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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]*
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United States of America

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) Case No. 01-CR-3240-W
12)
12 Plaintiff,) DATE: May 13, 2002
13) TIME: 2:00 p.m.
13 v.)
14 MOHDAR MOHAMED ABDOULAH,) ADDENDUM TO GOVERNMENT'S RESPONSE
15) AND OPPOSITION TO DEFENDANT'S
15 Defendant.) MOTIONS TO:
16) (1) DISMISS INDICTMENT DUE TO
16) DUPLICITY;
17) (2) CONSOLIDATE COUNTS DUE TO
17) MULTIPLICITY;
18) (3) SUPPRESS EVIDENCE; AND
18) (4) LEAVE TO FILE MOTIONS
19)
20) TOGETHER WITH STATEMENT OF
20) FACTS, MEMORANDUM OF POINTS
21) AND AUTHORITIES, AND UNITED
21) STATES' MOTION FOR RECIPROCAL
22) DISCOVERY

23 The UNITED STATES OF AMERICA through its counsel Patrick O'Toole,
24 United States Attorney, and Michael G. Wheat, Assistant U.S. Attorney,
25 hereby submits declarations from Special Agent Daniel Gonzalez,
26 Federal Bureau of Investigation and Special Agent James Nagel, Bureau
27 \\
28 \\
[Handwritten marks: "ck" and "19"]




1 of Diplomatic Security, United States Department of State. These
2 declarations are to be included in the above-entitled Government's
3 Response.

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DATED: May 9, 2002

Respectfully submitted,

PATRICK K. O'TOOLE
United States Attorney




MICHAEL G. WHEAT
Assistant U.S. Attorney



DECLARATION OF DANIEL GONZALEZ
Special Agent
Federal Bureau of Investigation

1 DECLARATION OF DANIEL GONZALEZ



2 I, Daniel Gonzalez, do hereby say under penalty of
3 perjury:

4 1. I am employed as a Special Agent for the Federal
5 Bureau of Investigation (FBI), and have been so employed for
6 twelve (12) years. I am currently assigned to the San Diego
7 Division and investigate a variety of criminal offenses,
8 particularly Public Corruption and Terrorism.

9 2. This affidavit is submitted in response to
10 Motions to be heard on May 13, 2002, by Defendant Mohdar
11 Mohamed Abdoulah [Defendant].

12 3. On Tuesday, September 18, 2001, Defendant was
13 encountered by the FBI while in his car on his way to class at
14 San Diego State University [SDSU]. No "traffic stop" was
15 performed on Defendant and his car. The Defendant was in his
16 car, stopped in line with a few other cars on the public street
17 waiting for traffic to proceed into a student parking lot at
18 SDSU. I was in my car and was stopped in traffic parallel to
19 the Defendant's car. I identified myself as an FBI agent,
20 through my window, and asked the Defendant if he was willing to
21 answer some questions. The Defendant said he would talk to me,
22 and further stated he was expecting the FBI to contact him.

23 4. The Defendant was immediately told that he was
24 not under arrest nor was he being detained. The Defendant was
25 advised that if he answered any questions that it would be
26 voluntary. The Defendant never asked the agents if he needed
27 an attorney, nor indicated in any way that he wanted an
28 attorney. The Defendant stated he did not want to leave, or go

1 to class because he wanted to know what the FBI was going to
2 ask him. The Defendant voluntarily sat in SA Frank Teixeira's
3 car along with SA Teixeira and me and began to answer
4 questions. Shortly thereafter, Defendant voluntarily agreed to
5 conduct the interview at a location other than the school
6 parking lot. Defendant voluntarily agreed and allowed the
7 agents to drive him, and his car, to a nearby Denny's
8 restaurant. The interview was continued at a table, in a
9 public area, inside Denny's. Defendant was told, and
10 understood that he was free to leave at any time during the
11 interview, and in fact ultimately did so by exercising his
12 option to leave when he told the agents he needed to go to work
13 at the Texaco Gas Station.

14 5. At the conclusion of this first interview,
15 Defendant agreed to meet with the agents after he got off work
16 the following evening. It was agreed that the second interview
17 would be conducted at the same Denny's restaurant. That
18 evening, September 19, 2001, Defendant arrived at the
19 restaurant driving his car and voluntarily agreed to continue
20 the interview. However, Denny's did not have an available
21 table, so we all walked across the parking lot next door to the
22 Marie Callander's restaurant to conduct the interview. The
23 interview was conducted in a public area at a table inside the
24 restaurant. In addition, during the second interview Defendant
25 elected to discuss his current situation between him and his
26 fiancée/girlfriend, but he did not want to identify her by name
27 to the agents. The Defendant partially identified her as a
28 Puerto Rican/American, sixteen years of age, who attended a

1 local San Diego high school and she still resided with her
2 mother. He stated that he wanted to marry her, however, her
3 mother did not approve of her daughter dating him.

4 6. At the conclusion of the second interview the
5 Defendant agreed to meet with the agents, at the same Denny's
6 restaurant, the following evening [September 20, 2002] for a
7 third interview. On September 20, 2002, the Defendant arrived
8 at the restaurant driving his car and voluntarily agreed to the
9 third interview. At the third interview, at Denny's, the
10 Defendant was asked if he would take a polygraph examination
11 administered by the FBI. The Defendant agreed that he would
12 take the polygraph examination at the FBI office the following
13 day at 10:00 a.m. However, on September 21, 2001, Defendant
14 failed to appear at the FBI office for the polygraph
15 examination. At no time did the agents ever instruct Defendant
16 to go to his Saranac Street apartment complex, "where other
17 persons who knew the hijackers were living," and on behalf of
18 the FBI, ask them to contact the FBI and tell agents what they
19 knew.

20 7. At no time during any of the interviews of
21 Defendant did agents take exemplars or even view any
22 handwriting samples of the Defendant.

23 8. I did apply for and obtain search warrants for
24 the Defendant's car and residence based on assistance Defendant
25 provided to the September 11, 2001 hijackers in acclimating
26 them to San Diego, assisting them [the hijackers] with their
27 personal affairs after arriving in the United States, and an
28 item seen in the Defendants car during an inventory search of

1 the car after his arrest. After Defendant's arrest, agents
2 secured his car at the FBI office. During the inventory search
3 [to secure any valuables or any potentially dangerous items
4 which might be a threat to agents safety], a spiral letter size
5 notebook was seen in an open plastic bag. The notebook
6 contained references to planes falling from the sky, mass
7 killings and hijacking. The page was viewed by inventorying
8 agents after further examining the bag when it was removed from
9 the car and placed on the ground making a noise indicating
10 something heavy or hard was located at the bottom. The agents
11 who discovered the notebook were not the interviewing agents
12 and were not privy to the details of the interviews with the
13 Defendant.

14 9. I did not read or see the handwriting on the page
15 in the notebook which made references to the planes falling
16 from the sky, mass killings and hijacking. This information
17 was relayed to me by the agents conducting the inventory. In
18 a large investigation, such as those concerning the attacks on
19 the World Trade Center and Pentagon on September 11, 2001, an
20 affiant for a search warrant relies on colleagues to assist in
21 the gathering of evidence in any instant offense. Agents in
22 this case were not in a position to determine that Defendant
23 was or was not the author of the entries in the notebook
24 discovered in Defendant's car. The notebook was found inside
25 Defendant's car, for which he was the sole registered owner.
26 At the time the notebook was discovered, the inventorying
27 agents could not determined the date the entries were written.
28 I did not make omissions to mislead the magistrate in obtaining

1 the search warrants. In reference to the notebook, I only
2 included the facts reasonably known to me at the time, i.e.
3 that a notebook referencing hijacking and mass murder was
4 found in Defendant's car.

5 10. I described the Defendant as an associate of the
6 hijackers due to the Defendant telling the interviewing agents
7 that he considered his relationship with the hijackers as a
8 close relationship. Based upon our interviews with Defendant,
9 the lack of recent contact between the Defendant and the
10 hijackers was not due to a choice made by the Defendant.
11 Defendant related that the hijackers elected not to tell him
12 [Defendant] their forwarding address. The Defendant told the
13 interviewing agents that he pursued avenues to maintain contact
14 with the hijackers but to no avail.

15 11. The affidavit in support of the search warrant
16 did not mention that the Defendant "cooperated" with the
17 interviewing agents because we believed that while Defendant
18 did make himself available for interview, he was not answering
19 our questions truthfully and honestly. Defendant appeared to
20 enjoy playing with us during the interviews. Despite receiving
21 the polygraph examination questions in advance, Defendant
22 failed to show up to take the polygraph examination as he had
23 previously agreed to do. Defendant was told he would be asked
24 if he had any participation or knowledge of any terrorist
25 attacks or future attacks to include the terrorist activities
26 of the hijackers. Based on my contacts with Defendant, I felt
27 that the he [Defendant] had rehearsed his answers prior to the
28 interviews. The Defendant continuously made body movements or

1 gestures to give the impression to the interviewing agents that
2 he knew more than what he was telling. The Defendant told the
3 agents that they needed more knowledge of Islam and the Muslim
4 culture, to include Jihad, to understand the events of
5 September 11, 2001.


6 12. Agents did not disregard the scope of the
7 warrants in its execution. The documents seized at Defendant's
8 residence were seized as correspondence between co-conspirators
9 and their aiders and abettors and/or third parties who may not
10 have any knowledge of the conspiracy but may have unwittingly
11 provided assistance to the conspirators, which may disclose
12 information identifying the participants, other means of
13 communication used in furtherance of this conspiracy,
14 description of their plans relating to the acts of terrorism
15 described above, and/or further acts contemplated by these
16 individuals, or may identify the current whereabouts or past
17 residences of others involved in this conspiracy. The
18 documents found at Defendant's residence, that were written in
19 Arabic were seized because agents did not speak or read the
20 Arabic language. It was not possible to obtain the assistance
21 of an Arabic language specialist at the time of the execution
22 of the warrant. I had been informed by an INS special agent
23 that Defendant was lawfully in the United States, having
24 obtained political asylum from Somalia.

25 13. The Yemen Personal Identification Card, was
26 seized as "any other documents which relate to the events of
27 September 11, 2001, and the conspiracy between individuals
28 having direct or indirect involvement in the planning of the

1 events of September 11, 2001." The document was used by the
2 Defendant to enter the United States and/or fraudulently remain
3 in the United States in order to help the before mentioned
4 hijackers and/or any future hijackers in the furtherance of
5 terrorist activities against people in the United States.

6
7 *I declare under penalty of perjury that the foregoing is true
8 and correct.*

9 Executed on May 9, 2002;
10 at San Diego, California.

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13 Daniel Gonzalez
14 Special Agent, FBI
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DECLARATION OF JAMES NAGEL
Special Agent
U.S. Department of State

DECLARATION OF JAMES NAGEL

1
2 I, James Nagel, do hereby say under penalty of
3 perjury:

4 1. I am employed as a Special Agent for the Bureau
5 of Diplomatic Security, United States Department of State, and
6 have been so employed for 25 years. I am currently assigned to
7 the San Diego Resident Office and investigate a variety of
8 criminal offenses, particularly passport fraud and visa fraud.
9 I am, or agents under my supervision, are assigned to the Joint
10 Terrorism Task Force [JTTF].

11 2. This affidavit is submitted in response to
12 Motions to be heard on May 13, 2002, by Defendant Mohdar
13 Mohamed Abdoulah [Defendant].

14 3. After the terrorist attacks on the World Trade
15 Center and Pentagon on September 11, 2001, State Department
16 agents began a comprehensive review of visas issued to aliens
17 from Al-Qaeda source countries [including Yemen] at United
18 States Embassies and Consulates worldwide. Because of the high
19 number of hijackers and associates who lived, worked, and
20 studied in the Southern District of California, special
21 attention was directed at individuals who either indicated that
22 they were destined for a school or a visit in San Diego,
23 California. In addition, information had been received that
24 some of the hijackers had entered the United States through
25 Canada. This caused us to be particularly concerned with visas
26 applied for and issued out of Canada.

27 4. Visa applications, including photographs of the
28 recipients are regularly maintained at United States Embassies

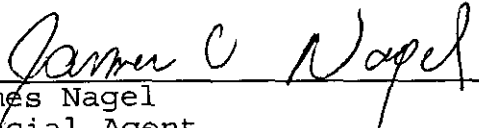
1 and Consulates for at least one year after the date of issue.
2 However, storage space permitting, they are regularly
3 maintained for longer periods of time.

4 5. Because of the efforts made to review the visa
5 applications and the storage parameters, I believe that
6 Defendant's December 10, 1998, "B2" [visitors visa], applied
7 for and received at the United States Consulate, American
8 Embassy, Ottawa, Canada, in his Yemeni passport, would have
9 been discovered independent of the seizure of Defendant's
10 Yemeni National Identification Card during a search warrant at
11 his residence on September 22, 2001.

12 6. Defendant's December 10, 1998, "B2" [visitors
13 visa] was retrieved from the regularly maintained records of
14 the Department on October 4, 2001. The photograph on the visa
15 is nearly an exact image as the photograph contained in
16 Defendant's Immigration and Naturalization Service file
17 associated with his fraudulent claim for asylum from Somalia.

18
19 *I declare under penalty of perjury that the foregoing is true
20 and correct.*

21 Executed on May 9, 2002;
22 at San Diego, California.

23
24 
25 James Nagel
26 Special Agent,
27 Bureau of Diplomatic Security
28 U.S. Department of State



UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF CALIFORNIA

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2
3 UNITED STATES OF AMERICA,)
4 Plaintiff,)
5 v.)
6 MOHDAR MOHAMED ABDOULAH,)
7 Defendant.)
8

Criminal Case No. 00cr3240-W

CERTIFICATE OF SERVICE
BY U.S. MAIL

9 IT IS HEREBY CERTIFIED THAT:

10 I, Ann M. Telles, am a citizen of the United States over the age of eighteen years and a resident
11 of San Diego County, California. My business address is 880 Front Street, Room 6293, San Diego,
12 California 92101-8893. I am not a party to the above-entitled action; and subsequent to filing with the
13 Clerk of the Court, I have deposited in the United States mail at San Diego, California [and faxed], a
14 copy of the **Addendum To Government's Response and Opposition to Defendant's Motions to:**
15 **(1) Dismiss Indictment Due to Duplicity; (2) Consolidate Counts Due to Multiplicity; (3) Suppress**
16 **Evidence; and (4) Leave to File Motions Together with Statement of Facts, Memorandum of**
17 **Points and Authorities, and United States' Motion for Reciprocal Discovery** addressed to:

18 Kerry L. Steigerwalt
19 3555 Fourth Avenue
20 San Diego, CA 92103

21 and Faxed to: 619-908-3836

22 the last known address, at which place there is delivery service of mail from the United States Postal
23 Service.

24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed on this 9th day of May, 2002.

26 
27 ANN M. TELLES
28