

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:17-cr-18-Orl-40KRS

NOOR ZAHI SALMAN

**UNITED STATES' RESPONSE IN OPPOSITION
TO DEFENDANT'S DAUBERT MOTION**

The United States responds in opposition to the defendant's motion under *Daubert* to exclude one of the government's noticed experts, William Braniff. Doc. 122.

I. INTRODUCTION

On August 1, 2017, the government provided notice to the defendant that it intends to call William Braniff as an expert. As set forth in the government's notice, Mr. Braniff has served since early 2012 as the Executive Director of the National Consortium for the Study of Terrorism and Responses to Terrorism (START), located at the University of Maryland. His testimony at trial will be limited to an explanation of certain words, phrases, and individuals referenced by Omar Mateen during his terrorist attack on June 12, 2016, as well as referenced in web browsing history.

Mr. Braniff's testimony is relevant to at least two issues: (1) to prove that Mateen was providing material support to the Islamic State of Iraq and the Levant (ISIL, ISIS, or the Islamic State); and (2) to corroborate the defendant's eventual admissions to the FBI that she was aware that her husband had been viewing "jihad websites" and "ISIS recruitment videos" for two years prior to his attack. The jury is unlikely to have sufficient familiarity with the specific words, phrases, and individuals relevant to this case, and Mr. Braniff will help fill that gap by offering background information that falls well within his area of expertise. A *Daubert* hearing is unnecessary as Mr. Braniff's experience and methodology is more than satisfactory to qualify him as an expert to assist the jury in understanding the meaning of words, phrases, and individuals referenced by Mateen during his attack and in web browsing history prior to the attack.

II. ARGUMENT

a. Mr. Braniff's Testimony Is Reliable.

Proposed expert testimony must be supported by proper validation, so-called "good grounds, based on what is known." *U.S. v. Frazier*, 387 F.3d 1244, 1260-61 (citing *Daubert v. Merrell Dow Pharm.*, 509 U.S. 579, 590 (1993)). The key inquiry of reliability is "whether the reasoning or methodology

underlying the testimony is scientifically valid . . . and whether that reasoning or methodology properly can be applied to the facts in issue.” *Daubert*, 509 U.S. at 592-93. The same criteria is applicable in cases where technical or other specialized knowledge, as opposed to scientific knowledge, is at issue. *Kumho Tire Co. Lt. v. Carmichael*, 526 U.S. 137, 149 (1999). Although the factors that the Court uses to analyze the reliability of a proposed expert’s testimony may vary from case to case, in part depending on the nature of the expertise at issue, *id.* at 150-51, “[t]he trial judge in all cases of proffered expert testimony must find that it is properly grounded, well-reasoned, and not speculative before it can be admitted.” *Frazier*, 387 F.3d at 1262.

The Advisory Committee notes to Rule 702 specifically provide that “[i]n certain fields, experience is the predominant, if not the sole, basis for a great deal of reliable expert testimony.” Fed. R. Evid. 702, 2000 Advisory Committee Note. “Rule 702 specifically contemplates the admission of testimony by experts whose knowledge is based on experience.” *U.S. v. Parra*, 402 F.3d 752, 758 (7th Cir. 2005).

Mr. Braniff’s testimony is solidly based on his education, training, and experience. He has spent his adult life in the national security arena, focusing

on terrorism and counterterrorism following receipt of his Master's Degree in International Relations from Johns Hopkins School of Advanced International Studies in 2006. Before that, Mr. Braniff graduated from the United States Military Academy at West Point and spent five years as an active duty combat arms officer in the Armor Branch of the United States Army. After graduate school, Mr. Braniff first worked as a foreign affairs specialist in the nuclear counterterrorism field for the National Nuclear Security Administration, a semi-autonomous arm of the U.S. Department of Energy.

Mr. Braniff went on to work for nearly five years as an instructor at the Combating Terrorism Center (CTC) at West Point, a research center housed in the Department of Social Sciences with a reputation as one of the leading intellectual centers in the country for the study of the global jihadist movement. There he taught cadets as part of the CTC's minor in terrorism studies, as well as directed the CTC's practitioner education program. Initially focused on teaching FBI Special Agents, the program grew to include multiple disciplines within the FBI, the intelligence community, homeland security investigators, and state and local law enforcement personnel. The program's curriculum was based on academic and experiential expertise of a team of instructors cultivated by Mr. Braniff and his colleagues at West Point.

In addition to overseeing the program, Mr. Braniff served as one of its primary instructors, mastering approximately 32 hours of subject matter on the following topics: Islam, Islam in the United States, Islamism (Political Islam), Violent Islamism, Radicalization, Jihadist Use of the Internet, Understanding Terrorism in the Horn of Africa, Understanding Terrorism in South Asia, Understanding Terrorism in North Africa, Understanding Terrorism in the Arabian Peninsula, as well as classes on Hamas and Hezbollah. Braniff benefited from this unique position, as he was consistently surrounded by a team of approximately 20 subject matters experts with diverse linguistic, regional, topical, methodological, and professional backgrounds, as well as students who often brought highly valuable first-hand experience into the classroom. Mr. Braniff continues to teach for the FBI and Joint Special Operations University, and lectures on an ad hoc basis for other audiences, such as the National Counterterrorism Center.

For the last four years, Mr. Braniff has served as the executive director of the National Consortium for the Study of Terrorism and Responses to Terrorism (the START Consortium), an independent research and educational consortium based at the University of Maryland. START is one of the Department of Homeland Security Centers of Excellence, university based entities that conduct unclassified research of value to the national security

enterprise. START conducts objective and empirical research, primarily by leveraging theory and methodology from the behavioral and social sciences, on terrorism, counterterrorism, and societal responses to terrorism. START is currently executing approximately 40 funded research projects funded by various government entities, making it among the largest terrorism research networks in the world. Braniff plays a leadership role in all facets of the organization, to include quality assurance of START research, and transitioning START research to the professional counterterrorism community so that it can help to inform policy and practice.

The study of terrorism, to include jihadist organizations, is not a physical science that operates out of a lab and is readily subject to testing. The study of terrorism is a social science that requires analyzing material produced by the terrorist organizations and followers. *See, e.g., United States v. Mohamud*, 2013 WL 71806*6 (D. Or. 2013) (“[T]errorism does not lend itself to strict scientific study that the court would expect in the testing of a new medication.”).

To that end, Mr. Braniff’s methodology includes online research, specifically studying websites operated by terrorist organizations and their followers; visiting jihadist chatrooms; reviewing lectures and books by known jihadist leaders; analyzing publications and periodicals published by terrorist

organizations; consulting with other experts in the field, as well as with law enforcement officials; and cross checking information from primary and secondary sources for accuracy and authenticity. This methodology is employed by other experts in this field and has been accepted by other courts when qualifying terrorist experts. *See, e.g., U.S. v. Damrah*, 412 F.3d 618, 625 (6th Cir. 2005) (in addressing the expert’s reliance on books, press releases and newspaper articles, the district court held that “Given the secretive nature of terrorists, the Court can think of few other materials that experts in the field of terrorism would rely upon.”); *U.S. v. Abu-Jihaad*, 553 F. Supp. 2d 121, 125-126 (D. Conn. 2008) (the expert “gathers information from multiple sources and cross-checks factual information from other sources. He also works collaboratively with his peers and relies upon original information provided directly by the terrorist organizations themselves.”). Further, Mr. Braniff’s testimony on similar issues has been accepted by numerous courts, including other courts in the Middle District of Florida. *See, e.g., U.S. v. Bell*, Case No. 3:13-cr-141-J-32JRK, 81 F. Supp. 3d 1301 (M.D. Fla. 2014) (describing Mr. Braniff as a “terrorism expert”); *U.S. v. Robertson*, Case No. 6:12-cr-63-Orl-31GJK (M.D. Fla. 2015) (transcript attached as Exhibit A).

b. Mr. Braniff's Testimony Is Relevant, Helpful, and Probative.

While the average juror may be familiar with ISIS or the Islamic State, that does not mean that the average juror would, for instance, know that ISIS is a designated terrorist organization or be able to identify any of the leaders of ISIS. Mr. Braniff's testimony is limited to explaining these matters, a type of testimony that has been repeatedly accepted in cases in which terminology and concepts regarding terrorism that are unlikely to be familiar to most jurors are at issue. *See U.S. v. Hassan*, 742 F.3d 104, 130-31 (4th Cir. 2014) (expert testimony necessary in terrorism case given terminology and concepts likely unfamiliar to jurors); *U.S. v. Farhane*, 634 F.3d 127, 158-60 (2d Cir. 2011) (upholding admission of expert testimony regarding al-Qaeda).

For example, during his attack at the Pulse Night Club, Mateen spoke to an Orlando Police Department officer. Mateen stated to the officer, "Yo, the airstrike that killed Abu Waheeb a few weeks ago— That's what triggered it, okay?" The average juror would not know that when Mateen references Abu Waheeb he is speaking of Shaker Wahib al-Fahdawi al-Dulaimi, a leader of ISIL. Further, they would not know that on May 6, 2016, Abu Waheeb was killed along with three others in a vehicle by a US-airstrike that targeted ISIS.

By way of further example, again when speaking to the OPD officer, Mateen stated that he pledged allegiance to ISIS on behalf of Abu Bakr al-Baghdadi. Again, the average juror would not know that al-Baghdadi was one of the leaders of ISIS during 2015 and 2016.¹

Mr. Braniff's testimony is aimed at educating the jury regarding references made by Mateen during his attack and corroborating Salman's eventual admissions to the FBI about her knowledge of Mateen's motivations. Mr. Braniff will not be drawing any conclusions about Mateen's conduct, nor will be providing testimony on any material that would not otherwise be a part of this case. The government, through Mr. Braniff, is simply seeking to inform the jury about the references made by Mateen and the web material viewed by him.

These topics are relevant on at least two grounds. First, the defendant is charged with aiding and abetting Mateen's attack. Thus, the government must demonstrate that Mateen was providing material support to ISIS. The jury must be able to understand Mateen's statements and web viewing to be able to decide this issue.

¹ Further, during these conversations, Mateen also referenced Moner Abusalha (a Florida man who conducted a suicide bombing attack in Syria on behalf of ISIL in May 2014) and an attack using explosives in France (the coordinated terrorist attacks that occurred in Paris, France, on November 13, 2015). Again, these are not terms or events that are necessarily within the knowledge of the average juror.

Second, Mateen's web viewing corroborates some of Salman's eventual admissions to the FBI. While she initially maintained that she and her husband were moderate and not radical, she eventually admitted that Mateen had in fact been viewing "jihad websites" and "ISIS recruitment videos" for two years prior to his attack.² Mateen's web history bears out these admissions, and Mr. Braniff's testimony about the meaning of the words, phrases, and individuals Mateen searched for and viewed will allow the jury to understand the degree of his radicalization and thus to understand Salman's obstruction of the FBI investigation of the Pulse attack.

As acknowledged by the defendant, only unfair prejudice should result in exclusion, "limited to excluding matter . . . dragged in by the heels for the sake of its prejudicial effect." *U.S. v. McRae*, 592 F.2d 700, 707 (5th Cir. 1979). It should not be used when, as here, the evidence is necessary to prove elements of both charged offenses. While the subject matter of terrorism is quite serious, Mr. Braniff merely provides explanations of topics that will already be at issue in the trial. Further, with respect to Mateen's web browsing history, it is Salman that put that topic squarely at issue by initially

² Salman's initial false statement in this regard is one of the bases for the charge of obstruction against her. Doc. 98 at 12. Nor do her own posts about ISIS, Doc. 122 at 7, impact the need for the government to prove the elements of the crimes it charged. Instead, these posts could be used by the defense as grounds for cross-examination if they so choose.

denying knowledge of her husband's radicalization. *See, e.g., Hassan*, 742 F.3d at 132 (“Indeed, the charges that were lodged against the appellants meant that the prosecution would necessarily seek to establish that link.”); *cf. U.S. v. Al-Moayad*, 545 F.3d 139, 161 (finding that the wrongly admitted testimony was “almost entirely unrelated to the elements of the charges”).

Nor should the defendant's offer to stipulate to a bare fact – that Mateen's attack was an act of material support for ISIS – be weighed here against the government's right to prove its case, particularly where the defendant's knowledge of Mateen's radicalization is in dispute and is directly at issue in the obstruction charge in this case. The defense cites to *Al-Moayad* for the proposition that a stipulation should be required here, but that case is entirely inapposite, where the Court determined that evidence of terrorist acts prejudiced the defendants where they were charged only with conspiring and attempting to provide material support that was not inherently violent in nature. *Id.* at 165-66. Here, Salman is charged with aiding and abetting just such a violent attack, meaning that the need to force the government into a stipulation is unnecessary, as Mr. Braniff's proposed testimony does not even approach the entirely fair prejudicial effect that Salman will face when confronted with the heavily planned and horrific nature of Mateen's acts.

Further, as recognized by *Al-Moayad*, this is a case where the “narrative evidence” against Salman will require demonstrating Mateen’s radicalization and her knowledge of it. *Id.* at 161 (finding that the defendants had “never denied their knowledge of Hamas’s terrorist activities”). To force the government into a stipulation would injure “the importance of allowing the prosecution to maintain ‘the natural sequence of narrative evidence’ in presenting its case, to ameliorate the concern that ‘[p]eople who hear a story interrupted by gaps of abstraction may be puzzled at the missing chapters.’” *Id.* (quoting *Old Chief v. U.S.*, 519 U.S. 172, 189 (1997)).

c. A *Daubert* Hearing on This Motion Is Not Necessary.

As noted above, courts have repeatedly approved the admission of expert testimony regarding terrorist organizations and terrorist activities, as well as testimony by Mr. Braniff. Further, this Court’s role as gatekeeper is not intended to serve as a replacement for the adversary system. As *Daubert* clarified, “[v]igorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking” evidence that the opposing party views as “shaky.” 509 U.S. at 596. Thus, any challenge to the qualifications of Mr. Braniff or to his testimony is better suited to cross-examination and argument.

The curriculum vitae of Mr. Braniff demonstrates that he is eminently qualified to testify on the subject matters proffered. Doc. 122-1 at 5-10. Thus, it is not necessary for the Court to hold a *Daubert* hearing to qualify Mr. Braniff to testify as an expert in this case.

III. CONCLUSION

For all of the foregoing reasons, the United States asks that this Court to deny the defendant's *Daubert* motion regarding Mr. Braniff.

Respectfully submitted,

W. STEPHEN MULDROW
Acting United States Attorney

By:

s/ James D. Mandolfo

James D. Mandolfo
Assistant United States Attorney
Florida Bar No. 96044
400 N. Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6000
Facsimile: (813) 274-6358
E-mail: James.Mandolfo@usdoj.gov

s/ Sara C. Sweeney

Sara C. Sweeney
Assistant United States Attorney
USA No. 119
400 W. Washington Street, Ste 3100
Orlando, Florida 32801
Telephone: (407) 648-7500
Facsimile: (407) 648-7643
E-mail: Sara.Sweeney@usdoj.gov

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2017, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Charles D. Swift, Esquire (counsel for Defendant)

Fritz J. Scheller, Esquire (counsel for Defendant)

Linda Moreno, Esquire (counsel for Defendant)

s/ Sara C. Sweeney

Sara C. Sweeney

Assistant United States Attorney

USA No. 119

400 W. Washington Street, Suite 3100

Orlando, Florida 32801

Telephone: (407) 648-7500

Facsimile: (407) 648-7643

E-mail: Sara.Sweeney@usdoj.gov

s/ James D. Mandolfo

James D. Mandolfo

Assistant United States Attorney

Florida Bar No. 96044

400 N. Tampa Street, Suite 3200

Tampa, Florida 33602

Telephone: (813) 274-6000

Facsimile: (813) 274-6358

E-mail: James.Mandolfo@usdoj.gov

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Docket Nos. 6:11-cr-277
6:12-cr-63

UNITED STATES OF AMERICA	:	
	:	Orlando, Florida
Plaintiff	:	April 30, 2015
	:	2:33 p.m.
v.	:	
	:	
MARCUS DWAYNE ROBERTSON	:	
	:	
Defendant	:	

EXCERPT TRANSCRIPT
TESTIMONY OF WILLIAM BRANIFF
BEFORE THE HONORABLE GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Roger B. Handberg, III

For the Defendant: Daniel Newton Brodersen

Court Reporter: Amie R. First, RDR, CRR, CRC, CPE
AmieFirst.CourtReporter@gmail.com

Proceedings recorded by mechanical stenography.

Transcript produced by Computer-Aided Transcription.

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P R O C E E D I N G S
(Beginning of excerpt)

MR. HANDBERG: The United States calls Bill
Braniff.

THE DEPUTY CLERK: Please come forward, sir, to be
sworn.

(Witness sworn.)

THE WITNESS: Yes, ma'am.

THE DEPUTY CLERK: Thank you, sir. You may be
seated.

Once seated, please state your name into the
microphone for the record and spell your last name.

THE WITNESS: My name is William Braniff. Braniff
is B-R-A-N-I-F-F.

DIRECT EXAMINATION

BY MR. HANDBERG:

Q Good morning, sir.

Tell us about your educational background.

A Good morning.

THE COURT: Actually, it's late afternoon.

MR. HANDBERG: It's been a long day already. I
think I blocked out this morning.

BY MR. HANDBERG:

Q Good afternoon.

1 Please tell us your educational background.

2 A Good afternoon.

3 I graduated from the United States Military Academy at
4 West Point in 1999. I served as an Army officer and then
5 went to grad school, the John Hopkins School of Advanced
6 International Studies, where I received a master's degree
7 in international relations.

8 Q And what did you do in the military?

9 A I was an armor officer. I spent three years in
10 Germany. I served as a peacekeeper in Kosovo and then had
11 a company command at Fort Knox, Kentucky.

12 Q And what did you do after that?

13 A After grad school, I went to work for the National
14 Nuclear Security Administration which is a semi-autonomous
15 body within the Department of Energy that concerns itself
16 with nuclear terrorism and nuclear nonproliferation.

17 Following that 18 to 20 months, I went to work at
18 West Point's Combating Terrorism Center, which is a
19 terrorism research center housed in their department of
20 social sciences.

21 I was there for four and a half years. Taught
22 terrorism, introduction of terrorism at the undergraduate
23 level, and ran a practitioner education program where we
24 provided counterterrorism training to the interagency and
25 the local law enforcement.

1 Q Did you do any work on al-Qaeda while you were there?

2 A That's correct.

3 The primary area of study at West Point's Combating
4 Terrorism Center is international terrorism. Their mission
5 is to educate cadets who are going to graduate and serve as
6 officers in the United States Army. And so our main
7 concern was with al-Qaeda and its associated movement.

8 So I distilled that curriculum into training. And
9 that's what I brought into the classroom in the interagency
10 and the state and local law enforcement which is an
11 understanding of al-Qaeda.

12 Q And does any component of your training discuss the
13 components of radicalization?

14 A Yes, it does.

15 Q And what are those components?

16 A There are many different radicalization models.
17 There's a scholar named Peter Neumann at the Institute for
18 the Centre -- Institute for the Study of Radicalisation and
19 Political Violence. And he talks about four different
20 components that are very common in radicalization models.

21 There's the idea of a grievance, something which
22 upsets you or that you feel is wrong with the world.

23 This makes you cognitively open. So you're
24 answer-seeking. You're looking for an explanation for why
25 those grievances exist.

1 That cognitive opening is filled by an ideology which
2 explains what's wrong with the world, how the world should
3 be, and what you need to do to fix it.

4 And then through mobilization, those ideas are
5 socialized with others.

6 Q Are these linear components?

7 A They're not. Not everyone moves through each of those
8 phases in that sequence. There's the interrelation of
9 those different components. Radicalization is an entirely
10 individual phenomenon. And so everyone will experience
11 this differently.

12 THE COURT: Okay. Can I -- maybe in the process
13 of trying to take notes I missed something. But I've got
14 three components. So I missed one.

15 I've got the grievance, the ideology, and then I
16 heard mobilization. So did I miss one or did I not include
17 one?

18 THE WITNESS: Yes, Your Honor.

19 Cognitive opening is that intermediate step or
20 that -- it's the thing that ideology then fills. Right.
21 So someone is open to be persuaded to see the world a
22 certain way and ideology enters that gap.

23 THE COURT: I understand. Okay.

24 BY MR. HANDBERG:

25 Q Have you ever been part of a Federal Working Group?

1 A Yes. So I -- because I was providing a lot of
2 training in the counterterrorism arena, I had a front row
3 seat to some really abysmal training that was really
4 inflammatory, depicted Islam as the problem, so to speak.

5 And I was part of a Federal Working Group as a federal
6 employee that tried to identify how to prevent
7 counterproductive and inflammatory racist training from
8 entering the law enforcement communities training
9 environment.

10 Q Where do you work now?

11 A I work at the University of Maryland. There's a
12 research center there. I serve as the executive director
13 of that research center. It's called START. It's the
14 National Consortium for the Study of Terrorism and
15 Responses to Terrorism.

16 We are a multidisciplinary center. So we have
17 psychologists and sociologists, political scientists,
18 criminologists, et cetera, all of who apply the behavioral
19 and social sciences to understand terrorism across
20 ideologies. So right wing, left wing, religious,
21 nationalist, et cetera.

22 And so we also do education and training.

23 Q How long have you been doing that?

24 A For three years.

25 Q Have you ever testified before Congress?

1 A Yes, sir, on three occasions.

2 Q Ever give any lectures?

3 A Yes, sir, on many occasions. Hundreds of hours.

4 Q Ever testify in federal court?

5 A Yes, sir. One time.

6 Q Where was that?

7 A It was U.S. versus Shelton Bell.

8 Q And what city was that in?

9 A Tampa. It was Tampa.

10 Q Jacksonville?

11 A Jacksonville. Excuse me.

12 Q You must travel a lot.

13 A I spend a lot of time in Tampa with the Department of
14 Defense.

15 THE COURT: That's the case Judge Corrigan tried?

16 MR. HANDBERG: Yes, sir.

17 THE COURT: Okay.

18 MR. HANDBERG: I think it was a plea. I think he
19 sentenced him.

20 And, Mr. Braniff, you testified at the sentencing
21 in that case?

22 THE WITNESS: That's correct.

23 THE COURT: I've read the sentencing opinion in
24 that.

25 BY MR. HANDBERG:

1 Q All right. So I want to talk about the global
2 jihadist movement. So could you give us a history of that?

3 A Yeah. So at various times and places there have been
4 organizations or groups that have tried to overthrow their
5 own government and replace that government with what they
6 felt was a properly theocratic government with the right
7 interpretation of Islam or sharia law.

8 Global jihadism is a much more modern innovation. In
9 1979, the Soviet Union invades Afghanistan. It's a long
10 story.

11 THE COURT REPORTER: Could you slow down, please.

12 THE WITNESS: I was trying to save time.

13 THE COURT: She's already worn out, though.

14 THE WITNESS: In 1979, the Soviet Union invades
15 Afghanistan. And a Palestinian cleric, a very charismatic
16 scholar named Abdullah Azzam works with a wealthy Saudi
17 financier named Osama Bin Laden.

18 And they create a logistics network that brings in
19 foreign fighters from many different countries in the
20 Muslim world as well as individuals from outside the Muslim
21 world who all come together and train and many deploy on to
22 the battlefield to fight the Soviet Union together.

23 And that war ends about ten years later. And many
24 of them return to their country of origin or they go to
25 other locations.

1 But they all graduate from that experience with a
2 globalized understanding of jihadism, that it's not just
3 about sort of my grievance in, say, Algeria and my
4 grievance in Egypt. It's that we share a lot of the same
5 grievances.

6 And perhaps there's a reason. Perhaps there's a
7 global conspiracy against Islam that explains why we all
8 feel these similar grievances.

9 The al-Qaeda organization would emerge in 1988 at
10 the end of that anti-Soviet Jihad as the leader of the
11 global jihadist movement.

12 BY MR. HANDBERG:

13 Q All right. Let's define some terms as we're going
14 through this.

15 What is sharia law?

16 A Sharia is the term for Islamic law. And this is the
17 concept that through divine revelation captured in the
18 Koran and the example of the life of the Prophet Muhammad
19 captured in a collection of the biographical stories of the
20 Prophet Muhammad and his companions that one can derive
21 law, the will of God to govern over man on earth. It's the
22 sovereignty of God on earth.

23 So it's a concept of God's sovereignty on earth. It
24 doesn't exist in any codified sense. So you can't go to
25 the library anywhere and take out one copy of sharia.

1 It's instead really 1400 years of clerics in the
2 Muslim world interpreting the Koran and interpreting the
3 life of the Prophet Muhammad and issuing religious legal
4 opinions about what sharia should be.

5 Q And do some seek the establishment of sharia law?

6 A Yes. So there is many different missionary movements,
7 political movements, and also violent political movements
8 that seek to establish Islamic law as the law of the land.

9 Not all of these are puritanical the way we might
10 think of the Taliban and its interpretation of sharia law.
11 But for al-Qaeda and its associated movement, they have a
12 very narrow interpretation of that interpretation of God's
13 law and they seek to implement that through violence.

14 Q All right. Let's talk about jihad. Are there
15 different types of jihad?

16 A There are.

17 Q What are they?

18 A So the greater jihad is the struggling or striving to
19 be a better Muslim. So one struggles or strives against
20 their own human fallible, sinful nature.

21 And the lesser -- and when I say greater, I mean it's
22 the jihadist that's giving more weight and more importance
23 in Sunni Islam.

24 The lesser jihad is militant or martial jihad. And it
25 is really a reference to the early days of the Muslim

1 empires.

2 When the Muslim empire would go to war against a
3 neighboring empire, this was -- this war was framed in the
4 terms of jihad, but it was the way empires would expand or
5 contract through conflict.

6 And Abdullah Azzam, when he called his foreign
7 fighters in to fight against the Soviet Union beginning in
8 1979, innovates on the idea of defensive jihad.

9 Defensive jihad is the idea that if your country was
10 attacked, it is an individual duty for every man, woman,
11 and child to defend that country against that outside
12 force.

13 It's actually a very easy-to-understand concept. It's
14 not dissimilar from the just war theory that St. Augustine
15 derives from Christianity. If you're attacked, you should
16 be able to fight back.

17 But Abdullah Azzam extends the definition of defensive
18 jihad during the anti-Soviet Jihad to say that it is the
19 individual duty of every Muslim man, woman, or child
20 anywhere in the world to go to Afghanistan to defend the
21 Afghans against occupation from the Soviet Union.

22 So he internationalizes, globalizes this definition of
23 defensive jihad, and he is quite charismatic and successful
24 in that effort.

25 Q And that's different from mainstream Islam?

1 A His definition is a maximalist definition. It was the
2 first religious edict from a cleric that talked about this
3 transnational form of defensive jihad.

4 It will eventually be innovated even further by other
5 clerics who talk about conducting attacks, say, outside of
6 a conflict zone.

7 The argumentation there is that because Islam is under
8 attack everywhere -- there's this global conspiracy to
9 suppress Islam and to suppress Muslims -- therefore, you
10 can defend Islam anywhere.

11 So on a subway platform in New York City, on 9/11, all
12 of these what one might commonly think of as an offensive
13 attack, they are actually defending Islam against
14 persecution because it's persecuted everywhere. So it's a
15 rhetorical device.

16 But many, when many refer to the term jihad or when
17 you see jihad in the media, they are often referring to
18 this kind of terrorist activity as opposed to the
19 definition of jihad that most Muslims would think of when
20 they think of the term.

21 Q Now, you've been provided with the documents that were
22 submitted in connection with the United States sentencing
23 memorandum in this case?

24 A Yes, sir.

25 Q And two of those were documents written by Mr. Azzam;

1 is that correct?

2 A That's correct.

3 Q All right. So tell us about those documents.

4 A So in "Defense of the Muslim Lands" is that religious
5 edict or that fatwa calling on Muslims from all over the
6 world to travel to Afghanistan to defend Muslims in
7 Afghanistan against the Soviet Union's invasion.

8 The other document is -- let me just refer to the
9 title. The second is "Signs of God in the Jihad of
10 Afghanistan."

11 This is a text that glorifies martyrdom on the
12 battlefield. It talks about stories of how fighters who
13 fought against the Soviet Union sort of were blessed and
14 were almost -- they felt no pain. They were untouched by
15 the conflict. And it really glorifies the idea of dying to
16 defend Islam.

17 The larger argument here is that to be a Muslim, a
18 good Muslim, that you have to be a holy warrior. And to be
19 the best Muslim, you need to martyr yourself to witness God
20 in that way.

21 Q What do you mean by martyrdom?

22 A To die defending Islam.

23 It is -- al-Qaeda is, has done a pretty amazing thing
24 with the concept of martyrdom. They've made this leap that
25 suicide bombing is actually a form of martyrdom.

1 So instead of fighting against an enemy and dying on
2 the battlefield in that confrontation, that you can take
3 your own life intentionally as a martyr, as a suicide
4 bomber. And that is also a form of martyrdom.

5 This is a very new innovation in terms of Sunni Islam.
6 That martyrdom operations or suicide bombing operations are
7 certainly not something you see in the Sunni community
8 before really the 2000s. So this is an al-Qaeda bred
9 innovation.

10 Q Based on this concept of martyrdom?

11 A Correct.

12 Q All right. And who is Sayyid Qutb?

13 A Sayyid Qutb was an Egyptian scholar and intellectual.
14 He was a member of the Ministry of Education. He went to
15 the United States. And he was actually very pro-Western as
16 an earlier, like an early intellectual in classical music
17 and Greek philosophy and --

18 THE COURT: Wait a minute. He was a Minister of
19 Education where?

20 THE WITNESS: In Egypt.

21 THE COURT: Egypt.

22 THE WITNESS: Excuse me.

23 So he came to study in the United States for a
24 brief time. Didn't like what he saw. He saw a lot of
25 racism. He saw a lot of what he thought were loose sexual

1 mores.

2 And he returned to Egypt and wound up joining a
3 political organization called the Muslim Brotherhood. He
4 became a very important ideologue and spokesperson for the
5 Muslim Brotherhood.

6 And in 1964, he published a book called
7 "Milestones." "Milestones" is one of the most widely cited
8 texts on jihadi websites, violent jihadist websites.

9 This book calls for a violent vanguard
10 organization to overthrow regimes, specifically the regime
11 in Egypt because it was un-Islamic.

12 And really it's the spark or it's the book that
13 starts a trend of domestic jihadist groups who splinter
14 away from the Muslim Brotherhood in Egypt in order to
15 overthrow the Egyptian Government.

16 So the Brotherhood shuns that book and shuns
17 Sayyid Qutb. But some members of the Brotherhood follow
18 that guidance and try to overthrow the Egyptian Government.
19 Two groups in particular, the Egyptian Islamic Jihad and
20 Gamaat Islamiyya.

21 And members of those organizations will go on to
22 become key members of al-Qaeda's cadre. The Blind Sheikh
23 would also be among those ranks.

24 BY MR. HANDBERG:

25 Q And who is the Blind Sheikh?

1 A The Blind Sheikh is, was a scholar, cleric as a part
2 of Gamaat Islamiyya who is in the network of individuals
3 charged and indicted for the 1993 World Trade Center
4 bombing.

5 Q And was he convicted?

6 A Yes, sir.

7 Q Now, was a copy of "Milestones" found on
8 Mr. Robertson's computer?

9 A Yes, sir.

10 Q Who is Abu Hamza?

11 A Abu Hamza is another Egyptian cleric. He participated
12 in the anti-Soviet Jihad. Eventually found his way to the
13 United Kingdom where he became a cleric at the Finsbury
14 Park Mosque.

15 He was imprisoned by the British Government for
16 incitement to violence and then extradited to the United
17 States where he was tried and convicted for his involvement
18 in a hostage-taking in Yemen in 1988 in which 16 hostages
19 were taken, as well as incitement to violence in 2001 in
20 Afghanistan.

21 And he also helped an American citizen in 1999 attempt
22 to establish an al-Qaeda training camp outside of Bly,
23 Oregon.

24 Q And one of his documents was found on Mr. Robertson's
25 computer?

1 A That's correct. "Allah's Governance on Earth."

2 Q And what does that talk about?

3 A This text diminishes the importance of the five
4 pillars of Islam, which are the tenets that you can say
5 define mainstream Islam.

6 Sunni Islam is very diverse. So I hate to
7 over-generalize.

8 But the five pillars of Islam are generally recognized
9 as the key tenets to being a Muslim.

10 And he says that the problem is that we've ignored the
11 most important part of Islam, which is the establishment of
12 the sovereignty of God on earth, which is this idea of
13 establishing Islamic law or sharia as the law of the land
14 as opposed to democracies or parliamentary systems or any
15 other kind of man-made form of governance.

16 He then calls for -- because this is a requirement and
17 this is where our emphasis should be, he calls for holy
18 warriors to be this vanguard organization and conduct
19 violence in order to rekindle the Muslim community's love
20 of sharia. And so it calls for violence in order to
21 establish the sovereignty of God on earth.

22 And, again, that's the key point with many of these
23 texts is that violence is necessary in order to arrive at
24 the end state. So it's not the end state that's
25 problematic. It's the means to the end in terms of

1 criminal behavior.

2 Q And does this ideology sometimes focus on the
3 overthrowing of regimes that are Muslim?

4 A In fact, most of the texts, the exhibits that were
5 before us focused specifically on that, on the overthrowing
6 of Muslim regimes, across state Muslim regimes, and
7 replacing them with theocracies.

8 Q What's the mujahideen?

9 A It's the plural for holy warrior. Oftentimes referred
10 to -- or initially gained popularity in terms of the
11 anti-Soviet Jihad. But it just means holy warrior in the
12 plural.

13 Q All right. And how about who is Sheikh al-Maqdisi?

14 A Maqdisi.

15 Q All right.

16 A Abu Muhammad al-Maqdisi is a Jordanian cleric. He was
17 the mentor for Abu Musab al-Zarqawi who was the leader of
18 al-Qaeda in Iraq. Zarqawi's career and Maqdisi's career
19 begin in Jordan where they attempted to overthrow the
20 Jordanian Government through several violent attacks.

21 Eventually Abu Muhammad al-Maqdisi would go on to
22 become one of the most important living jihadist scholars.
23 He maintains an online library or repository of key
24 theological and strategic texts that the al-Qaeda movement
25 relies on.

1 In a study by the Combating Terrorism Center at West
2 Point, he was determined to be the most influential of the
3 living jihadist authors.

4 In the text that is one of the exhibits here, "This is
5 our Aqidah," which means creed -- "This is our Creed" --
6 it's a wide-sweeping endorsement of violent jihad to
7 overthrow apostate Muslim regimes.

8 And he advocates beginning in Muslim lands and
9 overthrowing those regimes first before other kinds of
10 violent jihad.

11 Q Who is Anwar al-Awlaki?

12 A Anwar al-Awlaki is a, was a dual citizen of United
13 States and Yemen. He was a self-made cleric in the United
14 States having gone to college here to study engineering, I
15 believe.

16 But he gained a great deal of popularity as a very
17 charismatic cleric. He preached in different mosques and
18 different states in the United States before leaving to go
19 to Yemen. While in Yemen, he became the key ideologue and
20 likely the most famous English jihadist spokesperson.

21 He was one of the co-producers of "Inspire Magazine,"
22 which is an English language jihadist magazine encouraging
23 do-it-yourself jihad here in the United States as well as
24 making the hijra or the immigration from a place like the
25 United States to a place like Yemen or Afghanistan where

1 you can participate in violent jihad.

2 Q Talk to us about that phrase, hijra. What does that
3 mean?

4 A So the violent jihadist community has co-opted an
5 archetypal moment in Muslim history. In the year 622, the
6 Prophet Muhammad --

7 THE COURT REPORTER: I'm sorry. Please slow down.
8 Thank you.

9 THE COURT: Why don't we take an afternoon break.
10 And you can practice slowing down and Amie can get some
11 rest.

12 Fifteen minutes.

13 (Recess at 2:55 p.m. to 3:11 p.m.)

14 THE COURT: Okay. Practice speaking slowly.

15 THE WITNESS: Yes, Your Honor.

16 BY MR. HANDBERG:

17 Q All right. Mr. Braniff, I think we were talking about
18 Anwar al-Awlaki.

19 And one of the documents on Mr. Robertson's computer
20 is something called the "Book of Jihad." What's that?

21 A The "Book of Jihad" is a book written in the 14th
22 century by a scholar named Ibn-Nuhaas, N-U-H-A-A-S. And
23 it's quite a long exploration of the concept of jihad and
24 Islam.

25 More recently, Anwar al-Awlaki recorded 16 hours

1 explaining this term and sort of making it make sense in
2 the modern era.

3 The author himself moved from Syria to Egypt in order
4 to be closer to an active jihadist front, an active front
5 of military confrontation at the time. So it is an
6 excitation to engage in jihad.

7 Q And did Mr. al-Awlaki have any connection to al-Qaeda?

8 A Yes. Mr. al-Awlaki was a spokesperson and key
9 ideologue for al-Qaeda in the Arabian Peninsula, one of the
10 al-Qaeda affiliates in Yemen.

11 Q And was there a period of time where that wasn't his
12 public persona?

13 A There was. He was often -- because he was so
14 charismatic and articulate, he was often interviewed in
15 sort of the post-9/11 world early on and really publicly
16 spoke negatively about the attacks and about terrorism.

17 But throughout his life, even during that time, there
18 are different instances where he was meeting with alleged
19 co-conspirators or conspirators in the 9/11 case.

20 Q So his public face was different than what he was
21 doing behind closed doors?

22 A Yes, it was.

23 Q Now, the authors and the individuals we've been
24 talking about, did they all espouse a common world view?

25 A Yes. I think the individuals we're talking about

1 espouse a particular interpretation of Sunni Islam, which
2 is very anomalous. It's not the norm. But it advocates
3 for violence in order to establish Islamic law and
4 overthrow non-theocratic regimes in the Muslim world.

5 Q And what's their view on democracies?

6 A Various of the exhibits specifically articulate all of
7 the reasons why democracies are both problematic and also
8 sinful.

9 Q And what are their views of the United States?

10 A There are different exhibits -- I think B through E --
11 have very negative, really bordering on conspiratorial
12 understanding of the United States. Many of them talk
13 about the 9/11 attacks as either an inside job, meaning
14 conducted by the United States Government, or at least
15 certainly not conducted by al-Qaeda.

16 And they go to great lengths to highlight instead all
17 of the crimes of the United States against humanity. So
18 highly negative.

19 Q What is Tibyan? And I think it's spelled

20 T-I-B-Y-A-A-N.

21 A It's only one A. Correct.

22 Tibyan is an informal network of individuals who have
23 chosen to participate in jihadism as an ideology by
24 translating radical texts into as many languages as
25 possible so that they can be more widely consumed.

1 So out of the exhibits, several of them are at-Tibyan
2 texts, so texts that this group has translated and
3 published in English.

4 Q And can they be found on the internet?

5 A They can be found on the internet. At-Tibyan doesn't
6 publish traditional or mainstream Sunni Islam texts. It's
7 not just a regular publishing house. They really focus on
8 publishing violent jihadist texts, and that's how you can
9 find them online.

10 Q What is a kuffar?

11 A An infidel.

12 Q Who does it apply to?

13 A It depends. In the Koran, a kuffar is a specific
14 reference to a polytheist in Mecca. So when the Prophet
15 Muhammad first begins to receive divine revelation, he's
16 doing so in a polytheistic society, in Mecca, where people
17 worship multiple gods.

18 There are also Jews. There are also Christians at
19 that time. Kuffar was meant to refer to the polytheistic
20 Meccans who were persecuting the young Muslim community at
21 the time.

22 It was not a reference to Christians and Jews. There
23 was a different term for people of the book. Monotheists
24 who were part of the Abrahamic tradition who believed in
25 the same God as the Muslim community over time, and

1 especially through idealogues like many of the ones in
2 Exhibits B through Z, kuffar is meant to be anyone who
3 doesn't see Islam the way these idealogues see Islam.

4 So it applies now to apostate Muslims, to Jews, to
5 Christians in the context of many of these texts that we've
6 been discussing.

7 Q Is it a positive term?

8 A It's a highly derogatory term. The connotation is
9 that because this person is an infidel, their blood is
10 licit. It can be spilled.

11 It's, in fact, in many cases obligatory to murder
12 these individuals or to kill these individuals. So it can
13 carry basically a death sentence.

14 The term in Islam is takfir, T-A-K-F-I-R. And takfir
15 is to declare somebody a kuffar, which is an infidel. And
16 it's a highly revolutionary idea in Sunni Islam.

17 You can imagine how problematic it is if I were a
18 Muslim and I were to be able to look into the hearts of
19 other men and women and decide for myself that they weren't
20 Muslim enough for me; and, therefore, they were infidels.
21 It's a very problematic practice and, in fact, many would
22 argue the second greatest sin in Islam.

23 Q Is takfir used by anyone who espouses violent jihad?

24 A Takfir is very commonly used in jihadist
25 argumentation.

1 If a Muslim is killed, well, perhaps they shouldn't
2 have been -- they weren't real Muslims because they were in
3 a location where they shouldn't have been. Perhaps in the
4 Embassy in Kenya or Tanzania in 1998. Right? That was --
5 the attack occurred on a Friday.

6 And so al-Qaeda's justification for why many Muslims
7 were killed in those attacks is that, well, it was a
8 Friday. They shouldn't have been there working for an
9 infidel government. They should have been at the mosque.
10 Therefore, they weren't real Muslims. Therefore, we didn't
11 kill any Muslims.

12 And so it's this idea of excommunication. And it
13 comes up very frequently in their argumentation and their
14 justification for Muslim-on-Muslim violence.

15 Q All right. I want to shift gears and talk about the
16 radicalization process you were talking about earlier and
17 talk about it in connection with this case.

18 Based on your review of the materials you were
19 provided, did it appear to you that Jimenez was being
20 isolated?

21 A I found it important that he was isolated from many
22 other influences for a period of seven months. And during
23 that time, he was articulating a lot of new ideas that had
24 been apparently provided to him.

25 Q What are the components you saw of the radicalization

1 process with respect to him?

2 A Well, this is an individual who appeared to be a
3 wayward person, looking for meaning, sort of lack of family
4 structure, lack of employment.

5 And he was apparently provided or sent to
6 Mr. Robertson. And I think for him, he found a lot of
7 meaning in what he was being told to participate in, to
8 purify yourself and cleanse yourself of sins in order to
9 take part in something meaningful, like fighting overseas.
10 Or he was even introduced ideas about becoming a suicide
11 bomber. When is it permissible to become a martyr, a
12 suicide bomber?

13 And for him, there seemed to be a great pull towards
14 this idea of being cleansed of sins and participating in
15 something meaningful.

16 What I didn't see was him articulate grievances. And
17 he didn't seem to be someone who is particularly aggrieved.
18 Instead, it looked like someone who was just open to be
19 given meaning and mentorship. And that was filled with
20 ideas of purification followed by travel followed by
21 participation and violence.

22 Q And the key being this concept of martyrdom?

23 A For him, that seemed to be something that he referred
24 to over and over again in the transcripts that I saw. And
25 the idea of travel itself was important, going to a place

1 like Mauritania.

2 Q What's the importance of the travel?

3 A This is that idea of hijra, making this immigration
4 from a place where you can't be a true Muslim to a place
5 where you can be a true Muslim; i.e., a warrior or a
6 fighter.

7 Again, this is not general Islam. This is in like the
8 global jihadist ideology. Hijra is a necessary
9 precondition to jihad. They are bookends. And that
10 mobilization, that making the trip is part of the process.
11 And that it's an important part of the process.

12 It's not about studying abroad. It's about
13 preparation to engage in violent jihadism. So hijra and
14 jihad are intimately tied in this ideology.

15 Q And so based on what you've reviewed with respect to
16 Mr. Jimenez going through this radicalization process, what
17 did it appear to be was the goal of his training?

18 A Certainly to mobilize into a country that has a very
19 real modern history of facilitation networks to participate
20 in violent jihad. So there's lots of different data we
21 could look to to say that Mauritania is one entry point
22 into the global jihadist fight.

23 And he seemed very eager to make that trip, to purify
24 himself for that trip, to prepare himself for fighting and
25 perhaps imminent death. And then to enter into that

1 environment.

2 Q And is that consistent with the documents we've talked
3 about from Mr. Robertson's computer?

4 A I think it's very consistent with many of the
5 documents that we've talked about that highlight the idea
6 of hijra and jihad.

7 Q What's AQIM?

8 A AQIM is an acronym for al-Qaeda in the Islamic
9 Maghreb, which is an al-Qaeda affiliate. It's actually an
10 organization that has been around for many years under many
11 different names.

12 But in two thousand -- in late 2006, early 2007, this
13 long-standing terrorist organization adopts the name
14 al-Qaeda in the Islamic Maghreb.

15 Q Is it a designated terrorist organization?

16 A Yes, sir.

17 Q What does that mean?

18 A It means they've engaged in criminal acts of
19 ideologically motivated violence and have been recognized
20 as a terrorist organization by the Department of State.

21 Q Do they have any presence in Mauritania?

22 A They do. The Department of State in their travel
23 warning suggests that or states that al-Qaeda in the
24 Islamic Maghreb has been operating in Mauritania since
25 2005.

1 The Global Terrorism Database, which is the largest
2 unclassified database on terrorism incidents in the world
3 -- it's an unclassified dataset based at the University of
4 Maryland.

5 In between 2005 and 2013, they've attributed
6 10 different attacks, successful or failed, but
7 10 different attack attempts, which killed 39 people and
8 injured another 26.

9 THE COURT: In Mauritania?

10 THE WITNESS: Yes, sir.

11 And many more outside of Mauritania, but
12 10 attacks failed or completed inside of Mauritania
13 since 2005.

14 THE COURT: Well, my understanding of Mauritania
15 is that it's 100 percent Muslim. I mean, just a tiny
16 fraction of people aren't Muslim. That it's a very
17 fundamental form of Islam.

18 So why -- what are the attacks? I don't
19 understand what -- and this is just someone who follows
20 geopolitics. Mauritania is not something that jumps out at
21 me as a place where there's been these issues.

22 So can you elaborate on that and explain to me?

23 THE WITNESS: Yes, Your Honor.

24 Those attacks included attacks against the
25 Mauritanian Government, police, and military. Attacks

1 against --

2 THE COURT: But that government is very
3 pro-Islamic, fundamentally Islamic. I don't understand why
4 they would be attacking that government.

5 THE WITNESS: Your Honor, they are not Islamic
6 enough to al-Qaeda in the Islamic Maghreb in their
7 understanding of what governance should look like.

8 AQIM seeks to destabilize and overthrow regimes
9 across North Africa and into West Africa. They also
10 require safe haven in order to facilitate the movement of
11 illicit goods, foreign fighters, and to be able to conduct
12 training and training camps. And governments get in the
13 way of the movement of illicit goods, and they get in the
14 way of training camps.

15 And so these groups tend to conduct attacks
16 against the regime in order to carve out safe space to
17 conduct these kinds of logistics.

18 THE COURT: Okay. Thank you.

19 BY MR. HANDBERG:

20 Q And so let's talk about the concept of some of these
21 terrorist organizations going after countries that are
22 Muslim.

23 What would be the situation where they wouldn't go
24 after a particular country? What's Muslim enough?

25 A So for many of these groups, it is what they would

1 consider to be an unadulterated form of Islamic law that
2 they would largely base on their interpretation, a
3 literalist interpretation of the Koran and the example
4 of the life of the Prophet Muhammad and his early
5 companions.

6 So if there is any kind of compromising on their
7 literal read of the text, they would find that an
8 innovation which was unacceptable.

9 So any kind of democratic system, any kind of system
10 that has other standards other than those that they derive
11 from those two sources of religious authority would be
12 problematic, if there is a monarch, if there is any kind
13 of man-made law of any kind.

14 Q So this could potentially even bring a fundamental,
15 like the judge has said, fundamental Islamic government
16 like Mauritania within the ambit of a government to be
17 overthrown?

18 A It could.

19 Q I'm sorry. What was the period of time for the
20 attacks you were talking about?

21 A 2005 through the end of 2013. I just don't have the
22 2014 data to be able to look at. But it doesn't -- it's
23 not to say there were no attacks in 2014. I just do not
24 know that answer.

25 MR. HANDBERG: One moment, Your Honor.

1 THE COURT: Sure.

2 MR. HANDBERG: Thank you, sir.

3 No further questions.

4 THE COURT: All right. Mr. Brodersen?

5 **CROSS EXAMINATION**

6 BY MR. BRODERSEN:

7 Q Is it Mr. Braniff or Dr. Braniff?

8 A Mister.

9 Q Mr. Braniff, Daniel Brodersen, attorney for
10 Mr. Robertson.

11 Let me ask you a question. You indicated that you had
12 read some of the transcripts in this case. Were these the
13 transcripts of the telephone calls between the confidential
14 informant and Mr. Jimenez?

15 A Many of them were, yes, sir.

16 Q Okay. Did you review any transcripts other than those
17 transcripts?

18 A Yes, sir. There were several between Mr. Robertson
19 and Mr. Al-Hanafi, I believe.

20 Q Mr. Al-Hanafi?

21 A Al-Hanafi.

22 Q Any other transcripts besides those?

23 A No, sir, not to my recollection.

24 Q And as part of your involvement in this case, have you
25 had an opportunity to see any videotape or other

1 recordation of any speeches or lectures made by
2 Mr. Robertson?

3 A Yes, sir, I did.

4 Q And it's true, is it not, that that -- in any speech
5 or lecture that you saw he did not preach the concept of
6 violent jihad; is that correct?

7 A That is correct.

8 Q In fact, he talked more about greater jihad, did he
9 not?

10 A Yes, he did.

11 Q Being the internal struggle to be a better Muslim?

12 A Yes, he did.

13 Q He did not in any of these speeches or lectures quote
14 from any of the articles or books that we've talked about
15 today, correct?

16 A That is correct.

17 Q Okay. He did not espouse the works of any of the
18 authors that we've talked about today, correct?

19 A That is correct.

20 Q Do you know for certain whether or not Mr. Robertson
21 has read these books?

22 A No, sir.

23 Q I take it from your testimony that you've read every
24 one of them?

25 A I've read the majority of the texts. I don't know if

1 I've read every word. Yes, sir.

2 Q But you've read -- certainly with regard to the text
3 that you provided testimony about today, you've read those
4 texts, correct?

5 A Yes, sir.

6 Q And why did you read those texts?

7 A Professionally, my job is to be able to understand the
8 intellectual landscape of the violent jihadist movement and
9 then provide a description of that to practitioners so that
10 they can recognize the -- some of the intellectual signs of
11 it when they see it.

12 Q Do you know whether or not mainstream Islamic scholars
13 have read these texts?

14 A I'm sure that Salih as-Sehaymee, Sayyid Qutb, and
15 al-Maqdisi probably have works of scholarship that have
16 been read by many scholars.

17 Q Would it not be a requirement for a true Islamic
18 scholar to have an understanding of extremist point of
19 views?

20 A I don't know that it's a requirement. But I certainly
21 understand the point, yes.

22 Q And do you know whether or not imam are familiar with
23 these works?

24 A It would vary greatly across the country. I know that
25 the U.S. Government actually now spends a lot of time

1 making the Muslim community aware of many of these texts
2 because they are not mainstream. They're not in their
3 lexicon.

4 And so the assumption that Muslims understand what
5 this stuff is and what it says has turned out to be a bad
6 assumption. So there's a lot of awareness programs because
7 this is outside of the norm.

8 Q Now, in any of the transcripts that you reviewed as
9 part of your involvement in this case, did you come across
10 Mr. Robertson having any contact with AQIM?

11 A No, sir.

12 Q Do you know whether or not he ever had any contact
13 with AQIM?

14 A I do not, sir.

15 Q And you're basing your understanding about what
16 Jimenez learned from Mr. Robertson solely on the statement
17 that Mr. Jimenez made to the confidential informant,
18 correct?

19 A That is correct.

20 MR. BRODERSEN: The Court's indulgence for one
21 moment.

22 THE COURT: Okay.

23 BY MR. BRODERSEN:

24 Q Of those individuals who authored the works that are
25 set forth in B through Z, Exhibits B through Z, did you

1 ever read or hear Mr. Robertson mention those authors by
2 name in any of the transcripts you reviewed?

3 A No, sir.

4 MR. BRODERSEN: I have nothing further,
5 Your Honor.

6 THE COURT: Redirect?

7 **REDIRECT EXAMINATION**

8 BY MR. HANDBERG:

9 Q In the -- you had a question on cross-examination
10 about videos that Mr. Robertson had prepared that you
11 reviewed.

12 In any of those videos, did you ever see him speak out
13 against any of the authors we've talked about here today?

14 A No, sir.

15 Q And is it true that sometimes people travel to hook up
16 with a terrorist organization without actually contacting
17 that group first?

18 A Yes. It's quite frequent.

19 Q And tell us about that. What do you mean it's quite
20 frequent?

21 A Well, frankly, a lot of individuals in the United
22 States are nervous about operational security if they're
23 trying to travel abroad. They figure it's better to get on
24 the ground. Perhaps they have some knowledge of the kind
25 of places to go to in order to ask questions to make

1 connections on the ground.

2 But that communicating ahead of time is too great of a
3 risk.

4 Q And what are some of the concerns they have from an
5 operational security standpoint?

6 A That their communication, whether it's electronic or
7 by phone, would be intercepted.

8 Q And is that a concern that a lot of people that are
9 engaged in terrorist activity have?

10 A Yes. Yes, sir.

11 Q And what are some of the steps they take when they
12 have that concern?

13 A Well, very recently, there are encrypted social media
14 platforms that people can try to use. So one can try to
15 overcome that concern via technology.

16 One can instead try to just go to a place that is
17 known as a location where individuals have gotten -- have
18 become mobilized before. So just go to a place where you
19 think you can link up with a facilitator. And then spend
20 some time on the ground until you're able to make those
21 contacts.

22 Q In your experience, does it sometimes impact what
23 someone might be willing to say on the telephone?

24 A Yes, sir.

25 Q Does it sometimes impact what they might be willing to

1 say to someone who they don't entirely trust?

2 A Yes, sir.

3 MR. HANDBERG: One moment, Your Honor.

4 Thank you, sir.

5 No further questions.

6 MR. BRODERSEN: Your Honor, may I have a couple
7 recross questions?

8 THE COURT: You may.

9 MR. BRODERSEN: Thank you.

10 **RECROSS EXAMINATION**

11 BY MR. BRODERSEN:

12 Q Mr. Braniff, in any of the evidence that you reviewed
13 in this case, meaning the transcripts that you reviewed --
14 well, let me ask it a different way.

15 First of all, did you review anything other than
16 transcripts or telephone calls?

17 A Besides the exhibits, no, sir.

18 Q Those exhibits and the transcripts of the telephone
19 calls?

20 A Correct. And then the videos.

21 Q The videos that we referred to earlier?

22 A Yes, sir.

23 Q Now, did any of that evidence indicate to you that
24 Mr. Jimenez had any plan whatsoever once he arrived in
25 Mauritania?

1 A His plans appeared to be to continue to engage in sort
2 of preparation cleansing for some unknown future which
3 appeared to involve either fighting or imminent death. He
4 talked about those two things.

5 Q So he talked about fighting and he talked about
6 imminent death. But that's really where he left it. In
7 other words, there was no, nothing more concrete than that,
8 correct?

9 A That is correct.

10 Q And did he indicate the name of any individual that he
11 was going to be meeting with over there as his facilitator?

12 A No, sir.

13 Q Did you come across through any of your review the
14 name of an individual who Mr. Robertson knew who lived in
15 Mauritania?

16 A I think I came across an indication that there was a
17 connection but not a specific name.

18 Q Okay. Do you recall the name Daawood Blake?

19 A I actually do not think I reviewed testimony that had
20 his name in it.

21 MR. BRODERSEN: All right. That's all I have,
22 Your Honor.

23 THE COURT: All right. Thank you, sir.
24 Appreciate you coming.

25 THE WITNESS: Thank you, Your Honor.

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(3:37 p.m.)

(End of Excerpt)

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

May 17, 2017

s\Amie R. First, RDR, CRR, CRC, CPE

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GOVERNMENT WITNESSES

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