this motion, the learned respected court should grant the Deft:

A reversal of the Deft's conviction, and remand the case for instructions to enter a judgement of acquittal in all charges.

117 - Should the respected court cited that the above, in addition to the Deft attorney's main appeal motion, are insufficient for acquittal in all or some of the charges, then, the respected court should grant a remand for a retrial for the counts which did not meet the acquittal request.

Respectfully Submitted

Deft. Mostafa Kamel Mostafa
#67495-054
ADX, Florence, Colorado.

Signature: *[Signature]*

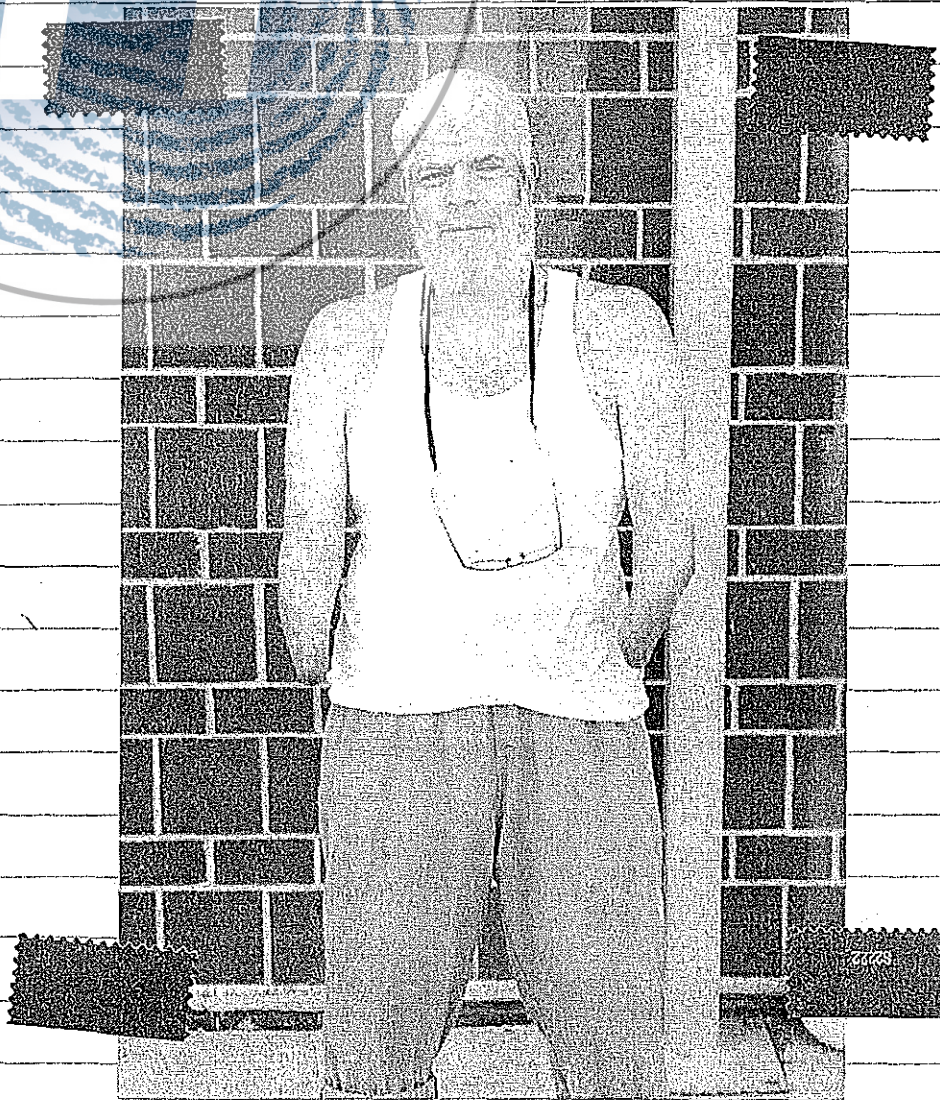
12 / 04 / 2017

Monday Dec 04, 2017

List of Exhibits :

- 1- Exhibit 01: Deft Disability page 71
- 2- Exhibit 02: Letter to Judge Forrest page 72
- 3- Exhibit 03: Doctors reports and attorneys' letters page 75
- 4- Exhibit 04: Two pages from U.K intelligence interviews page 94
- 5- Exhibit 05: Letter to Judge Forrest page 96
- 6- Exhibit 06: Some papers from U.K "Operation Yemen" Page 101
- 7- Exhibit 07: ~~Three~~ pages of Deft S.A.M. 2015 Page 120
- 8- Exhibit 08: Copy of request to ADX legal Dept. page 121
- 9- Exhibit 09: Certificate of Service page 122

Exhibit 0.1



Deft 'Mostafa's Disability
AD X max, Colorado, 2017.

Exhibit 0.1



Deft 'Mostafa's Disability
AD X max, Colorado, 2017.

FILED IN NEW YORK
New York, NY 10007
Indictment No. 04 Cr. 358K

Docket: 252

Exhibit 02 page 1

To: Hon. Katherine B. Forrest

Feb 21 - 2014

Dear respected Judge,

Hello, I apologize for not being able to write earlier regarding the following subjects. I needed some clarifications and more information which I've only received two hours ago.

I was very surprised to notice, during the last two hearings, that you had not been informed that I am testifying, and that I do not want to exclude, or avoid mentioning, any of the name of: people, organizations, places or terms that have been mentioned in my indictment.

I thought these two matters, and among other matters, were clearly explained to my legal team since arrival 2012. However, a gap of no visits as well as other factors might have contributed to such situation. I am therefore, writing to confirm my initial instructions.

The learned judge can see from her observations and ~~presence~~, that the passage of time, complicated multiple worlds events as well as several phases of turbulence and changes, in the sphere of my indictment & charges, had made names of people, organizations and even terms mean different things at different periods and places. Other factors too, made people perceive those terms & names differently. And Unless the indictment itself is changed, carefully phrased, and some of the charges are dismissed it is impossible for me to provide the sound coherent account of the incidents without mentioning those names. Sometimes even intensively, when more clarity is needed.

Exhibit 02 002

I hope it is also important for historians, researchers, investigative journalists and analysts who are awaiting anxiously the minutes of your Court to fill up and integrate some of the voids and blanks of the bigger mazes, and enrich their databases. God willing some of the explanations will be very useful, life saving and good aid to justice.

MRI Scan (memory problems)

In another matter, I have been awaiting MRI Scan since 2012. Last day appeal in England (extradition) it was decreed that MRI scan (needed to conclude the two reports by ^{the} psychologist and the psychiatrist) should be done in USA, and that the memory treatment continues. Judge said that it could be even better than UK. Yet madam, the two uncompleted reports I brought with me were taken and my USA legal said they didn't get them from FBI and that they could be getting a digital copy from my UK legal. The MCC chief psychologist, Dr. Muller, told me lately that the reports are not too old and she can have a look but the MRI scan has to come from a court order. I couldn't get any of the needed exercising books here because of MCC Budget problem. But last week Dr. Muller told me that she can buy some now. I hope it is not too late. I still need your kind help to approve the MRI scan and that the two reports completed so I can benefit from the advice and do my best accordingly.

There are other important documents and exhibits to be produced pretrial I hope I can get them on time. I have been waiting for them quite a while.

Exhibit 02 : 03

My legal team are very polite kind handwriting professionals. I am grateful you afforded me such team and generous resources. However, sometimes lack of communications causes delay and confusion. I hope the trial performance proves how well these resources were optimized.

I have struggled to post this letter, difficult to obtain special mail forms or find someone to collect mail. Also, no receipts ever given. The combination of severe disabilities, health problems and harsh solitary @ S.A.M are imminently demizing my ability to function ~~legally~~ or carry out basic daily needs unhindered.

Finally, respected Madam, regardless of the end result of the trial, I pray that the Almighty The Creator inspires your wisdom and patience to leave no stone unturned till the truth, context of events and even the timing and performance in indicting me all clear and exonerated. I pray your Court resonates with fairness, hardwork and outstanding prudence.

Thank you, all the best. - Regards

Yours Sincerely
M.K. Mostafa

M.K.

P.S Please acknowledge a receipt and if possible kindly send me a copy of this letter (no confidential copies provided here)

M.K.

End of letter.

page 2 of the exhibit.

- getting important Doc.

- MRI SCAN

emergency heavy U.K. Fri Oct 5-2012

- Combination of Disability & health problem sensing

- Given the chance to help to explain context & timing -

IPT

JOSHUA L. DRATEL
—
LINDSAY A. LEWIS
WHITNEY G. SCHLIMBACH

LAW OFFICES OF
JOSHUA L. DRATEL, P.C.
A PROFESSIONAL CORPORATION

29 BROADWAY
Suite 1412
NEW YORK, NEW YORK 10006

TELEPHONE (212) 732-0707
FACSIMILE (212) 571-3792
E-MAIL: JDratel@JoshuaDratel.com

Exhibit 03

STEVEN WRIGHT
Office Manager

August 3, 2017

ATTORNEY CLIENT CORRESPONDENCE
OPEN ONLY IN PRESENCE OF INMATE

Mostafa Kamel Mostafa
Reg # 67495-054
United States Penitentiary
Administrative Maximum
5880 State Highway 67 South
P.O. Box 8500
Florence, CO 81226

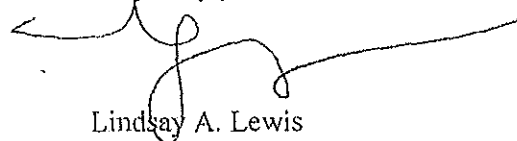
Re: United States v. Abu Hamza al-Masri (Mostafa Kamel Mostafa)
Dkt Nos. 04 Cr. 356 (KBF); 15-211

Dear Mostafa:

Good speaking to you on the phone today. As per your request, enclosed please find copies of the August 2012 Reports by Dr. Taylor and Dr. Nathaniel James.

I will schedule another legal call with you once we receive the additional Administrative Remedy paperwork.

Very truly yours,


Lindsay A. Lewis

LAL/
Encl.

75

2

**RICHARD W M TAYLOR BSc MBBS DFP MRCPsych
CONSULTANT FORENSIC PSYCHIATRIST**

Correspondence to:
Dr Richard Taylor
North London Forensic Service
Camlet Three
Chase Farm Hospital
Enfield
EN2 8JL

Tel: + 44 (0) 20 8375 2779
Fax: + 44 (0) 20 8367 9339

Exhibit 03 : 2

2nd August 2012

**PRIVATE AND CONFIDENTIAL
PSYCHIATRIC REPORT**

ON

Mostapha Kamal Mostapha

Interviewed at:
High Secure Unit
HMP Belmarsh

This report must be read in conjunction with my previous reports
on Mr Mostapha dated 4.7.2005, 18.5.2007, 1.5.2008

AUTHOR OF REPORT

The author of this report is Dr Richard W M Taylor. I am a consultant forensic psychiatrist. I have been a qualified medical practitioner since 1990. After working for three years in a number of medical sub-specialities, including accident and emergency medicine, I undertook specialist training in psychiatry and subsequently forensic psychiatry at the Maudsley Hospital in 1993. I obtained my membership of the Royal College of Psychiatrists in 1996. My qualifications are Bachelor of Science, Bachelor of Medicine and Surgery, Membership of the Royal College of Psychiatrists and Diploma in Forensic Psychiatry.

76c

Private and Confidential Psychiatric Report
Re: Mostapha Kamal Mostapha

2nd August 2012

Page 2 of 6

Exhibit 03-3

I confirm that I am approved under Section 12(2) of the Mental Health Act 1983. I have a CCST in Forensic Psychiatry and I am listed on the GMC specialist register. I am a member of the special committee on Human Rights of the Royal College of Psychiatrists. I am member of the London strategic management board for Multi-agency public protection arrangements (MAPPA-SMB).

My current NHS appointment is as consultant forensic psychiatrist for the North London Forensic Service at Camlet Lodge Regional Secure Unit. I have responsibility for male medium secure in-patients. I am a recognised teacher at the Royal Free and University College School of Medicine. I am a recognised trainer of the Royal College of Psychiatrists.

I have been providing psychiatric reports for use in court proceedings since 1993 and I have been giving evidence in the criminal and civil courts since 1996. Since 2000 I have been a consultant forensic psychiatrist responsible for inpatient treatment of mentally disordered offenders, including individuals convicted of serious violent or sexual offending and receiving inpatient treatment within medium security. I previously worked between 2001 and 2006 as a visiting consultant forensic psychiatrist to HM Prison Holloway.

I have prepared independent reports for the criminal courts at all levels on the instruction of defence solicitors, the Crown Prosecution Service, the Revenue and Customs Prosecution Service and by request of the court. I have given evidence in criminal proceedings, including at Magistrates Courts, Crown Courts, Central Criminal Court and at the Criminal Division of the Court of Appeal. I have prepared reports in homicide cases and in relation to other serious offences, including fraud. I have extensive experience of giving evidence in contested hearings for both prosecution and defence relating to fitness to plead, diminished responsibility, insanity, automatism, reliability of police interview, duress and other issues. I have extensive experience of providing pre-sentence psychiatric reports.

I also have experience of providing reports in the family courts in personal injury litigation and in medical negligence and malpractice cases.

DECLARATION OF EXPERT

I am aware of my primary responsibility to the court as an expert witness. I confirm that I am aware that it is my duty to assist the court on matters within my expertise, and that this duty is paramount and overrides any obligation to the person from whom I have received instructions. I confirm that I have considered all material facts, including those, which might detract from my opinion. I confirm that in so far as the facts stated in my report are within my own knowledge, I have made clear which they are and that I believe them to be true, and that the opinions I have expressed represent a true and complete professional opinion.

I have prepared this report at the request of Mr Mostapha's legal representatives.

I understand that Mr Mostapha faces extradition to the United States

SOURCES OF INFORMATION

In preparation of this report I have read the following documents:

77

Private and Confidential Psychiatric Report
Re: Mostapha Kamal Mostapha

2nd August 2012

Page 3 of 6

Exhibit 03: 4

1. My previous reports on Mr Mostapha dated 4.7.2005, 18.5.2007, 1.5.2008
2. Letter of instruction.
3. Previous documents listed in the above reports
4. A signed authority confirming that Mr Mostapha granting me access to medical records at HMP Belmarsh
6. A copy of his instructions regarding offence.

In addition I interviewed Mr. Mostapha at HMP Belmarsh on 26.6.2012

I have not seen Mr Mostapha's recent medical records (i.e. since 2008- present).

I have written to the prison health care department and the visiting psychiatrist with Mr Mostapha's consent but I have not had a response to my request for information.

It is important to note that my assessment is incomplete without access to these records. I would be willing to provide an addendum report once these records have been obtained. It may be necessary for me to revise my opinion after reading the records.

CAUTION

At the outset of the interview I explained to Mr. Mostapha the nature and purpose of my assessment i.e. that I had been asked to provide a psychiatric report for use in court proceedings. I explained that the usual standards of medical confidentiality would not apply. I was satisfied that he understood the nature and purpose of the assessment and was able to give valid consent.

CURRENT CIRCUMSTANCES

I understand that Mr. Mostapha is appealing against an extradition order to the United States. I understand that, if extradited, he is likely to face criminal proceedings in federal court related to alleged terrorist activities. I understand that any criminal trial in the United States is likely to be protracted and involve complex evidence, for example, relating to alleged communications.

BACKGROUND HISTORY

This is dealt with in detail in my previous reports and will not be repeated here.

Assessment on 26th June 2012

Mr. Mostafa told me that since I had last seen him in 2008, he had continued to find the regime in the high-security unit at HMP Belmarsh very difficult to cope with, particularly in the context of his physical disabilities.

Nevertheless he said that he had been able to make significant improvements in his physical health. He has lost a substantial amount of weight approaching 30 kg. He said that he had achieved this through a combination of strict dieting and exercise.

78

Private and Confidential Psychiatric Report
Re: Mostapha Kamal Mostapha

2nd August 2012

Page 4 of 6

Exhibit B.5

However, he reported that in recent weeks he had begun to have concerns about his mental health and in particular problems with concentration and memory.

He told me that he had been assessed by a visiting psychiatrist in the prison some weeks previously but said that he had not been able to see a report from this assessment. He could not recall the name of the doctor who saw him but said he was told he did not need any medication.

He said that he had been finding that he needed to write things down in order to remember them. However, he said that he had mislaid some pages on which he has written notes and he believes these may have been removed from his cell.

He told me that it had always been his intention to represent himself in the event that he were subject to criminal trial in federal court in the United States, however, he recently had been having problems with his short-term memory and concentration and has doubts as to whether he will be able to do this.

He told me that there were continued difficulties with the physical environment in the high-security unit. These are dealt with in detail in my previous reports. For example, he said that he had to wait many years for mixer taps to be installed such that he continue to burn his hands with hot water. He has also had problems with the toilet flush and continually struggles to clean himself.

He suffered an episode of significant back pain after he injured himself while trying to clean himself in the sink in the cell.

He said at this time he was helped by some fellow Muslim prisoners, however, this led to them being subject to verbal abuse by prison officers for example being called "Hamza's bitch".

He told me that a visiting GP recommended he be given an orthopedic mattress for his back pain but this was not provided and he did not see the doctor again.

There have been many difficulties with the physical environment, which he said he has outlined to his legal representatives. This has included continued problems with toileting and two falls in the shower which he said were not documented properly.

The principal issue, which he found most difficult, was the chronic sleep deprivation as a result of the required security checks at night.

He told me that it is required for him to be observed to be moving every hour through the night such that officers turn on the light and wait until he has been woken up by the light in order to observe that he is moving. This has resulted in a chronic/ long-term sleep deprivation.

He said the other prisoners charged with serious terrorist offenses have been moved into other parts of the prison but he understood that because of his notoriety he had been required to remain in the adverse environment of the high-security long-term.

He said that he had become forgetful, for example, would forget why he had moved to a particular part of the wing during association time.

79

Private and Confidential Psychiatric Report
Re: Mostapha Kamal Mostapha

2nd August 2012

Page 5 of 6

Exhibit 03:6

He said he that he had problems with his prayers as he would forget which part of the prayers he had already done. He said that he feels that his mind wanders and he cannot focus, for example, on reading.

He also described becoming irritable, for example he might swear at officers in the context of continual checks through the night even though he does not like to swear because of his Islamic beliefs. He feels that he has been worn down by the regime he is subject to.

MENTAL STATE EXAMINATION

He is obviously slimmer than when previously assessed. His speech was coherent but he appears to be tired and preoccupied. He described his mood as low. He rated himself as only 2/10. He described a bleak and pessimistic view of the future and has become fatalistic about his situation. He stated that he could face the possibility of spending the rest of his life in prison or even facing execution by the American authorities but he could not stand the constant sense of discrimination because of his physical disabilities. He described a subjective problem with concentration and short-term memory.

His sleep is disturbed, although this is principally because he is woken every hour by prison officers

He denied current suicidal ideation although described having lost hope of being treated fairly in relation to his disabilities.

I assessed his cognition using the Mini Mental State Examination. He had a clear impairment of attention and concentration, as he was unable to spell the word world backwards making 2 errors. He was also unable to recall three objects in the short-term memory test. His test score was 25 when he would be expected to score 30 given his age and educational level.

OPINION

- 1 It is imperative that medical records be made available to allow me to complete my report.
- 2 Although his physical health has improved, Mr. Mustapha has developed clinical depression of at least moderate severity, which in my opinion, is likely to have been exacerbated by his chronic sleep deprivation.
- 3 He has a detectable impairment of attention and concentration and a detectable impairment in short-term memory.
- 4 In my opinion this is most likely to be secondary to clinical depression of moderate severity.
- 5 I recommend that he be considered for appropriate treatment, which may include antidepressant medication.
- 6 His clinical depression is unlikely to improve as long as he continues to be subject to hourly waking and chronic sleep deprivation.
- 7 In my opinion, it is important to rule out other organic causes of his short-term memory problems such as early onset dementia. I recommend he be

80

Private and Confidential Psychiatric Report
Re: Mostapha Kamal Mostapha

2nd August 2012

Page 6 of 6

Exhibit 03 77

I assessed by a clinical neuropsychologist. I have identified a suitably qualified colleague who would be willing to undertake this assessment. He may also need further investigations such as an MRI brain scan.

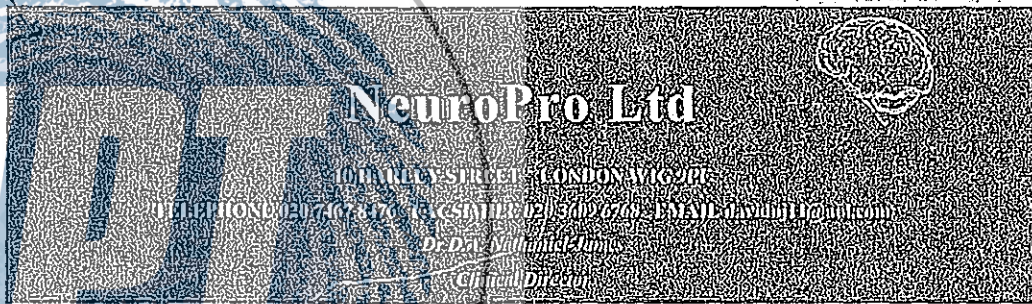
- 8 In my opinion, Mr. Mustapha is not currently fit to plead in accordance with the criteria set out in R-v P Prichard and subsequent case law. This is because he would not be able to follow legal proceedings because of his current problems with attention, concentration and short-term memory loss.
- 9 In my opinion, he would not be competent to stand trial in accordance with the usual criteria in the United States, (although this varies from state to state jurisdiction).
- 10 I come to this conclusion, bearing in mind the likely complexity of any criminal trial he may face.
- 11 In my opinion there is a prospect for improvement in his mental health but this would be unlikely if he is subject to continued sleep deprivation. He would also benefit from a trial of antidepressant medication.

Richard Taylor

Dr Richard Taylor BSc MBBS DFP MRCPsych
Consultant Forensic Psychiatrist

81

Exhibit 03: 8-



NEUROPSYCHOLOGY REPORT

Name: Mr Mostapha Kamal Mostapha

Assessment address: High Secure Unit
HMP Belmarsh

PREPARED BY: **Dr D.A. Nathaniel-James**
BA (Hons), MSc, PhD, DClinPsy, CPsychol, CSci, AFBPsS
Consultant Clinical Neuropsychologist

PREPARED FOR THE COURT

At the request of: Lound Mulrenan Jefferies Solicitors
The Piano House
9 Brighton Terrace
Brixton
London
SW9 8DJ

Solicitor reference: LE/ALM/4069/6109/PL

Date of report: 27th September 2012



82

27 September 2012

Report on Mr Mostapha by Dr D Nathaniel James

Solicitor's reference: LE/ALM/4069/6.109/PL

Exhibit 0389

IPT

Table of Contents

1.	Introduction	3
1.1	The author	3
1.2	Summary of conclusions	3
1.3	Summary of the case	4
1.4	The issues to be addressed	4
1.5	Methodology	4
2.	Information provided by Mr Mostapha	5
2.1-2.11		5-6
3.	Assessment – The present condition	6
3.1-3.11		6-8
4.	Additional documents read	9
4.1- 4.4		
5.	Opinion	10
5.1-5.4		10-11
	Annex A	12
	Curriculum Vitae	12-13

83

27 September 2012

Report on Mr Mostapha by Dr D. Nathaniel James

Solicitor's reference: LE/ALM/4069/6109/PL

Exhibit 03:10

1. Introduction

1.1 Author

I am a Consultant Clinical Neuropsychologist and Clinical Director. I am registered with the British Psychological Society (BPS) as a Chartered Clinical Psychologist, an Associate Fellow and a Full Practitioner Member of the BPS Division of Neuropsychology. Formerly I was Head of Neuropsychology for one of the largest NHS Trusts. I am Senior Lecturer at the Royal Free and University College Hospital Postgraduate Medical School. I hold doctorates in both Neuropsychology and Clinical Psychology. I have extensive experience in the neuropsychological assessment and treatment of patients with cognitive, behavioural and emotional difficulties arising from traumatic brain injury, neurological disease and psychiatric illness. Details of my qualifications can be found in Appendix 1.

1.2 Summary of conclusions

This report will show that notwithstanding the findings of the neuropsychological assessment, Mr Mostapha suffers with short-term memory and concentration difficulties on a day to day basis due to depression and sleep deprivation. The report argues that additionally there may be underlying organic changes to his brain and thus an MRI brain should also be performed. The report concludes that currently Mr Mostapha is unfit to plead but this needs to be reviewed following appropriate treatment and the curtailment of the practice leading to the noted sleep deprivation.

84

27 September 2012

Report on Mr Mostapha by Dr D. Nainanle James

Solicitor's reference: 1.E/ALM/4069/6109/PL

1.3 *Summary of the case*

I understand that Mr Mostapha appealed against an extradition order to the United States because if extradited is likely to face criminal proceedings in a federal court related to alleged terrorist activities.

1.4 *The issues to be addressed*

Following a report prepared by Dr Taylor, Consultant Forensic Psychiatrist, I have been instructed by Lound Mulrenan Jefferies Solicitors to address the reasons for Mr Mostapha's short-term memory loss and concentration difficulties.

1.5 *Methodology*

Firstly I conducted an interview with Mr Mostapha. This was followed by a curtailed assessment because of time restrictions using a range of standardised neuropsychological tests consistent with accepted contemporary clinical assessment practice. Some of the tests were conducted by my clinical associate Ms Aslamkhan B.Sc, M.Sc, M.Sc under my supervision.

Additionally the following medical records and reports have been made available to me:

- 1) Medical notes and records from HMP Belmarsh
- 2) Medical report of Dr Taylor Consultant Forensic Psychiatrist, dated 2nd August 2012

85

27 September 2012

Report on Mr. Mostapha by Dr. D. Nathaniel James

Solider's reference: LE/ALM/4069/6109/PL

Exhibit 3:12

2. Information provided by Mr Mostapha

- 2.1 Mr Mostapha reported that he has been imprisoned for 8 years and during that time he has been constantly subjected to a regime that has resulted in him being severely sleep deprived. He communicated that throughout each night prison officers turn on his cell lights every hour for a short time which he has been told is to ensure that he is "moving." Moreover he feels he has been somewhat conditioned to this regime to the extent that he has an expectation when the light will be turned on and thus this further adds to reduced sleep.
- 2.2 Mr Mostapha communicated that his concentration and memory skills have reduced significantly and that consequently he asked to see a psychiatrist but this was denied.
- 2.3 Mr Mostapha reports that because of his memory weaknesses he now has to write everything down. Moreover during conversation he now has a need to say what he wants to say very quickly otherwise he is likely to forget it.
- 2.4 Mr Mostapha reports that he now experiences "blackouts" where he becomes confused about past events as to whether they actually happened or not. Moreover he says his memory for faces based on photos is uncertain. Thus he reported "try to remember if it (photo) is the same person."
- 2.5 Mr Mostapha reports that he unnecessarily repeats sections of prayers but this only becomes apparent to him later on due to the length of time the prayers have taken.
- 2.6 Mr Mostapha also communicated that his spelling skills have reduced during recent years.

86

27 September 2012

Report on Mr Mostapha by Dr D Nalhanil James

Solicitors reference: LE/ALM/4069/6109/PL

Exhibit 03.13

- 2.7 Mr Mostapha went on to report that he now suffers from "rage attacks" due to insults made by prison staff and others about his family. However after a time he becomes drained both mentally and physically.
- 2.8 Mr Mostapha communicated that he has arthritis and discussed how sitting for long periods in an uncomfortable position is very difficult.
- 2.9 He reports how in his view prison staff are "playing games with me and treating me like a guinea pig."
- 2.10 Mr Mostapha communicated that he does not have proper prosthetics and has continually been denied the same.
- 2.11 Finally Mr Mostapha reports that he tries to "look strong" in front of others and especially his family in spite of what he is subjected to by prison staff.

3. Assessment – the present condition

3.1 Behaviour during testing (facts observed)

Mr Mostapha's eye contact and social behaviour were most appropriate throughout both the interview and assessment. However he did appear somewhat anxious and low in mood. I also found him to be a little distractible. His overall engagement with the testing procedure seemed variable.

87

27 September 2012

Report on Mr Mostapha by Dr D. Nathaniel James

Solicitor's reference: LE/ALM/4069/8109/PL

Exhibit 03: 14

3.2 *Neuropsychological assessment*

Because of the considerable delay on the part of the prison staff in letting me see Mr Mostapha I was unable to complete my assessment. Therefore the results reported here unfortunately represent the findings from a curtailed assessment.

3.3 *Current general intellectual ability*

Mr Mostapha's first language is Arabic. He speaks English as a second language. He was administered the Vocabulary subtest from the Wechsler Adult Intelligence Scale 4th Edition (WAIS-IV) to estimate his premorbid general intellectual abilities. His obtained scaled score of 4 equates to a level of general intellectual ability falling at the bottom end of the Borderline classification range. In view of Mr Mostapha's background, this finding is highly likely to be invalid. Based on his educational and occupational history I estimate his premorbid level to be at least within the Average range of intellectual functioning.

3.4 *Neurocognitive functioning*

Mr Mostapha was administered most of the measures from the Repeated Battery for the Assessment of Neuropsychological Status (RBANS). This is a brief individually administered test measuring attention, language, visuospatial/constructional abilities and immediate and delayed memory.

3.5 *Immediate memory*

On tests of immediate memory which comprised of measures of list learning and story recall, Mr Mostapha obtained a scaled score of 65 (extremely low range).

88

27 September 2012

Report on Mr Mostapha by Dr D. Nathaniel James

Solicitor's reference: LE/ALM/4069/G109/PL

Exhibit 03-15

3.6 Visuospatial/constructional

These tests could not be administered since they require physical responses including drawing which Mr Mostapha is unable to do on account of being an amputee.

3.7 Language

Mr Mostapha performed within the extremely low range on tests of picture naming and semantic fluency. The obtained scaled score was 51.

3.8 Attention

On the Digit Span test, his forward span was 4 digits. This is a weak score.

3.9 Delayed memory

3.10 Mr Mostapha's ability to recall a word list and a story following a delay was poor.

3.11 Validity of test performance

In order to estimate the nature and extent of any neuropsychological impairment, it is necessary to know that a person has provided full and appropriate effort throughout the assessment. Mr Mostapha was administered the Test of Memory Malingering (TOMM). This is designed to identify people who are perhaps not applying themselves to the best of their ability during the course of the assessment and thus demonstrating less than satisfactory engagement (effort). This test appears difficult but in actual fact can be performed almost without error even by people with very severe brain damage as confirmed by MRI or CT scanning. Mr Mostapha performed below the normal range on this test.

89

27 September 2012

Report on Mr Mustapha by Dr D. Nathaniel James

Solicitor's reference: LE/ALM/4069/6109/PL

Exhibit 03:16

4 Additional documents read

4.1 Medical records from HMP Belmarsh

I have reviewed these records. They date from September 2004 to July 2012. The contents have been duly noted.

4.2 Report of Dr Richard Taylor, Consultant Forensic Psychiatrist, dated 2nd August 2012.

Dr Taylor is of the opinion that Mr Mustapha has developed clinical depression of at least moderate severity and recommended treatment for the same. He also feels that the depression is likely to have been exacerbated by chronic sleep deprivation.

4.3 Dr Taylor is also of the view that Mr Mustapha has impairment of attention, concentration and short-term memory but that this is likely to be due to the clinical depression. However he believes it is important to rule out other organic causes of his memory problems such as early onset dementia. Consequently he recommended a neuropsychological assessment and an MRI brain scan.

4.4 In concluding his report Dr Taylor expressed the opinion that Mr Mustapha is not fit to plead on account of his cognitive difficulties.

90

27 September 2012

Report on Mr. Mostapha by Dr. Dr. Nathaniel James

Solicitor's reference: LE/ALM/069/6109/PL

Exhibit 03: 17

5 Opinion

5.1 The findings discussed in section 3 initially suggest that Mr Mostapha demonstrates very significant cognitive impairment within the domains of immediate and delayed memory, attention and concentration and language. However the fact that he performed below the normal range on a robust test of effort means that it is not possible to comment on the extent of any underlying cognitive impairment. This of course does not negate the presence of underlying impairment but does mean that one cannot reliably comment on the basis of these objective tests.

5.2 Notwithstanding his performance on the test of effort, the pattern of results is not in keeping with any specific form of dementia. Nevertheless it is certainly possible in my professional experience for individuals to present this way but still have underlying organic changes to the brain. It thus would be pertinent and indeed standard practice to carry out a MRI scan of his brain as part of a good clinical practice regime in suspected cases of early cognitive decline.

5.3 It is well documented that significant depression and/or chronic sleep deprivation results in noteworthy cognitive impairment on a day to day basis of the type described by Mr Mostapha and indeed Dr Taylor. Based on the available evidence I am in agreement with Dr Taylor that Mr Mostapha does suffer with short-term memory and concentration difficulties on a day to day basis due to depression and sleep deprivation. However it is still important to rule out any organic changes and thus an MRI brain scan should still be performed soon.

Def't's attorney,

Ms. Lewis

esp. never sent Def't the missing 3 pages despite writing to her. but she has them.

Def't.

9/1

LOUND MULRENAN JEFFERIES

Solicitors

Piano House, 9 Brighton Terrace, Brixton, London SW9 8DJ

Tel: 0207 793 4012; Fax: 0207 793 4264 / e-mail: lmj@lmj-solicitors.co.uk

Emergency 24 Hour Service 07659 142 337

Regulated by the Solicitors Regulation Authority 267193

DX 132671 BRIXTON 2

Our Ref: LE/ALM/4069/6109/PL

21st September 2012

Exhibit 03:18

Rule 39 Correspondence

Private and Confidential

Mostafa Kamel Mostafa A9962AQ

(formerly Abu Hamza)

HMP Long Lartin

South Littleton

Evesham

Worcs

WR11 8TZ

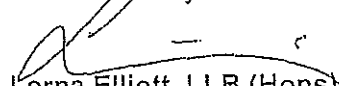
Dear Mr. Mostafa,

Re: MRI Scan

Further to your transfer to HMP Long Lartin detainee unit, I enclose herewith a letter that I have sent to the healthcare department requesting an MRI scan.

I will of course let you know when I receive a response.

Yours sincerely



Lorna Elliott, LLB (Hons)
Lound Mulrenan Jefferies Solicitors

Enc. Letter to Long Lartin



Margot Lound BA – Partner
Mobile: 07956 651 589

92

Anthony Mulrenan BA – Partner
Mobile: 07734 032 474

Look-Chih Wang LLB – Partner
Mobile: 07917161075



LOUND MULRENAN JEFFERIES

Solicitors

Piano House, 9 Brighton Terrace, Brixton, London SW9 8DJ

Tel: 0207 793 4012; Fax: 0207 793 4264 / e-mail: lmj@lmj-solicitors.co.uk

Emergency 24 Hour Service 07659 142 337

Regulated by the Solicitors Regulation Authority 267193

DX 132671 BRIXTON 2

Our Ref: LE/ALM/4069/6109/PL

21st September 2012

Exhibit 03: 19

Healthcare Department
HMP Long Lartin
South Littleton
Evesham
Worcs
WR11 8TZ

Dear Sirs,

Re: Mr. Mostafa Kamel Mostafa – A9962AQ Formerly known as Abu Hamza

We act on behalf of the above named and enclose his form of authority to enable you to correspond with us.

Mr. Mostafa was recently assessed by Dr. Taylor, psychologist, on 26th June 2012 and thereafter by Dr. Nathaniel-James, neuropsychologist, on 5th September 2012. Dr. Taylor raised concerns about Mr. Mostafa's attention, concentration and short-term memory loss and recommended assessment by a neuropsychologist. He also stated that further investigations by way of an MRI scan may be required. Dr. Nathaniel-James subsequently provided a preliminary report that similarly recommends an MRI brain scan.

We attach both of the confidential reports for your information. We would be grateful if your department could now facilitate an MRI scan at the earliest possible opportunity in light of the concerns that have been raised.

Should you require any further information at this stage please do not hesitate to contact Lorna Elliott at this office.

Yours sincerely

Lorna Elliott, LLB (Hons)
Lound Mulrenan Jefferies Solicitors

Enc. Dr. Taylor's report; Dr. Nathaniel-James's report; form of authority



Margot Lound BA – Partner
Mobile: 07956 651 589

93

Anthony Mulrenan BA – Partner
Mobile: 07734 032 474

Look-Chih Wang LLB – Partner



Exhibit 048 Page 1

4. To win further sympathy and underscore his sense of victimization, DAMSON BERRY stated that the DSS had stopped both his wife's and his children's benefits in February of this year and that his recent separation had necessitated him finding alternative accommodation in the Fulham area. Yes, Social Services were assisting with the new Fulham flat with the installation of a special toilet and electronic entry system. The provision of such humanitarian facilities was one of the reasons DAMSON BERRY had decided to come to the UK in the first place but now, somewhat disillusioned and disenchanted, he was seriously thinking of leaving the UK to find an alternative refuge. At this stage he had no clear idea where this refuge would be and, frankly, I found his resolve unconvincing.

Note: They use different name for English every meeting

Contact with HARAKAT AL-ANSAR (HUA)

5. DAMSON BERRY stated that he had made, since our last meeting, discreet enquiries with HUA contacts in Pakistan about the fate of the British detainees. However, for security reasons, little of real substance could be mentioned on the telephone and he would only be drawing suspicion to himself by asking too many direct questions over the open line. He was extremely downbeat and pessimistic about receiving any positive information on this subject. The kidnappings, after all, were sanctioned by a fatwa issued by HUA's Majlis Ash-Shura (Consultative Council).

6. The mention of the word fatwa sent the hair racing. Unlike Shia's who blindly accepted the fatwas of such religious gurus as Ayatollah KHOMENI, Sunni Muslims were critical and questioning in the subject of issued fatwas. However, even Sunnis, in spite of their gift of critical appraisal, could never reconcile themselves to apostasy and to the flagrant violation and malicious interpretation of the holy verses of the Koran. The Gulf States, Saudi Arabia and the countries of North Africa, for example, were glaring examples of this apostasy, as was the west - and true Islam would never be at peace with these MURTADDHEN (religious rascals). Too many religious scholar - Sheikh TANTAWI of Al-Azhar University in Cairo for example - were in cahoots with corrupt and corrupting regimes resulting in the legalisation of alcohol and the fabrication of evidence to support discredited religious positions. Too many were masquerading as sheikhs; Abu QATADA was not a sheikh since he could not memorise the whole of the Koran and his experience was glaringly inadequate. He did not possess the "whole knowledge". DAMSON BERRY did not regard himself as a sheikh but as "student of knowledge". Abd AR-RAHMAN, the blind Egyptian spiritual leader in the USA, was unquestionably a sheikh. At this point I called for cold water and we sipped together in quiet meditation.

DAMSON BERRY's interlocutory role for the GIA

7. On the issue of the GIA interlocutory role, DAMSON BERRY's position was not as clear cut as he had initially led us to believe. Before I gave him the opportunity to explain what had changed, I repeated the message of our two previous meetings that the Security Service would have no truck with mediation and back-channelling to the GIA and that we had no intention of using him for that purpose. We were simply talking to him as one who commanded influence and respect amongst the more radical elements of Islam in the UK and hoped he would use this

94

Exhibit 04 : Page 2

for the GIA here in the UK. 910 stated that, historically, the GIA had used countries like Germany and Bosnia for operational procurement and that the three detainees had clearly overstepped the limit of their brief. 910 confirmed that their brief should have centred round fund raising and the production of Al-Ansar; YASSIN, in particular, had been tasked with raising monies to foot the ever escalating costs of GIA world-wide communications and mobile phone bills in particular. Later in the meeting 910 let slip that his principal contact with the GIA in Algeria was RASHID and that the latter had confirmed YASSIN's vital role in GIA fund-raising operations Europe-wide.

5. Claiming to be speaking on behalf of the GIA leadership, 910, although referring again to the leadership's mixture of anger and astonishment, admitted that his/the leadership's view was that the GIA had made an operational mistake in allowing YASSIN and Co to get involved in the procurement of equipment. Such equipment as was procured was destined for targets inside Algeria, not France and certainly not the UK. 910 was thoroughly appreciative of the fact that the British authorities had "played down" the arrests in terms of the publicity they had received and was now pleading that those same authorities, in a further gesture of Islamic good-will, did not "push the cases" or drop them! Only by dropping the cases would FMG gain the upper hand whereby the accused would remain permanently in its debt and committed never to infringe British law in the future. In return for such official magnanimity 910 was personally prepared to guarantee the conditions of their bail - even if those conditions meant him personally putting them on an outbound aircraft - and offered, as a magnanimous gesture of his own, to persuade other "brothers" to depart these shores. He claimed that, following the arrests, 70 had already done so!

6. His magnanimous offers did not stop there. 910, seeking to assure me of the GIA's integrity, asked if I had a fax machine which could be installed in his house to receive incoming messages from the leadership in Algeria. He would be prepared to allow that fax machine to be monitored by the Security Service thereby providing us with the assurances we require on the nobility of purpose and the integrity of aim of the GIA. The jihad, after all, was not aimed at the UK but at the corrupt and decadent regimes of North Africa and the sycophantic sheikdoms of the Gulf. As his pleading continued, 910 reiterated that the equipment seized in the UK was never intended for use here, that this confirmation came direct from Algeria and, to prove its good will to the UK, the GIA was prepared to order all GIA members in the UK to leave the country in response to the release of YASSIN and the other brothers. 910 was now the GIA's spokesman and intermediary in the UK. He claimed to have informed his "brothers" of my initial approach because, by not doing so, he would have faced imminent execution if they subsequently found out. He had, as it were, taken out personal insurance on his own life.

7. I informed 910 that, as a British citizen of 12 years standing, he would be sensitive to the principle of the independence of the judiciary and that executive/legislative agencies, seen to interfering with this independence, did so at their peril. They themselves could be guilty of a criminal offence. 910 stated that he fully understood this delicate balance of constitutional power and then proceeded to ask my help in securing the detainees release! As an Egyptian he clearly believes in the omnipotence of AL-MUKHABARAAT and their ultimate ability to ride roughshod over delicately-balanced constitutions. Nothing I could say was going to dissuade him of that idea.

They were released without charge 3 weeks after this plea!

(Gr 491)

95

10 of 5

04 CF-356 (KBF)
Docket No. 356

Exhibits

Mostafa Kamel Mr
67495-054
MCC New York

Mon Katherine B. Forrest

April 16, 2004

Subject: Regarding important established facts should be mentioned to the respected members of the Jury at the opening or the forefront of the Case.

Dear respected Judge,

Thank you for the transparent, very efficient and discrete way of selecting the respected members of the Jury.

However, the minute after the whole process concluded and just before the conference ended, I heard a gentle from the gov. attorneys saying to you that he had agreed with Mr. Dratel not to mention that Abbas (an alleged co-conspirator) was in Guantanamo bay. Such was nothing but the inverse of my instructions and understanding during my last meeting with Mr. Dratel. I was shocked at such a critical moment, and there was no time to discuss with Mr. Dratel as I was quickly taken away by Marshals!

Because of that, and the respected judge instruction to "avoid any checks" through out the procedures of the Case, I am writing this letter. I hope it reaches you before the opening.

The learned judge herself asked the most important question about the charges related to Abbas.

2 of 5

Exhibit 05: 2

The Judge said "Where is Abbas?" This probe question can and should be a matter for some of the charges, morally, and legally I hope.

Mr. Abbas is only one of three people (alleged) participants ~~in the same~~ (charges) ~~to~~ held in Guantanamo and other secret prisons. Two had been released, the third died after a long journey of torture and rendition's (The Sheikh ALIBI) none had been charged, some were compensated handsomely! All of these information are facts and history in the public domain for nearly a decade. US representatives in my extradition case acknowledged and in position of the relevant Bundles and issues through out the Courts (District, High Court and The European). My legal team had also, provided the Gov. here with three CDs from my attorneys in London as early as Nov 2012. The CDs contain all the backing of my stipulations in this letter regarding Abbas, Yemen, Ujama, voluntary meetings with British Security etc. (A copy can be provided to the respected Judge.

The Gov. has been granted enormous amount of circumstantial evidence and material, many are hardly related to the specifics I am charged with. The respected Judge kindly explained very well to members of Jury the difference between facts evidence

3/5

Exhibit 5:3

direct evidence and circumstantial evidence, in a we said manner.

However, the prudent Judge knows ~~neither~~ ^{nor} the respected members of the Jury are legally equipped, we are just ordinary people: If the facts are well established, and are not dependent on any cross examinations then they should be at the forefront of the Case. Because there is a big risk that there will be no other chance to address them or mention them again until the very late stage of the case (like direct or cross) by the defendant himself. When the circumstantial evidence has already exhausted the minds and emotions of Jurors, and most opinions are templated. Even though not fully concluded, it is difficult to find new space at the right level in the formed template or tree. Some have to work back to front! causing some arguments may be confusion or even trigger different emotions when discussed.

The respected Jury might also feel (or some of them) that there was some unnecessary delay or evasion by ~~not~~ ^{not} told the established independent facts in ~~the~~ ^{the} natural time and as early as it could be; ~~in~~ ⁱⁿ ~~giving~~ ^{giving} a transparent opening preferably by the honest Gov. they came to help and serve. Such is the shortest cut to justice and honesty, and

5

Exhibit 05 : 4

fully compatible with the hardwork and the high Standard of prudence, impartiality and efficiency we all witnessed and experienced from the learned Judge.

Among many established long known facts there are three main issues I believe my defence will be seriously diminished if they are ignored or grossly understated at start of the case, and they are as follow Respected Madam:

1- The facts regarding Abbasi and the other alleged participants how they ended up out of the case and when - etc

in London

2- My arrest in 1998 with two other Co-defendants regarding the kidnapping in Yemen and mentioning the 5 days interrogations, search, four month field work by British special branch in Yemen, then the report "Why I was not even charged" (I have a copy of the US Gov)

3- The very many voluntary meetings with all the British anti terrorists departments from 1997 to Sep 2000 (before during and well after ~~10~~ of the charges in the Current indictment) I have summary minutes of all the meetings and US gov. has too)

I was asked to free some of the British hostages in Kashmir & negotiate - 1997

Exhibit 05: 5

asked to calm the Muslim community after ~~was~~ ^{were} when Muslim leaders, arrested.

asked why I criticize Ben Laden & Al Qaeda and praise the news sometimes in the same breath. about some elements of my preaching. told I am walking a tight-rope. (But still legal)

I hope the respected judge swiftly visit this issue before the opening. I informed Ms. Lindsay Lewis when she visited me today. she kindly said she will tell Mr. Drotel. Esq.

However, Could it be possible that the respected Judge allow me to do the opening should my legal refuse. I promise the utmost discipline, politeness and a positively prompt response to any of the respected Judge remarks or directions.

I am really sorry for such a short notice but I tried my very best to avoid that firstly, and acted as soon as I could.

I apologize for the lengthy letter and Thank you Madam Judge for your patience and waiting ~~the~~ anxiously for your advice.

Yours sincerely
The Defendant
[Signature]

End.

IPT



Exhibit: 06

01

ANTI-TERRORIST BRANCH

OPERATION YEMEN

ADVICE CASE

REPORT

REPORT 1

Bundle D

10

200

1/2

76XXVI

Ex 06

02

Arabic Names

7. [REDACTED] Arabic Interpreter, provides information that the translation of Arabic place names to English is on occasions an approximation of the Arabic word to an English sound- the two languages do not transliterate perfectly. For this reason some of the names and place names written in reports and on official maps may vary subtly (for example Aden may be spelt Adan- both are equally correct).

8. [REDACTED] also explains the construction of Arab names. In male names it is usual for a person to incorporate a name; their fathers name and their grandfathers name. Sometimes all names are shown- sometimes not. A man can also be identified by the title 'Abu' which shows that he is identified as the father of a particular person. Culturally, the giving of names within the Arab world is different to normal European construction.

9. [REDACTED] also provides an interpretation of some Arabic words and phrases used by the hostages during their account of events.

Ex: 06

03

Republic of Yemen- Map

10. [REDACTED] Detective Sergeant [REDACTED] produces a general map of Yemen which is for use in following information during the inquiry. The map is produced as Exhibit KOS/22.

Interviews conducted with Abu AL HASSAN

11. Yemeni Investigators interviewed Abu AL HASSAN on four occasions during his time in detention. The interviews appear have been conducted without tape recording facilities and have been recorded in script by a Yemeni Police official. The Anti-Terrorist Branch have not been allowed to interview AL HASSAN nor any other person involved with the kidnap group- the Yemeni Constitution does not appear to allow for such interviews.
12. Both Abyyan and Aden prisoners have made claims of torture while they were held in detention. Whilst these allegations cannot be corroborated or refuted, the investigating officers have to be cautious not to rely on the interviews but to merely note their content.

103

76 xxx

Ex. 06

26

0.4

27. DSU [REDACTED] received from the Yemeni Minister of the Interior (Home Secretary) a report containing a series of photographs with Arabic captions. DSU [REDACTED] the report as his Exhibit DJ/1.

28. The report shows post-mortem photographs of the four hostages that were killed during the incident. Photographs are also shown of the weapons seized and some scene photographs. Post-mortem photographs of Osama AL MISRI are also shown.

29. [REDACTED] Interpreter, provides a translation of the report as Exhibit MEM/A.

30. DSU [REDACTED] produces a further report handed to him from the Yemeni Minister of the Interior. This report contains what has been termed an 'Expert Report' by the Yemeni investigators. The report provides information from Yemeni pathologists on the examinations conducted on the four dead hostages and of one of the hostage takers- Osama AL MISRI.

31. The report also deals with the Yemeni authorities examination of the crime scene. Confusingly, the report swaps the locations

Ex 06
05
where Mr THIRSK and Mr ROWE were killed (there is ample information from the surviving hostages to prove the report to be inaccurate). The report, similarly seeks to attribute certain weapons with individual kidnappers which in turn appear to have caused the deaths of the hostages. I submit that, in the absence of any further evidence of continuity from the Yemeni authorities, this can not be relied upon for the purposes of a British inquest. DSU [REDACTED] produces the report as Exhibit DW2.

32. [REDACTED] produces a translation of the report as Exhibit MEM/5.

Anti-Terrorist Branch Scene Examination

33. On Saturday 9th January 1999, the British Investigation Team travelled by Military Helicopter to the kidnappers' camp and was granted a limited period of time with which to create records.

34. DSU [REDACTED] has taken photographs of the kidnappers' camp. These photographs have been gathered into a photograph

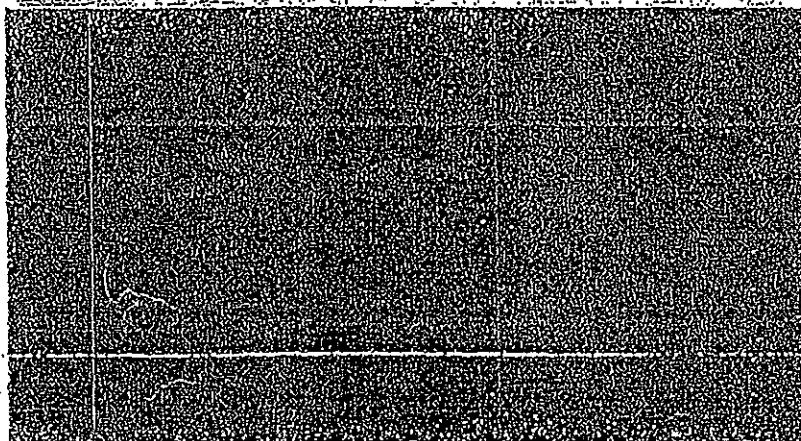
EX 06
06

23

album and produced as Exhibit DJ/5. These photographs provide a good impression of the kidnappers' camp.

Enquiries by British Investigators in Yemen

35. On Saturday 2nd January 1999, the investigation team met in conference with the Yemeni Minister of the Interior. During the meeting DSU [REDACTED] requested:
- Yemeni Authorities provide evidence and intelligence that they had gathered during the course of their investigations.
- Allow the investigation team access to the site where the hostages were detained.



LOG

76 LIV

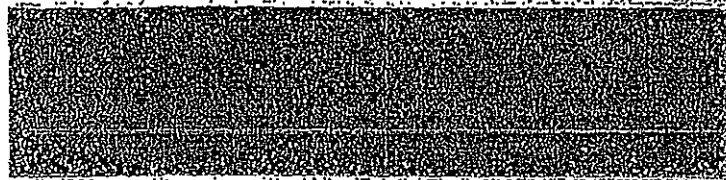
Ex 06

24

Post-Mortem Examinations / Continguity

23. The victims who died during the gun battle were repatriated to the United Kingdom and were examined by Dr Iain WEST (Pathologist).

24. Dr WEST concluded that all four victims died as a result of gun shot wounds. It is not possible to say with any degree of certainty who was responsible for the injuries caused.



Anti-Terrorist Branch Enquiries

25. On Thursday 31st December 1998, an Anti-Terrorist Branch investigation team travelled to Yemen to progress enquiries into this case.

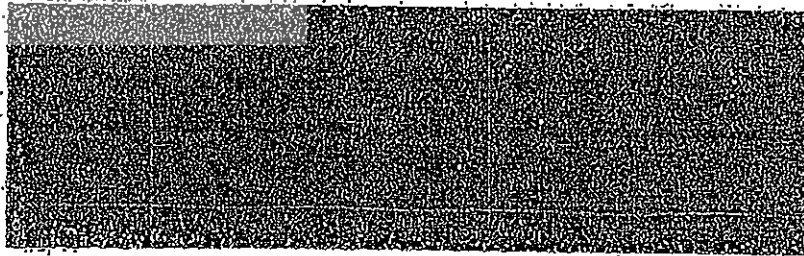
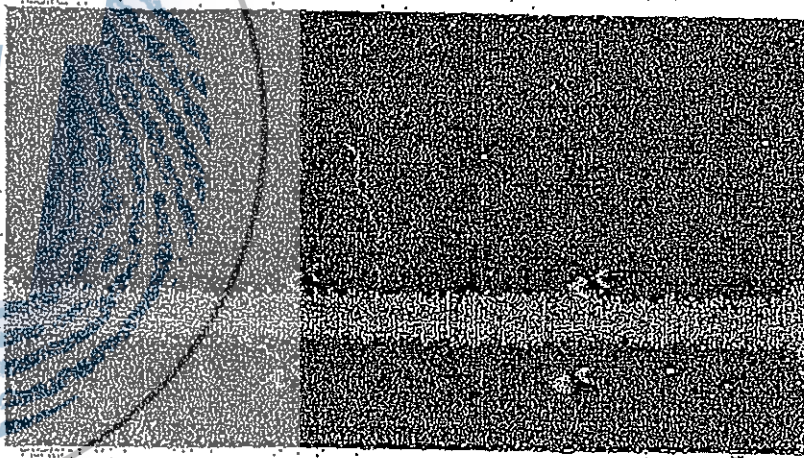
107



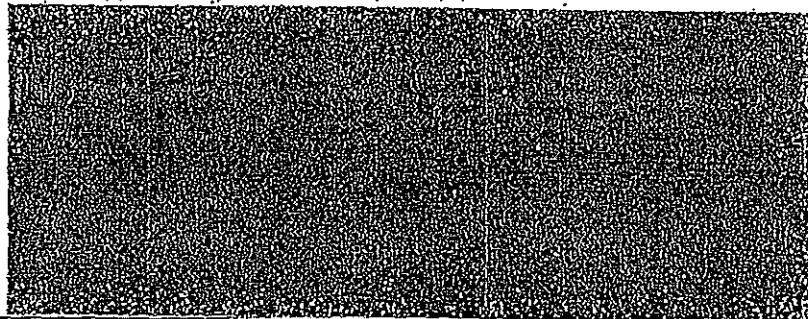
76 L

Ex 56
07(C)

30



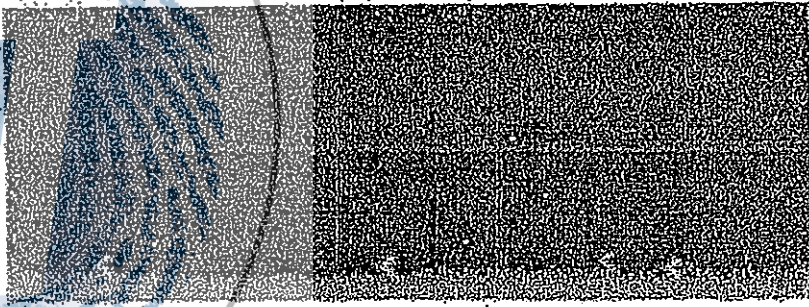
40. Between Wednesday 14th April 1999, and Sunday 25th April 1999, an investigation team from the Anti-Terrorist Branch travelled to Yemen for the purpose of further progressing enquiries into the deaths of the hostages.



Exob
08

22

IPT



Examination of Lap Top Computer seized from the Aden Group

44. On Saturday 24th April 1999 the investigation team attended the Headquarters of the Yemeni Police Service in Aden where the lap top computer found in the possession of the 'Aden' Group was made available for inspection.
45. Major [REDACTED], Yemeni Police Service, handed to PC [REDACTED] an AST Ascentia J Series lap top computer which is identified by PC [REDACTED] as MCT/1. Accompanying the lap top computer was three 3.5" disks identified by PC [REDACTED] as MCT/2, MCT/3 and MCT/4.
46. The computer memory was opened and was found to contain files referring to Education Issues in a Birmingham School

109



7576LVIII

Ex 08
09

34

wasn't possible to conduct a further technical examination

52. On Sunday 25th April 1999, the Investigation Team returned to the United Kingdom.

Media Examination of Satellite Telephone

54. Jonathan BAKER, Editor- BBC News, produces a video of a news item which was broadcast on the 9 O'Clock News dated 15:02:1999. The news item made reference to the kidnapping and killings of tourists in Yemen. Mr BAKER produces the video as Exhibit JCB/1 and a script of the news item as Exhibit JCB/2.

Ex 06
10

35

55. Peter Vivian GOULD, News Correspondent- BBC News, on 15th February 1999, travelled to Zinjibar, Abyyan, in order to cover the trial of ABU AL HASSAN and others. At the end of the days proceedings he was granted access to the satellite telephone which he arranged to be photographed. Mr GOULD noticed that the telephone had placed on them two phone numbers VOICE 1- 761916955 and VOICE 2- 761916956. Mr GOULD explains that he used the photographs in a report which he created for that evenings BBC News Bulletin. Mr GOULD confirms that Exhibit JOB/1 is a record of his report and video footage.

Media Statements- ABU HAMZA

56. In January 1999, ABU HAMZA was widely quoted in the popular press. Many of the reports were re-releases of articles circulated from Arab media sources. The reliance in this investigation has been placed upon visual/ sound recordings of ABU HAMZA only. The reporting in print of ABU HAMZA's comments have not been relied upon.

57. Guy KER, Managing Editor- Channel 4 News, provided two copies of an unedited interview with ABU HAMZA which had

Ex 06

41

66. Barclays Bank Account Number 40046019 - This account shows a debit for £5,000 in October 1998.

67. Barclays Bank Account Number 60251135 - Supporters of Shia Provision - This report shows unexceptional usage.

68. Barclays Bank Account Number 20014532 - North London Central Mosque - This account shows ABU HAMZA's address to be 8, Adie Road, London, W6. On 22nd December 1998 a cheque in the sum of £1,500 was drawn on the account.

69. Midland Bank Credit Cards 5434 6010 2000 8470 and 4546 3810 2000 8477 - These show unexceptional usage.

70. Barclaycard 4929 736 912 029 - This shows unexceptional usage.

AL SIRRI

71. DC [REDACTED] explains that AL SIRRI is a signatory to a number of bank accounts. AL SIRRI, on applying for accounts, provides information to financial institutions with the information that he is employed by the Islamic Observation Centre with a salary of £18,000.

Ex 06

42

12

72. Barclays Bank Account Number 90444758 - This account shows AL SIRRI's address to be 102, Edinburgh House, London, W9. This account appears to furnish normal household living payments.

73. Barclays Bank Account Number 30548197 - This account appears to have an unexceptional history.

74. Barclaycard Numbers 4929 580 666 986 and 5301 2503 4026 4858 - Both are mainly used for payment to telecommunications providers.

Arrests of Abu Hamza, Al Sirri and Etam

75. On Monday 15th March 1999, at 0700, co-ordinated arrests and searches were conducted under terrorist legislation at addresses used by ABU HAMZA, AL SIRRI and ETAM.

Arrest of ABU HAMZA

76. ABU HAMZA's address situated at 9, Aldbourn Road, London, W12 was searched under the authority of a search warrant.

Ex 06

13

44

ELEVEN(11) Volume Encyclopaedia of Military Weapons and Tactics (Exhibit PS/1217).

ONE(1) Computer generated Drawings of an Anti- Aircraft Net incorporating Explosive Mines (Exhibit PS/1210).

Barclays Bank Cheque Book- "Supporters of Shia Provision" (Exhibit PS/1040).

British Passport in the name of Adam Ramsey EAMON- bearing the photograph of ABU HAMZA (Exhibit PS/1165).

Invoice from Arabian Travel dated 11:12:98 to Mr S. AHMED for flight to Aden on 18:12:98 (Exhibit PS/1303).

Hand-written note in English and Arabic providing a list of property e.g. gloves, banners, binoculars etc. (Exhibit PS/1247).

Fax Journal showing two entries on 5:1:99 to 009675202019 (Exhibit PS/1172).

Hand written note bearing the Yemeni telephone Number 009676592153. (Exhibit PS/1173).

Telefax and Invoice addressed to ABU HAMZA (Mr MOSTAFA) from Paul SYKES- Nera Communications (PS/1039)

Air Mail Letter written by HARHARA. The letter was written to his family in case of his death (EXHIBIT PS/1261).

Files containing plans of Sandhurst Military Academy (Exhibit PS/1214).

Ex 06

14

45

2/2

Statement declaring the Aims of the Islamic Army of Aden.

The statements also request support (Exhibit PS/1229).

Fax to a French Press Agency. Text includes reference to Military Training by ABU HAMZA and the Supporters of Sharia (Exhibit PS/1008).

Hand written Details of James-Pierrick LEBOURDIEC (Exhibit PS/1281).

Yemenia Airways Ticket issued through Tamara Travel on 8:9:98 for GHAILAN to travel between London and Sana'a (Exhibit PS/1235).

A large quantity of video tapes (Exhibit PS/1079)

79. [REDACTED] Detective Constable [REDACTED] viewed the video tapes found at the address (PS/1079). One of the tapes was found to contain a presentation by ABU HAMZA to an Islamic Conference in London. During his presentation ABU HAMZA displayed to his audience the computer generated anti-aircraft net drawing. A copy of this drawing was found during the search of ABU HAMZA's address (Exhibit PS/1210). ABU HAMZA states that it is a diagram of a gas filled net with mines attached which could be flown above Islamic lands to destroy foreign aircraft. He explains that the idea had been given to him and his group in 1990.

Ex 06
15

51

97. During the interviews conducted on 16th, 17th, and 18th, March 1999, AL SIRRI reverted to his strategy of providing 'no comment' replies.

Arrest of ETAM

98. ETAM's address situated at 93, Ryan Close, London SE5 was searched under the authority of a search warrant. [REDACTED] Detective Sergeant [REDACTED] and [REDACTED] Detective Constable [REDACTED] arrested ETAM and conveyed him to Charing Cross Police Station where his detention was authorised.

Search of 93, Ryan Close, London, SE5

99. [REDACTED] Detective Constable [REDACTED] conducted a systematic search of the premises during which a number of items were seized. The following items are of specific importance to this investigation:
Itinerary for Supporters of Sharia Training at Crowborough 28-29th November (MSJ/24).

ER 06

16

36

IPT

112. The contact between the satellite telephone and the telephones at ABU HAMZA and AL SIRRI's addresses is documented within the first report. The difficulty with this evidence is assimilating information on the nature of the calls and who made them. Although it is possible to say when the telephones made contact with one another it is not possible to determine, evidentially, the content of the calls. Although it is assumed that ABU HAMZA discussed strategy with ABU AL HASSAN (kidnap leader) this can not be proved.

113. AL SIRRI, for his part, is the director of a human rights organisation (Islamic Observation Centre). There may be a number of reasons why he was in contact with the kidnappers and ABU HAMZA during the relevant times, however, he hasn't disclosed his reasons during interview.

114. During a search of ABU HAMZA's home address a computer generated drawing was found which shows an anti-aircraft net incorporating explosive mines. A video was also found at the

117

76

L x x x ii

EX 06
17

IPT

address in which ABU HAMZA is seen to describe the drawing and its intended function to an audience at an Islamic Conference in London.

115. ABU HAMZA, during his presentation, [REDACTED] state that this device could be used over Arab countries [REDACTED]

[REDACTED] Following his presentation he states to his audience "invent your own ideas... never give up..."

116. The search of ABU HAMZA's address also revealed a passport bearing his photograph in the name of Adam Ramsey EAMON.

Conclusions

117. Clearly, there are links between ABU HAMZA and the Islamic Army of Aden whose members chose to kidnap a group of western tourists in December 1998. Evidentially, the links have proved inconclusive and rely heavily upon information gathered from Yemeni sources which would not ordinarily be admissible during a British trial.

118

76
Lxxxiii

EX 06

18

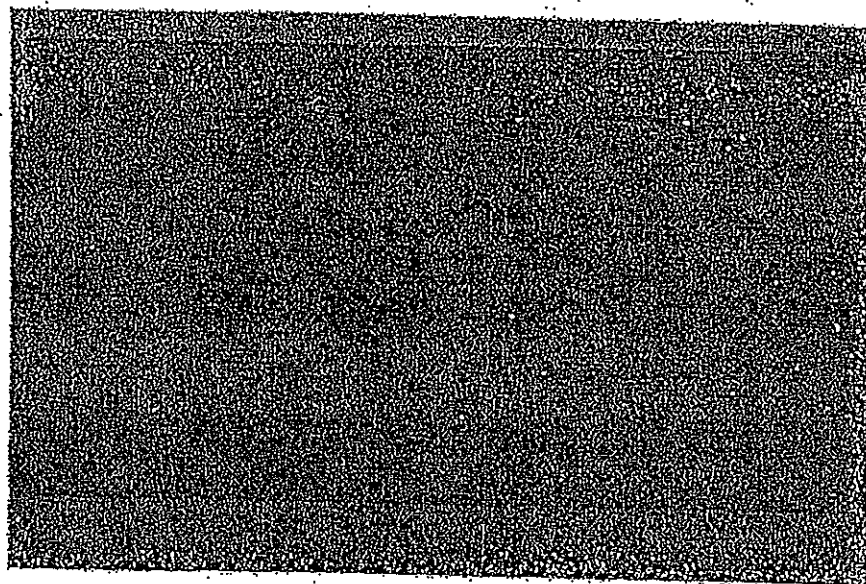
58

~~118~~

118. The 'best evidence' available linking ABU HAMZA and the kidnappers is the purchase by him of the satellite telephone and its seizure from the kidnap group by the Yemeni authorities. Similarly, ABU HAMZA states that he had contact with the kidnappers at the material time at which time he claims to have told them to, 'act in a manner which will preserve Moslem blood...'

~~119~~

119. There does not appear to be evidence to prove that ABU HAMZA or AL SIRRI conspired with the kidnappers to bring about the kidnap or deaths of the tour group/ hostages (although this suspicion will always remain).



119

76

LXXXIV

Notification of Extension of Special Administrative Measures
Kamel Mustafa, register number 67495-054
December 30, 2015
Page 3

Exhibit 07

and two counts of conspiracy to kill. Kassir is currently housed at ADX Florence. Because of Kassir's proclivity for violence, the Attorney General placed him under SAM.

Third, in late 2000, you directed one of your followers, James Ujaama, to escort Feroz Abbasi, another follower, from London to Afghanistan, to meet with Ibn Sheikh al-Libi. Al-Libi was a leader of a terrorist training camp in Afghanistan and described by you as a "front line commander." Abbasi was observed in Afghanistan in early 2001 with al-Libi. Abbasi also received training at an al Qaeda training camp while in Afghanistan. Abbasi was captured on the battlefield in Afghanistan in December 2001. Al-Libi was also captured while fleeing Afghanistan in late 2001 and died in a Libyan prison in 2009.

Fourth, from in or around 2000 to 2001, you, working with Ujaama, conspired to provide goods and services to the Taliban, including sending money and other items to Taliban-controlled regions of Afghanistan. You gave Ujaama money to be delivered to Abu-Khabab, an al Qaeda explosives expert who ran an explosives training camp in Afghanistan. Ujaama, who also conspired with Kassir at the above-described training camp in Oregon, pled guilty to multiple terrorism offenses and was subject to SAM.

B. Basis for Special Administrative Measures

In addition to your involvement in the criminal conduct described above, you have been a vocal proponent of terrorist attacks against non-Muslims, have repeatedly made public comments supporting terrorist attacks, and have demonstrated your willingness to utilize technology to further your aims and expand your influence. Specifically, while Imam of the Finsbury Park Mosque in London, you utilized a website for your pro-jihad organization, the Supporters of Sharia, to communicate with supporters. You have long held ties to senior-level terrorist leaders. In addition, the USA/SDNY reports that since the SAM were imposed on January 3, 2013, and continuing through 2015, you have committed multiple violations of the restrictions. For example, on June 15, 2013, while housed at the MCC, you violated the SAM by talking to another SAM inmate. As a result, the MCC issued an incident report and suspended your telephone privileges for 30 days. On another occasion during the first year of SAM restrictions, a telephone call with your family was terminated after your family put the telephone call on speaker phone, despite notification at the onset of the call that speaker phone use was not permitted during the call. You again violated the SAM in August 2014, when you communicated with another SAM inmate in Arabic. As a result, you received another incident report from the MCC for refusing to obey an order. This violation also resulted in suspension of your telephone privileges for a period of thirty days. Moreover, given your convictions for terrorism-related

"Sensitive But Unclassified"

3/20

Exhibit: 08

To: Ms. K. Klotz Esq. (Legal Dept.) Aug 23 - 2017

From: Mostafa K. Mostafa #57495-054 Unit A

Re: Request to Print Discovery Material & Copies CD

I urgently need to print out some of my discovery material & compile a CD to send to the Court of appeal

As you know I had only been provided access to the discovery 2 weeks ago and still very difficult to use.

However my filing date for the appeal is approaching very fast and I need your help to print & compile the requested material.

I wrote a Cop out to Computer dept 3 weeks ago but not even answered.

I had been trying for many years to obtain copies/print out from my trial Attorney without success. My appeal attorneys are not very helpful in this matter too and I couldn't give them the exact pages & references as I was denied access to it nearly.

I do need to send some of the requested material to the Court and some to the attorney as soon as possible. Please help and advise. Thanks

Respectfully Submitted

Mr. Mostafa

121

Certificate Of Service

The Deft Certifies that he had handed the two enclosed motions and exhibits to A-DX SIS staff on: Dec 04, 2017, in a large Priority mail envelope, with all needed stamps, for the respected 2nd Circuit Court of Appeals, Foley Square, New York, NY, 10007.

Deft Applicant, Mostafa Kamel Mostafa
#G7495-054

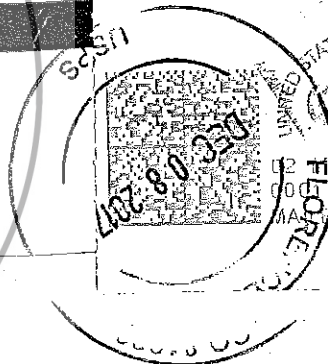
Docket No. 15-211

Case No. 04 Cr 356 (K-B-F)

Mos

2017 DEC 12 AM 9:35
U.S. DISTRICT COURT
SOUTHERN DISTRICT
NEW YORK

PRESS FIRMLY TO SEAL



U.S. OFFICIAL MAIL
PENALTY FOR
PRIVATE USE \$300
PITNEY BOWES
\$ 000.000
NOV 28 2017
MAILED FROM ZIP CODE 81226

FROM: Mostafa Kemal Mostafa #6945554

US Penitentiary Max
PO Box 8500
Florence, CA, 81226-8500

TO:

Clerk of Court, Docket # 15-211
Second Circuit Court of Appeals,
40, Foley Square, Center Streets
US Court House, Room 1803
New York, NY 10007

VISIT US AT USPS.COM[®]
ORDER FREE SUPPLIES ONLINE

 **UNITED STATES
POSTAL SERVICE.**

This packaging is the property of the U.S. Postal Service[®] and is provided solely for use in sending Priority Mail[®] shipments. Misuse may be a violation of federal law. This packaging is not for resale. EP14F © U.S. Postal Service; July 2013; All rights reserved.

PRESS FIRMLY TO SEAL

PRESS FIRMLY TO SEAL

PRIORITY[®] ★ MAIL ★



DATE OF DELIVERY SPECIFIED



USPS TRACKING[™] INCLUDED



INSURANCE INCLUDED *



PICKUP AVAILABLE

* Domestic only

WHEN USED INTERNATIONALLY
A CUSTOMS DECLARATION
LABEL MAY BE REQUIRED.

FROM: Mostafa K
US Penitentiary
PO Box 8
Florence, CO

Clerk of Court
Second Cir
40, Foley
US Cour
New York



PS00001000014

EP14F July 2013
OD: 12.5 x 9.5

VISIT US AT USPS.COM
ORDER FREE SUPPLIES ONLINE



This envelope is made from post-consumer waste. Please recycle - again.

PRIORITY®
★ MAIL ★

FLAT RATE ENVELOPE
ONE RATE ★ ANY WEIGHT*

Administrative Maximum
P.O. Box 8500
Florence, CO 81226-8500

The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has been neither opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosure to the above address.

DEC 14 2013



EP14F July 2013



UNITED STATES
POSTAL SERVICE

TRACKED
INSURED

IPT