

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 03-80079

-vs-

HON. GEORGE CARAM STEEH

D-3 HASSAN MOUSSA MAKKI,
a/k/a "Hussan Moussa Makki,"
a/k/a "Samuaiel Moussa Makki,"

Defendant.

**GOVERNMENT'S AMENDED WRITTEN PROFFER IN SUPPORT
OF ITS REQUEST FOR DETENTION PENDING TRIAL**

The United States of America, by Kenneth R. Chadwell and Barbara L. McQuade, Assistant U.S. Attorneys, hereby proffers the following information, pursuant to 18 U.S.C. § 3142 (f), in support of its request that defendant continue to be detained pending trial and that the appeal of his detention order be denied:

1. On January 23, 2003, defendant Hassan Moussa Makki was indicted by a federal grand jury for Conspiracy to Violate the Racketeer Influenced and Corrupt Organizations Act, in violation of 18 U.S.C. § 1962(d). The maximum penalties for this offense are 20 years imprisonment and a \$250,000 fine. 18 U.S.C. §§ 1963(a), 3571(b)(3).

2. On February 5, 2003, Magistrate Judge Donald Scheer ordered Mr. Makki detained pending trial at the conclusion of a detention hearing. Magistrate Judge Scheer

found, among other things, that Hassan Makki presented a substantial risk of flight to his home country of Lebanon.

2. Defendant Makki was born on March 1, 1961, in ErKay, Lebanon. He is currently divorced from Mountaha Makke. Hassan Makki has five children: Zahraa (age 18), Hawraa (age 16), Ali (age 14), Suekain (age 12) and Jenan (age 5). With the exception of Hawraa, each of the children reside in Lebanon. Makki's mother, Nemri Makki, and brother, Mustafa, also live in Lebanon. His father is deceased. Defendant Makki claims to be employed as a service station attendant making \$340 per week. Makki's Michigan Driver's License lists the address of 5031 Ternes in Dearborn, Michigan. Makki does not own 5031 Ternes or any other real property in his own name.

3. Hassan Makki became a naturalized U.S. citizen in 1994 under the name, "Samuaiel Moussa Makki." In fact, Makki has changed his name with the Social Security Administration at least twice since entering the United States, "Hussan Moussa Makki" being the other name used by Makki.

4. Makki still retains his Lebanese citizenship, and is fluent in Arabic (Lebanese Dialect) and English. Lebanon maintains a consulate at 1959 Jefferson in Detroit, Michigan. Thus even if the Court were to seize Makki's passports, he could obtain a new lebanese passport through the consulate within two weeks' time. The government is aware of persons who have done this and who are currently in the process of accomplishing this. The United

States does not currently have an extradition treaty with the country of Lebanon. Accordingly, Makki's flight to Lebanon would completely prevent this case from going forward against him. In fact, Makki has already fled to Lebanon once during the investigation of this case. When one of Makki's workers was caught by police affixing the counterfeit stamps to cigarettes in June 1999, Makki fled to Lebanon to evade prosecution and remained there for more than a year until he felt that it was safe to return to the United States in 2002.

5. If Makki did flee the United States, the investigation shows that he would have access to potentially large amounts of money to facilitate his flight and to support himself for a long period of time in Lebanon. During the investigation of this case, Makki has been twice caught smuggling money and negotiable instruments into the United States. On August 25, 1997, Makki and his wife were stopped by U.S. Customs when they failed to declare \$10,639 while coming to Detroit from Canada via the Ambassador Bridge. On November 25, 2002, Makki and another individual were caught by U.S. Customs transporting more than \$500,000 worth of checks drawn on U.S. banks entering the United States from Canada, including approximately \$13,000 in bearer form, which they failed to declare. During the course of the RICO enterprise, moreover, Makki personally transported as much as \$70,000 at a time to North Carolina to purchase hundreds of thousands of dollars worth of low-taxed cigarettes, which he transported back to Michigan. When the conspiracy

began trying to circumvent the Michigan tax stamp which was passed in 1998, they turned to Makki to be the financier for the procurement of counterfeit tax stamps.

6. Effective October 8, 1997, then Secretary of State Madeleine Albright made findings, pursuant to 8 U.S.C. § 1189(a)(1), that Hizballah, a/k/a “Party of God,” a/k/a “Islamic Jihad,” is a foreign organization that engages in terrorist activity which “threatens the security of United States nationals or the national security of the United States.” Thus Hizballah was designated as a foreign terrorist organization. Designation of Foreign Terrorist Organizations, 62 Fed. Reg. 52,650, 52650-1 (1997). Hizballah is a worldwide terrorist network, allied with and dominated by Iran, fully capable of assisting one of its own in eluding United States authorities, and having the motivation¹ to do so with respect to Makki as set forth below.

A. Part of Makki’s motivation in joining the RICO conspiracy was to raise money for Hizballah, which he commonly referred to as “Moukawama” roughly meaning “the Resistance” in Arabic. Hassan Makki admittedly had a membership/ official status with Hizballah. He would, on occasion, telephone Sheiks in Lebanon and in Iran to clear criminal

¹ Hizballah officials are fully aware of this case and Makki’s participation in it. After the charges became public, Hizballah issued a press release disavowing the individuals named in the indictment including Makki.

acts that he was committing. Makki insisted that the leader of Hizballah, Hassan Nasrallah, be referred to as “Al-Saed” roughly meaning “Master” in Arabic. He also publicly espoused the view that the country of Lebanon is merely a vassal state of Iran. Makki donated a portion of his substantial profits made through cigarette trafficking to Hizballah. For instance, he would sometimes sell contraband cigarettes with the understanding that 25 cents per carton would go to the Resistance. He also directly solicited other members of the enterprise to contribute money to Hizballah. On one occasion, Makki demonstrated his influence with Hizballah by arranging safe passage through Beirut for an individual who had traveled to Israel, in exchange for a substantial fee. These facts not only show that Makki is both a flight risk and a danger to the community, but will also subject Makki to a Terrorism enhancement under U.S. Sentencing Guideline § 3A1.4, requiring a minimum guideline sentence of 210 months (17.5 years) imprisonment.

B. As part of the offense for which he is indicted, as alleged at paragraph 4(A) of the Indictment, Makki also participated in unlawful activities with Mohamad Hammoud. The evidence against Makki will establish that his business with Hammoud involved hundreds of thousands of dollars in cash transactions. Hammoud and his extensive organization were indicted as the “Charlotte Hizballah Cell” by a federal grand jury in the Western District of North Carolina. The indictment alleged numerous crimes including RICO and Providing Material Support to a Foreign Terrorist Organization (Hizballah).

Specifically, Hammoud was charged with conspiring to provide “a variety of items that Hizballah would use to engage in violent attacks and to film such attacks for use in Hizballah propaganda efforts,” including night vision devices, global positioning systems, mine and mine detection equipment, computers, cell phones, laser range finders, stun guns, radars, aircraft analysis and design software, nitrogen cutters and the like. (North Carolina Second Superseding Indictment). Hammoud was convicted of these offenses in the summer of 2002, and was recently sentenced to 155 years imprisonment.

C. Makki’s connection to Hizballah is further corroborated by his admissions to the FBI set forth in paragraph 7 below, as well as materials recovered in the search of his residence. On February 4, 2003, the FBI executed a search warrant at Makki’s residence. Among the items recovered during the search was a photomontage of Hizballah leaders, spiritual figures, funeral processions, tanks, rockets, firearms and celebrations. Many of the photos show Hizballah members arrayed in battle fatigues and displaying the yellow and green Hizballah flag containing a raised fist holding a semi-automatic rifle. FBI agents also found Hizballah propaganda tapes with chants and songs praising Hizballah and its terrorist operations. Some of the phrases on the tapes are:

“I’m an Islamic resistance fighter and I will spill my blood against the enemy. . . . We won and the right has prevailed, with the power of our resistance and the power of God. And those who participated in the Jihad will be rewarded by God. Be in peace Sayed Hassan Nasrallah, the leader of this nation OH ABOU HADI. . . . OH resistance fighter destroy Kaviat

Shemona, detonate your bombs in those who opposed us, America is screaming and going crazy, but my people will remain the victors and praise Allah.”

The presence of these materials in Makki’s house is consistent with someone who is committed to supporting Hizballah.

7. Finally, the “weight of the evidence” (see 18 U.S.C. § 3142(g)(2)) against Hassan Makki is quite substantial. Following his arrest on February 4, 2003, Makki executed a written waiver of his Miranda rights in both English and Arabic. During the ensuing interview Makki admitted to participating in a contraband cigarette scheme from 1995 through 1999. He further stated that some of his co-conspirators in the contraband cigarette operation are now in Lebanon. Makki confessed that he was doing between \$36,000 and \$72,000 worth of contraband cigarettes per month.² He also admitted to being involved with Mohamad Hammoud in smuggling contraband cigarettes.

² The admitted amounts of money that flowed through Makki’s hands further substantiates the fact that he would have substantial resources to facilitate his flight.

With respect to his connection to a foreign terrorist organization, Makki confessed to being a member of the Amal Militia during the 1980s. (This is a group that has been linked to numerous kidnappings of Americans from Lebanon in the past.) Makki stated that he is familiar with the use of firearms but has not received any formal military training. He denied being a member of Hizballah but stated, “I love Hizballah.” Hassan Makki admitted to frequently listening to speeches by the leader of Hizballah, Hassan Nasrallah. He further admitted that he is from a village in Lebanon with heavy Hizballah influence and associates with Hizballah members when he is in Lebanon. Makki told the FBI that he has sent \$400 to \$500 per month to Sheik Hani Ballout in Lebanon to assist orphans in Lebanon.³ He also admitted to having a bank account in Lebanon, to which he has wired funds from the United States.

Relief Requested

Based upon Hassan Makki’s substantial ties to Lebanon, Iran and Hizballah, the large amount of prison time he faces, his access to large amounts of money that is unaccounted for, his limited ties to the United States, his previous flight to Lebanon, and his oral admissions, among other factors, there is no condition or combination of conditions that will reasonably assure the appearance of Defendant as required, the safety of any other person and the

³ The government has other witnesses who will testify that the donations to “orphans” is a reference to the orphans of “martyrs” who were killed during Hizballah terrorist operations.

community. It is therefore respectfully requested that the Court order the detention of Defendant pending trial pursuant to the Bail Reform Act.

Respectfully submitted,

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Dated: April 4, 2003