

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION
NO. 07-CR-20160

NAJIB SHEMAMI,

Defendant.

_____ /

EXCERPT OF MOTION TO ADMIT DOCUMENTS
BEFORE THE HONORABLE NANCY G. EDMUNDS
United States District Judge
226 Theodore Levin U.S. Courthouse
231 Lafayette Boulevard West
Detroit, Michigan
February 8, 2008

APPEARANCES:

For the Government:

Ms. Barbara L. McQuade
U.S. Attorney's Office (Detroit)
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Detroit, MI 48226

For the Defendant:

Mr. Edward C. Wishnow
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Birmingham, MI 48009-6241

- - -

Suzanne Jacques, CSR, RMR
Official Court Reporter - U.S. District Court
313-964-5121

I N D E X

Proceeding Page

Excerpt of Government's Motion to Admit Documents

WITNESS: SARGON

Direct Examination by Ms. McQuade

Cross Examination by Mr. Wishnow

E X H I B I T S

Exhibit No. Offered Received

1 Detroit, Michigan

2 Friday, February 8, 2008

3 - - -

4 (Excerpt of hearing. All answers made
5 through interpreter. Witness and
6 intepretor sworn.)

7
8 **DIRECT EXAMINATION**

9 BY MS. McQUADE:

10 Q Good afternoon, sir. I understand you'll be using the
11 name Mr. Sargon, but that is not your true name, is that
12 correct?

13 A That's true.

14 Q Sir, where were you born?

15 A Baghdad, Iraq.

16 Q And how old are you?

17 A Fifty years.

18 Q What is the extent of your formal education?

19 A Baccalaureate in intelligence sciences.

20 Q And, sir, did you spend most of your life, until the fall
21 of Baghdad in 2003, living in Iraq?

22 A I did work outside Iraq for like, for a period of time in
23 one of the Iraqi embassies. Most of my other life was spent in
24 Iraq.

25 Q Did you ever join the Bath Party?

1 A Yes, I did.

2 Q When did you join the Bath Party?

3 A 1972.

4 Q Was that the party of Saddam Hussein?

5 A Yes.

6 Q During the dates at issue in this case, which is 2002 and
7 into early 2003, how were you employed?

8 A I was director of M4.

9 Q In what organization?

10 A The Iraqi Intelligence.

11 Q And how long were you working for the Iraqi -- is the full
12 name Iraqi Intelligence Service?

13 A It's three words, Iraqi Intelligence Services.

14 Q And how long did you work for the Iraqi Intelligence
15 Services?

16 A 25 years.

17 Q And you said that you were with M4. Is that a particular
18 directorate within Iraqi Intelligence Service?

19 A We call it the, like, the countersurveillance or counter
20 service, and the outside call it the outside surveillance,
21 foreign service.

22 Q Were there other directorates within the Iraqi
23 Intelligence Service besides M4?

24 A Yes.

25 Q Was there a directorate called M5?

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1 A Yes.

2 Q Did you ever work for M5?

3 A Yes.

4 Q And what was the mission of M5?

5 A It was counter intelligence, general counter intelligence,
6 and it follows through foreigners and companies that are
7 working within the country of Iraq.

8 Q During your work with the Iraqi Intelligence Service, was
9 there also something called the Internal Committee?

10 A Can you explain the question, please?

11 Q Yes. Was there a group that would meet each day to
12 discuss intelligence issues to be passed onto the president
13 each morning?

14 A That was not the case all the time, but this was before
15 the war, there was a group that got together information and
16 analyze it, and evaluate it, and then bring it up to the higher
17 sources.

18 Q And what was that group called?

19 A It was like the group of intentions.

20 Q And were you part of that group of intentions?

21 A Yes.

22 Q Now, within the IIS, the Iraqi Intelligence Service, did
23 it utilize individuals as sources of information relative to
24 its mission?

25 A The basis of our work is human intelligence.

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1 Q So would that involve individual sources?

2 A Yes, that's the sources. Yeah, that's the sources and the
3 information.

4 Q And did the Iraqi Intelligence Service assign code names
5 or numbers to these sources?

6 A Yes.

7 Q Would a person first be investigated to determine whether
8 he was trustworthy before he would be assigned a code number?

9 A Yes.

10 Q Did the Iraqi Intelligence Service keep records of the
11 activities -- of its activities?

12 A That's the daily work, yes, for sure.

13 Q And during your 25 years with the Iraqi Intelligence
14 Service, did you become familiar with the creation and
15 maintenance of the files of the Iraqi Intelligence Service?

16 A Yes.

17 Q Did the Iraqi Intelligence Service keep files pertaining
18 to its sources?

19 THE INTERPRETER: He's saying that he did not
20 understand the question because the way I explained it to him.
21 Can you repeat the question again?

22 BY MS. McQUADE:

23 Q Yes. Very generally, did the Iraqi Intelligence Service
24 keep files about its sources?

25 A Yes.

1 Q You'll see in front of you what we've marked as Government
2 Exhibit 1. Did I show you those papers earlier today?

3 A Yes.

4 Q And did you see copies of those documents about a year
5 and-a-half ago when you and I met?

6 A As far as I remember, yes.

7 Q And based on your review of those documents earlier today,
8 what can you conclude them to be?

9 A These are documents from the Iraqi Intelligence Service.

10 Q And what characteristics about those documents caused you
11 to reach that conclusion?

12 A We know the paper, normally, on the right-hand side that's
13 written like Iraqi Intelligence Service, and there, they put
14 the designation of the directory that this belongs to. Like
15 here, for example, it says M5/4 means the political, the
16 political section of M5, and then the number 13 is Department
17 of the, of Section 4, of M4. M5, I'm sorry.

18 And the last number, like here, in this one here is 3,
19 is the last number that belongs to that department from that
20 section. And normally, it's written here, it gives the
21 identification to who this letter is addressed, and in this
22 case, the letter is meem I meem(phonetic). It means actually,
23 are this -- the indications for the general director of
24 intelligence.

25 On the bottom is the signature of the one who wrote,

1 dictated this letter or wrote this letter. And the person, and
2 the person who had signed this document is the director of
3 M5 -- oh, is director of the political department of M5, and
4 this name, I know this person personally, and I see the
5 signature of the general director of M5.

6 Mowid Ajayib(sp) is the director of the political
7 Department of M5. And then there's other documentation, and
8 then there's internal documents. In the middle of this, the
9 emblem of the intelligence, the Iraqi Intelligence Service,
10 which is the eye opened, the opened eye, and guarding the
11 Arabic peace, and to the left side is letters nune meen nune
12 meen four(phonetic), is giving this as an example of this
13 number four.

14 Q I'm sorry, may I interrupt for a moment? Could you please
15 tell us what number is on the sticker on the back of the
16 document this is referring to?

17 THE INTERPRETER: This is, in addition, he's saying,
18 but it seems like it's 1-23.

19 BY MS. McQUADE:

20 Q Thank you. In the interest of using our time efficiently,
21 sir, do you recall this morning when we looked through that
22 batch of documents, sir, that you recognized other signatures
23 on some of those documents, as well?

24 A Yes, yes, a lot of signatures I recognized.

25 Q Sir, let me direct your attention to Page 1-2, should be

1 the second document from the top.

2 And, Your Honor, that's Page 71 through 74 in your
3 binder.

4 THE COURT: You know, if we've done these already with
5 two other people, we don't need to do this a third time.

6 MS. McQUADE: Your Honor, perhaps we can do this
7 through the 302 we've submitted, is establish the witness'
8 personal knowledge of a particular incident that occurred
9 that's described in the personal letter that Mr. Shemami wrote.
10 He had personal recall of that incident, and I was going to
11 delve into that.

12 That incident is also described in the 302 that was
13 submitted as one of the exhibits to the Government's motion, so
14 if you'd prefer to proceed that way, that would be fine as
15 well.

16 THE COURT: You can ask him.

17 BY MS. McQUADE:

18 Q Mr. Sargon, at Page 1-2 you'll see a document that I
19 showed you this morning, we spent a little bit of time reading,
20 and the translation appears at binder Page 71 and 72. Do you
21 recall looking at this document this morning, sir?

22 A Yes.

23 Q And do you recall the incident described in the report?
24 Do you recall when the Iraqi Intelligence Service received this
25 information?

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1 A Can you please clarify your question?

2 Q Yes. This document describes a report provided by a
3 source, right?

4 A True.

5 Q Do you recall being part of the intentions committee that
6 received this information?

7 A Yes.

8 Q And did the intentions committee find this information
9 important?

10 A To be exactly, during the meeting, I did not see this
11 particular document, but I heard about it. They have, they
12 read it upon -- they read it upon our hearing during a meeting.

13 Q All right. And during your time with the Iraqi
14 Intelligence Service, sir, did you hear the name Najib Shemami?

15 A Yes, I've heard of the name, yes, just the name.

16 Q Did you know him personally or meet him personally when
17 you were working there?

18 A No.

19 Q All right. Sir, based on your review of those records
20 earlier today, are these the types of reports that the Iraqi
21 Intelligence Service kept in the regular course of its
22 business?

23 A Yes.

24 Q And was it the regular practice of the Iraqi Intelligence
25 Service to keep these types of records?

1 A Yes, they were kept in files.

2 Q Would these reports have been made at the time that the
3 events occurred?

4 A Can you explain it, please?

5 Q Yes. Would the records have been made at about the same
6 time that the events described in them occurred, in a timely
7 fashion, as opposed to being done at a much later date, for
8 example?

9 A When the information comes from the --

10 THE INTERPRETER: He's saying he did not understand
11 the question exactly, but he's going to explain as to how this
12 came about.

13 BY MS. McQUADE:

14 Q Let me just ask it this way. I hope it's a simple
15 question. Maybe I'm not articulating it simply.

16 Was it the generally the practice to write a report at
17 about the time the event occurred?

18 A This was our -- the purpose of it was gathering
19 information about the things that they care about, and then
20 they take this information and they check on it.

21 Q May I just stop you there? Would it have been documented
22 in a timely fashion?

23 A Yes.

24 Q I'll move on from the document. Sir, after the fall of
25 Baghdad in 2003, were you taken into custody by the American

1 military?

2 A Yes.

3 Q When did that occur?

4 A April of 2003.

5 Q And why were you taken into custody?

6 A They took us with a group of other, according to,
7 according to Section 12 of Geneva Convention that has to do
8 with their investigation.

9 Q And when were you released?

10 A December of 2003.

11 Q And during your detention, were you mistreated or abused?

12 A No, I was not tortured, anything like that.

13 Q Have you received payments from the FBI in connection with
14 your work in this case and other cases?

15 A I received enumeration based on what information that I
16 was given to check, and expenses for my health insurance or
17 travel or stay, since 2003 until now, and I think the total
18 amount is about 116,000, \$117,000.

19 Q And that includes payments for travel, meals, hotels,
20 medical expenses?

21 A Yes, even staying at hotels.

22 Q And in addition to those expenses, you've also received a
23 consulting fee for your work, is that correct?

24 A That's included.

25 Q So in that 116, \$117,000, that includes the consulting

1 fees plus the expenses, correct?

2 A Yes, it is.

3 Q All the way back to 2003.

4 A Yes.

5 MS. McQUADE: Thank you. Your Honor. Those are all
6 the questions I have.

7 MR. WISHNOW: I'll move ahead. I think we'll finish.
8 We will finish.

9 (3:35 p.m.)

10 **CROSS EXAMINATION**

11 BY MR. WISHNOW:

12 Q Sir, you were released from custody December 22, 2004,
13 correct? I'm sorry, 2003.

14 A Yes.

15 Q And while in custody, you were originally in custody with
16 the U.S. military, with the Army, correct?

17 A Yes.

18 Q And did the FBI at some point take custody of you?

19 A FBI started investigating from the beginning until I was
20 released.

21 Q But you remained in military custody, is that what you're
22 saying, but you talked to the FBI?

23 A I was in the custody, but the people who was checking with
24 us could not come and check with us or investigate anything
25 that they wanted to investigate, or interrogate us without

1 having permission from the --

2 I'm just going to make it -- he's going to summarize
3 it.

4 Where I was held, it was the defense department
5 intelligence and military intelligence, and the investigators
6 were from the FBI, different -- and different other sources.

7 Q When did you start looking at IIS files during the time of
8 your being in custody between April and December of '03?

9 A I don't remember exactly, but after I was, after I was in
10 custody for about two or three months. I don't remember
11 exactly, but not from the beginning.

12 Q How many hours a day did you look at files while in
13 custody?

14 A I don't remember. Has been awhile. And we have spent a
15 lot of time looking at papers. Some of -- and some of it was
16 investigation time that, you know, interrogation time for us.

17 Q Did you look at files only when FBI agents came to you
18 with files to look at?

19 A Yes, that's true, FBI.

20 Q And would they have you look at particular files about
21 particular people?

22 A What do you mean -- the, the files were brought to me, I
23 look at it.

24 Q You testified in Indianapolis, Chicago and Los Angeles,
25 correct?

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1 A Yes.

2 Q And did you look at those files while you were in custody?

3 A This has been five years, and I don't remember, to be
4 honest with you, when I saw the files; when I was in custody,
5 or after I was in custody. I cannot differentiate.

6 Q Okay. I don't need to know where you now live, but do you
7 live in Iraq or outside Iraq?

8 MS. McQUADE: Objection, Your Honor. I'd ask that
9 that question not be answered to protect the security of the
10 witness. I don't know what the relevance is to his ability to
11 authenticate the documents.

12 THE COURT: I agree. Don't answer.

13 BY MR. WISHNOW:

14 Q Since you've been released in December of 2003, I believe
15 you went to Chicago within a week of that time, correct?

16 A Yes.

17 Q And did you start looking at files right after the Chicago
18 trial?

19 A Yes.

20 Q Do you have a full time job other than looking at files
21 for the U.S. government, or particularly the FBI?

22 A I do have a private job, my own. With the American
23 government, that's all that we have.

24 Q Do you have a private job other than working with the
25 government, the U.S. government, to look at documents and

1 files?

2 A No.

3 Q How many days a week do you look at files for the U.S.
4 government?

5 THE COURT: Wait. That was very ambiguous, because
6 his first answer, I thought, was that he had a job, and that
7 all he did for the U.S. government was look at files, and then
8 I think he may not have understood the question.

9 MR. WISHNOW: I'll clear it up.

10 THE COURT: I don't know that it really matters,
11 but --

12 MR. WISHNOW: I agree with you there was some
13 ambiguity.

14 BY MR. WISHNOW:

15 Q Sir, do you have a job other than looking at files for the
16 U.S. government?

17 A With the American government, no.

18 THE COURT: It's still ambiguous. You still think
19 he's asking if he has another job with the U.S. government.

20 MR. WISHNOW: No, a job outside the government.

21 A A private work, yes, I do.

22 BY MR. WISHNOW:

23 Q Yes, outside the U.S. government?

24 A Yes.

25 Q So you don't look at files for the U.S. government every

1 day and all day.

2 A No, that's not possible.

3 Q In the last year, how many hours a week do you look at
4 files for the U.S. government?

5 A You can ask the FBI for this calculation.

6 Q Well, I'm asking ask you, how many hours --

7 A I don't know, because we get together every three months
8 or six months, and we sit for like two days or three days, and
9 then we look into this information.

10 Q So you went together --

11 A Because I don't have specific hours to give you.

12 Q But you get together how many, every two to three months,
13 did you say?

14 A Every three months or every six months, it depends. And
15 they bring us files and we look at it.

16 Q And that's for two or three days?

17 A It depends on the file that are brought. Maybe three
18 days. I cannot calculate for you exactly.

19 Q Okay. Between the two- to three-month period of time when
20 you get together with the FBI agents, are you looking at files
21 during those periods when you're not meeting with them?

22 A They have the files, I don't have the files. They bring
23 in the files, it's only that time.

24 Q Okay. Only that time, and they bring files to you.

25 A That's exactly right, yes.

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1 Q Are you paid by the U.S. government weekly or monthly, or
2 some periodic payment?

3 A When we get together and look at the files and analyze it,
4 then we get paid. And then the other expenses are, like, say,
5 me coming here, I wanted to see the expenses because I saw the
6 expenses were very high, so I wanted to look at it. I asked
7 for it to look at it, and I saw that they had included, they
8 had included medical expenses, New York, Chicago, and included
9 is staying, and included is the expenses of travel.

10 Q Okay. Other than expenses, do you get paid for looking at
11 files only for those three days every three months or so that
12 you meet with the FBI?

13 A Yes.

14 Q When you were arrested, you were a director of M4?

15 A No, I was a director in M4.

16 Q A director in M4, in a subsection of the directorate M4?

17 A Yes.

18 Q Did you say on questioning from Ms. McQuade that you did
19 work for M5 previously in your IIS experience?

20 A From '79 to '89, I worked for M5.

21 Q Sir, are you familiar with an address 50 Al-Kadah Street,
22 K-a-d-a-h? In Baghdad, I'm sorry, 50 Al-Kadah.

23 A The name is not clear.

24 Q You're not familiar with that name?

25 THE COURT: Why don't you try the name that the other

1 witness said was the correct name.

2 BY MR. WISHNOW:

3 Q Al-Karadah(sp) Street?

4 A Yes.

5 Q Are you familiar with that address?

6 A That's a well-known area in Baghdad, Karadah, yes.

7 Q But that particular address, 50.

8 A We don't use numbers that much. Do you think I have this
9 number in my, printed in my memory in Baghdad itself? I cannot
10 tell you exactly that I know this exact -- anyone -- and anyone
11 who is living in Baghdad can't tell you that address unless he
12 is living in that particular address.

13 Q Okay. We're good on that.

14 Before the invasion of, by the U.S., is it true that
15 you and others went through the IIS files and attempted to burn
16 them, destroy files?

17 A It was not before -- before the war, we took the files out
18 from the main office of the Intelligence Service to secret
19 homes around Baghdad, and I was responsible for a specific
20 area, and I burned the files that I had in my custody.

21 Q That's with M4, I mean, directorate 4, you're talking
22 about, right?

23 A Yes, that's when I was director in M4.

24 Q Do you have knowledge whether other directorates did the
25 same thing; that is, attempted to destroy files?

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1 A The truth is, I have heard, but I don't know.

2 Q Okay. The documents you've looked at it, that's just part
3 of a file for a person, isn't that true?

4 A The file, there was some shortage in it, some certain
5 documentation. The truth is, it has to be put in a file, a
6 certain order, and it has some sort of a thread running through
7 it. The documents are all here except for six or seven of
8 them, and I can't tell what it is from its, the numbers that
9 are numbered on.

10 Q And the numbers you're talking about, that would be in the
11 upper left corner?

12 A Yes.

13 Q Sir, isn't it true that an individual who is called a
14 source would have two files; an administration file, and an
15 intelligence file?

16 A That's true, one would have the administrative file, and
17 the other one would have the intelligence file.

18 Q Would the administrative file have usually the passport, a
19 copy of the passport of a person who is not an Iraqi citizen?

20 A Supposedly you should have a copy, but it's not, it's not
21 for sure.

22 Q It's true, is it not, that sources who provide information
23 are paid by the government of Iraq by the IIS?

24 A If the source wants, asks for money, yes, they pay them.

25 Q And they're paid in U.S. currency, cash.

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1 A Yes.

2 Q Should there be in a source file a pledge or oath that
3 that person takes to the country of Iraq?

4 A This was the old way of doing it in the '80s. After the
5 '90s, we got rid of this kind of habit of doing things because
6 there's no one source hundred percent.

7 Q Is it not true that sources, when they come to Iraq,
8 usually would get training by the IIS?

9 A The training is after a period of time.

10 Q How much period of time?

11 A It depend the importance -- it depends on the importance
12 and the situation of the source itself, and also the
13 trustworthiness of the source.

14 Q Is there any evidence that Mr. Najib Shemami received
15 training from the IIS from the documents you looked at?

16 A No, I did not see anything like that.

17 THE COURT: You know, I thought this was a hearing on
18 a motion to admit documents, and we're not trying the criminal
19 case here, so --

20 MR. WISHNOW: I have a few more questions. I believe
21 this goes toward the completeness of the file.

22 THE COURT: I accept that the file isn't complete. I
23 mean, he's already said there's six or seven documents missing
24 from the file. That goes to its weight, not its admissibility,
25 and, you know, what weight it has eventually is for a jury to

1 determine. Unless you've got something that goes to the actual
2 authenticity, you know, the verification that it is what it
3 purports to be, I'd like to finish up please.

4 MR. WISHNOW: I understand, Judge.

5 BY MR. WISHNOW:

6 Q The documents that you've looked at that are black, do
7 they appear to be photocopies to you?

8 A This is the original file that I'm looking at.

9 Q The question is, though, are those original documents, or
10 photocopies of documents?

11 A This is the originals.

12 Q Are you talking about the whole packet of documents that
13 you're looking at?

14 A Yeah, all of it is originals.

15 Q Can you explain why the seeing eye does not appear on all
16 the documents?

17 A This is only when we send official documentation that we
18 send, and sometimes when we lose some papers or documentations,
19 we write on regular paper, and then we had a problem with
20 printing, with printing papers.

21 MR. WISHNOW: I have no further questions. Thank you.

22 THE COURT: Okay.

23 MS. McQUADE: Your Honor, no redirect. We rest.

24 THE COURT: Thank you.

25 MS. McQUADE: The government rests, Your Honor, we

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1 just ask that you admit the documents based on the legal
2 arguments contained in our brief.

3 MR. WISHNOW: I would likewise rest on the briefs,
4 Your Honor.

5 THE COURT: I think there's been an more than adequate
6 showing based on the law cited by government to admit these
7 documents, and I'm going to do so.

8 MS. McQUADE: Thank you, Your Honor, thank you for
9 your time today.

10 (Proceedings concluded 3:55 p.m.)

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CERTIFICATE OF COURT REPORTER

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

SUZANNE JACQUES, CSR, RMR
Official Court Reporter
Eastern District of Michigan

Date