

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 13-cr-20772

v.

Paul D. Borman  
United States District Judge

RASMIEH YOUSEF ODEH,

Defendant.

Case 2:13-cr-20772 has been randomly  
reassigned to:  
presiding Judge Gershwin A. Drain  
referral Judge David R. Grand

OPINION AND ORDER OF RECUSAL, *SUA SPONTE*

The United States' Indictment in this case (ECF No. 3) states in its General Allegations at page 3 that in February 1969, Defendant Rasmieh Odeh participated with other individuals in bombing plots at two locations in Jerusalem, Israel: one at a supermarket that resulted in two deaths and multiple injuries, and the second at a British Consulate that caused damage to the structure. The subsequent prosecution and conviction of Defendant Odeh in an Israeli Military Court of charges relating to those bombings, and thereafter, Defendant's answers to questions on United States entry (1994) and citizenship forms (2004) about her prior conviction and incarceration, are significant issues in this case.

In beginning the Court's review of the recently-filed motions *in limine*, in particular Defendant's Response to the Government's Motion *In Limine* to Admit All Documents From Occupation Military Legal System (ECF No. 64), which asserts that several of the documents the

Government seeks to introduce are incomplete and/or illegible, the Court yesterday, August 11, 2014, requested that the parties provide to the Court the complete eleven count Israeli indictment referred to, but not set forth in, the instant United States Indictment. Although that Israeli indictment previously had been provided by the Government to the Defendant, the Court had not seen that indictment quoted in full or attached as an exhibit to any motions, responses or replies.

Thus, the Court did not have the Israeli indictment containing the specifics of the supermarket bombing when it issued its July 31, 2014 Opinion and Order Denying Defendant's Motion to Recuse, based on the allegations contained in the Defendant's motion. (ECF No. 44, Motion for Recusal, ECF No. 58, Order Denying Motion for Recusal.) The Court's justification in support of that Order, in response to Defendant's unsupported allegations in that Motion to Recuse, stands.

Yesterday, the Government provided the Court with an English translation of the Israeli indictment.

The Court concludes that the facts relevant to this Opinion and Order are contained in the second count of the Israeli indictment, which charges Defendant Rasmieh Odeh and two co-defendants with involvement in the plan to place "explosives in the hall of the SuperSol in Jerusalem, with the intention of causing death or injury to any . . . and/or cause damage to property. One of the bombs exploded and caused the death of Leon Kannar and Edward Jaffe . . . ." (ECF No. 79-1, Israeli Indictment.)

The critical relevance of these facts to the instant Order is that at the time of the 1969 bombing, my family had a passive financial investment connection to SuperSol. There was no family involvement in the operations of SuperSol. Further, there is no present family passive

financial investment connection to SuperSol.

Title 28 U.S.C. § 455(a) states in relevant part:

(a) any . . . judge . . . of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

The Sixth Circuit has stated that “a district judge must recuse himself where ‘a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.’” *Buell v. Mitchell*, 274 F.3d 337, 345 (6th Cir. 2001) (quoting *United States v. Nelson*, 922 F.2d 311, 319 (6th Cir. 1990)).

I do not have a personal bias against Defendant Rasmieh Odeh. I am confident that I can continue to be faithful to my oath to “administer justice without respect to persons, and . . . faithfully and impartially discharge and perform all the duties incumbent upon me [] under the Constitution and laws of the United States.” 28 U.S.C. § 453. However, I recognize that 28 U.S.C. § 455(a) imposes an objective test that requires recusal whenever impartiality might reasonably be questioned. *Liteky v. United States*, 510 U.S. 540, 548 (1994).

The Court concludes that my family’s passive financial investment connection to SuperSol at the time of the 1969 bombing could be perceived as establishing a reasonably objective inference of a lack of impartiality in the context of the issues presented in this case.

I recuse today, not because of my charitable giving or my work on behalf of the Jewish Federation of Metropolitan Detroit or other charities, which I concluded in my previous Order created neither the reasonable appearance nor the fact of impartiality. My decision to recuse today is based upon facts which became known to me yesterday in review of a relevant document not previously seen by the Court, the specific Israeli indictment that undergirds the Government charge in this case. After reviewing this document, I conclude that given the language of 28 U.S.C. §

455(a), my *sua sponte* recusal in this case is appropriate under the law.

IT IS SO ORDERED.

s/Paul D. Borman  
PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: August 12, 2014

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 12, 2014.

s/Deborah Tofil  
Case Manager