

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No.: 15-237 (MJD/BRT)

UNITED STATES OF AMERICA,

Plaintiff,

v.

REPLY MEMORANDUM IN  
SUPPORT OF THE MOTION OF  
THE UNITED STATES FOR  
PRETRIAL DETENTION

(1) USAMA DARWICH HAMADE,  
a/k/a “Prince Sam” Hamade

Defendant.

The United States of America, through its undersigned attorneys, respectfully submits its Reply Memorandum in Support of Its Motion for Pretrial Detention of defendant Usama Darwich Hamade.

INTRODUCTION

The government relies principally upon its initial brief, and upon the information and exhibits received at the detention hearing, to support its motion to detain the defendant.

Very briefly reprised:

The Second Superseding Indictment alleges that the defendant procured United States parts and technology for Hizballah. “It does not appear to be disputed the Hezbollah is an organization that is an enemy of the United States.” Detention Hearing Transcript, p. 90. The defendant has a picture of Hizballah’s leader, Hassan Nasrallah, hanging in his homes in both Beirut and in South Africa. Issam Hamade Exhibit O, Paragraph 8; Government Exhibit 6 (video of defendant’s Beirut apartment); Government Exhibit 14.

The defendant has a Hizballah flag in his Beirut flat (depicted in government exhibit 6, on the left side of the bookshelf). The defendant told Chris Neveling that both he and his brother are members of Hizballah. The “nature and circumstances of the offense charged” (18 U.S.C. § 3121(g)(1)) strongly militates in favor of a finding that the defendant poses a danger to the United States.

In addition, the government offered several taped conversations between the defendant and an undercover agent during which the defendant made various violent threats. *See* Government Exhibit 3 (where the defendant threatens to “fuck up” Neveling and his family if they return to South Africa); Government Exhibit 4 (in which the defendant threatens to “fucking kill” a United States government official); and Government Exhibit 5 (in which the defendant tells Special Agent Perry Davis that he is going to kill Chris Neveling). These threats are not out of character for the defendant. The defense now has the defendant’s Facebook chats with a United States person in which the defendant wrote of a Florida man named “Willie,” at whom the defendant was angry for not performing under a contract to build the defendant a sports car: “I kill his whole family.” The defendant is a dangerous man.

Finally, the defendant obviously poses a serious risk of flight. The defendant has never been to the United States. He has no ties whatsoever to this community – no assets, no family, and no employment. Minnesota is not this defendant’s home. All of the defendant’s ties are to South Africa. On the basis of risk of flight, alone, the defendant should be detained.

GOVERNMENT'S RESPONSE TO DEFENDANT'S MEMORANDUM IN SUPPORT  
OF PRETRIAL RELEASE (ECF NO. 61)

The government makes a limited response to some of the arguments advanced (and summarized in the underscored introductions below) in the defendant's memorandum, as follows.

1. The Government Sat on Its Hands for Two Years. The defendant argues that he should be released because the government "did not treat this case with urgency in the years between Mr. Hamade's indictment and arrest." Defendant's Memorandum at 13.

The assertion that the government sat on its hands for over two years is unsupported and entirely incorrect. During the period between the original indictment in this case (August 19, 2015) and the defendant's arrest (February 13, 2018), the government continued its global investigation of the procurement activities in this case by making an MLAT request to Canada; an MLAT request to Israel; an MLAT request to the Netherlands; two MLAT requests to the United Kingdom, and two MLAT requests to the Republic of South Africa. The responses to these MLAT requests took considerable time. The evidence received from the foreign countries, primarily in the form of complex records, took time to analyze. During this same period, the government conducted several overseas interviews, and placed calls to the defendant using Mr. Neveling. Then, the government undertook the process of extraditing the defendant from South Africa, an effort the defendant fought for almost 20 months. These activities are only a small part of the continuing investigative activities that took place in this case between 2015 and the date of

this memorandum. This is an important case which the government has aggressively and tenaciously investigated (a point apparently conceded in the defendant's memorandum, which characterizes the government's investigation in this case as a "wide-ranging, international investigation").

2. The Government, Itself, Created the Conditions that Make the Defendant a Flight Risk.

First, the government does not rely upon the ICE detainer that has been lodged against the defendant in support of its detention argument. The problem identified by Judge Rosenbaum in the *Barrera-Omana* case does not present itself here.

Second, the United States is entitled to extradite persons who commit crimes against the United States from foreign countries. The defendant's extradition from South Africa was legal. The defendant's absence of ties to the United States, where he has legally been brought, is not a government creation.

3. The Defendant Does Not Make Threats All the Time. The defendant appears to argue that he should be released because, in *some* calls between the defendant and Neveling, the defendant does not threaten Neveling. The defendant submits his Exhibit 5, a transcript of a subset of the calls between Neveling and the defendant, to show that the defendant did not threaten Neveling during that subset of those calls.

The government acknowledges that, sometimes, the defendant does not threaten to kill other people and their families, and that he does not do so in Defense Exhibit 5.

But more to the point, the government commends the entirety of the defendant's Exhibit 5 to the Court. In that call, Neveling tells the defendant that United States agents

have visited him, and seeks guidance from the defendant about what to tell them. Among other things, the defendant urges Neveling not “to receive” the United States agents (that is, turn them away), and adds, referring to the United States:

SH: I will never receive them. Who they fuck they are. They must go and stop, stop fucking up in Syria and Iran everywhere those fucking bastards . . .

SH: They’re giving the terrorists, they’re giving the terrorists in the Middle East a lot of (UNI) whatever. What the fuck they want from people who doesn’t even come next to the fucking US about fuck leaving the people alone. . .

SH: Fuck their own mother, and their own president. They must fuck off, that’s it.

A man who procures parts for Hizballah from the United States, and who then says things like this about the United States, should not be released into the United States to await trial in this matter, as “cordial” (Defendant’s Memorandum at 4) as the defendant might have been to Neveling during this conversation.

4. The Government Hid the Defendant’s Lack of Criminality from the Defense. The defendant accuses the government of concealing the defendant’s lack of convictions for serious offenses in South Africa: “The government fails to disclose, though, that as part of its investigation it sought information about all previous records of arrest, charges, and conviction for Mr. Hamade.” Defendant’s Memorandum at 15. This argument is hard to understand inasmuch as the defendant learned about the government’s investigation of the defendant’s criminal history in South Africa through the government’s Rule 16 disclosures made last week.

In any event, at the risk of exhibiting a “nationalist elitism that cannot be countenanced,” it appears that the defendant was almost untouchable in South Africa. The

defendant says as much in Government Exhibit 4 (“I will fucking kill him. I’m not worried. You know why? Because in South Africa, the government protect the criminal, not the good people”). The defendant’s lack of convictions in South Africa does not mean that he did not engage in violent, criminal activity during the 21 years he lived there, and is no basis to release him into the community now.

5. Chris Neveling is an Admitted Thief Who Fled from Prosecution, Not from the Defendant.

The Red Notice issued by South Africa against Neveling was premised upon a false report by the defendant to the South African government that Neveling had stolen a pair of very expensive binoculars from a South African company called Denel. In reality, the defendant stole those binoculars. The case against Neveling in South Africa has now been dismissed, and the Red Notice against him withdrawn.

That Neveling obtained approximately \$38,000 from the defendant under false pretenses for the purpose of relocating Neveling’s family to the United Kingdom to escape from the defendant’s threats of violence is a fact. It will be up to the jury to decide whether this fact renders Neveling an “admitted thief” who should not be believed. At this stage, however, Neveling’s flight from South Africa with his family, and the way he financed that flight, is not a reason to release the defendant into this community.

6. The Government’s Theory is Flawed Because the Defendant Cannot Be Both a Drunkard and a Member of Hizballah.

The government accuses the defendant of *supporting* Hizballah by procuring equipment useful in its terrorist mission. The government has not shouldered the burden of showing

that the defendant is a “member” of Hizballah, whatever that might mean. It’s entirely possible that one can be both a drunkard and a member of Hizballah (plenty of sinning goes on in every religion), but it is certainly possible that one can be a drunkard and a procurer of military parts for Hizballah. The defendant’s dissolute lifestyle in no way undermines the merits of the government’s case, or its arguments for pretrial detention.

### CONCLUSION

For the foregoing reasons, “no condition or combination of conditions” of release of this defendant will “reasonably assure . . . that safety of any other person and the community” 18 U.S.C. § 3142(e). The United States respectfully requests that the defendant be detained pending trial.

Dated: November 7, 2019

Respectfully submitted,  
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