

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE EXTRADITION :
 :
 OF :
 :
 MOUSA MOHAMMED ABU MARZOOK :

AFFIRMATION
95 CR. Misc. 1, P. 16

Affidavit in support of
application for bail

STATE OF TEXAS)
)
COUNTY OF _____) ss.

Professor Khaled Abou El Fadl, being duly sworn, deposes and says:

1. I am a citizen of the United States and I hold the position of Instructor in the Department of Middle Eastern Languages and Cultures at the University of Texas at Austin. I am teaching courses on Islam, Qur'an and Islamic law and Human Rights. In the Spring of 1996 I will be teaching Islamic law at the University of Texas at Austin Law School.

2. I possess a Bachelors Degree (BA) in political science from Yale University where I specialized in Islamic Political Thought, a Masters Degree (MA) in Islamic law from Princeton University, and a Juris Doctorate Degree (JD) from the University of Pennsylvania.

3. I am a doctoral candidate in Islamic law at Princeton University and I expect to be conferred a Ph.D. Degree by January 1996.

4. I held the position of lecturer at Yale University Law School where I taught Islamic law. I also taught Islamic law at Princeton University.

5. I have lectured widely on Islamic law in the United States and I have several publications including two articles on the historical and legal aspects of Muslim minorities living in non-Muslim states.

6. Based on the preceding credentials, I am qualified to render an opinion on a wide range of topics in Islamic Jurisprudence. As a scholar of Islamic legal sources, my opinions have been sought by Muslim and non-Muslim individuals, communities and institutions throughout the world.

7. I have been asked to render an opinion on whether a Muslim individual who chooses to reside in a nation of non-Muslims, abiding by the host nation's laws and

regulations, is ethically or morally duty bound to fulfill the conditions of bail in a situation where such a Muslim has been incarcerated by the authorities of the non-Muslim host state and is facing possible extradition.

8. Based upon a careful study of the sources of Islamic law, it is my understanding that the issue presented be answered in the affirmative. According to Islamic law, a Muslim is Islamically bound to fulfill all the conditions of bail s/he agrees to in his/her application, to the proper court, for that purpose.

9. A Muslim residing in a non-Muslim state does so under an agreement of safe conduct ('aqd aman) under which a Muslim is bound to obey the laws and fulfill all obligations to the non-Muslim host state. A Muslim may not defraud, cheat or lie to the non-Muslim host state and must discharge all promises, securities or guarantees.

10. Islamic law basis its position on the Qur'anic command: "And fulfill every covenant, verify the covenant will be questioned on the Day of Judgment." (Q. 16:24).

11. Furthermore, Islamic law basis its position on a saying attributed to the Prophet of Islam: "The signs of a hypocrite are three; when he speaks he lies, and when he promises he breaks his promise, and when he is entrusted with something he betrays the trust."

12. By a simple extension of Islamic legal precedent to another, it is my opinion that a formal bail application is a covenant and, pursuant to Islamic Law, such a covenant must be fully discharged.

Khaled Abou El Fadl

Prof. Khaled Abou El Fadl
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Subscribed and sworn to before me this 16 th day of November 1995.

My commission expires _____

