

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 1:11cr494 (CMH)
)	
MOHAMAD ANAS HAITHAM SOUEID)	
a/k/a "Alex Soueid")	October 28, 2011 -- 9:00 a.m.
a/k/a "Anas Alswaid")	
Defendant.)	

GOVERNMENT'S MOTION FOR REVOCATION
OF RELEASE ORDER AND REVIEW OF DETENTION

The United States of America, by and through its attorneys, Neil H. MacBride, United States Attorney for the Eastern District of Virginia, Dennis M. Fitzpatrick and W. Neil Hammerstrom, Jr., Assistant United States Attorneys, and Brandon L. Van Grack, Trial Attorney for the National Security Division of the Department of Justice, moves this Court, having original jurisdiction over the offense charged, pursuant to 18 U.S.C. §§ 3142 and 3145(a)(1), for a review of the release order entered by Magistrate Judge T. Rawles Jones, Jr. in the Eastern District of Virginia, on October 18, 2011; and for the revocation of said release order to ensure the appearance of the defendant at trial and the safety of the community.

The government of Syria is a designated state sponsor of international terrorism.¹ The defendant is an agent of the Syrian intelligence service, has access to high-level officials within the Syrian government, has attempted to obtain fraudulent passports, has access to unknown

¹ The U.S. Department of State designated Syria as a state sponsor of terrorism on December 29, 1979, and it has been so designated for more than 30 years and through six U.S. Presidents. See <http://www.state.gov/s/ct/c14151.htm>.

sums of foreign money, has repeatedly lied to the United States government, and has expressed a desire to harm individuals in the United States protesting the Syrian government.

The defendant was born in Damascus, Syria, and is a naturalized U.S. citizen. He is 47 years of age. The defendant's father lives in Syria. The defendant resides in the United States and most recently traveled to Syria in June and July of this year. The defendant's full name is Mohamad Anas Haitham Soueid, as reflected in his initial handwritten visa application and his first United States passport. At the time of his arrest, the defendant also possessed a current United States passport with the name Anas Haitham Souied and a Syrian passport issued in March 2011 with the name "M. Ans Swed Hassam." The defendant has held forms of identification with no less than five variations of his name.

As set forth below, and based on the history and characteristics of the defendant, and the nature and seriousness of the pending indictment, the defendant poses a serious risk of flight and a danger to the community, and there is no combination of conditions that will reasonably assure his presence at future proceedings or the safety of the community; thus, Magistrate Judge Jones' release order should be revoked.

Basis for Detention

The defendant presents a serious risk of flight because he is an intelligence officer for the Syrian government. Critically, since the Syrian government's crackdown on dissidents in March, the defendant has obtained, or attempted to obtain, false or misleading travel documents. Subsequent to being interviewed by the FBI on August 3, 2011, the defendant has engaged in discussions about fleeing from the United States, particularly to Peru and Venezuela. On September 2, 2011, he provided two passport photos to a government confidential source in an

effort to obtain a fraudulent Venezuelan travel document. The defendant acquired a Syrian passport in March 2011, with a name that bears no semblance to any of the defendant's other forms of identification. Most importantly, the defendant has access to and regular contact with high ranking officials in the Syrian government, including the Syrian Ambassador to the United States. Accordingly, the defendant's ability and desire to obtain a new Syrian passport or flee to the Syrian embassy in the United States cannot be understated.

The defendant also presents a danger to the community and a danger to any other person because he has advocated, consistent with the defendant's role as an agent of the Syrian government, the use of violence against others during 2011. On April 30, 2011, the defendant stated in a letter to an overseas unindicted co-conspirator that violence against protestors was justified, raiding of homes of protestors was justified, and that any method should be used to deal with protestors. On October 3, 2011, the defendant made several statements to a confidential human source ("CHS") concerning his weaponry. The government is prepared to introduce evidence that the defendant stated that no one was aware of his weapons and that people would be surprised by the nature of his weapons.² Additional statements by the defendant referencing violence are noted below. Further, the defendant is an agent of the Syrian government, and it is unquestioned that Syria is engaging in, and promoting, violence to threaten, intimidate, harass, and harm individuals who oppose the government. The conflict between the Syrian government and the dissident community has resulted in widespread violence and the deaths of over 3,000 people in Syria since March 2011.

² In fact, upon the defendant's arrest on October 11, 2011, a Beretta .40 caliber pistol (unlawfully purchased on July 11, 2011) was seized from his vehicle along with three magazines of ammunition. In addition, an AK-47 semi-automatic firearm was recovered from the bedroom of the defendant's home in Leesburg, Virginia, along with approximately 500 rounds of ammunition for that weapon. A Ruger firearm was also located in the bedroom of the Leesburg home.

i. History and Characteristics of the Defendant

a. Defendant is an Agent of the Syrian Intelligence Service with Access to High-Level Syrian Officials

The defendant was not merely an agent for the Syrian government, he was working for the Syrian intelligence service, the *Mukhabarat*. The defendant worked directly with and passed information on protestors to an individual working for the *Mukhabarat*. He frequently communicated with this *Mukhabarat* official, his handler, and met with the handler when the defendant visited Syria in June and July. The nefarious intentions of the defendant are demonstrated by his use of code when speaking with his handler, in particular the defendant's coded references to the names of protestors. If the defendant was legally passing along publicly available recordings of protestors, as argued by defense counsel, then the defendant had no need to mask his conduct. The defendant's intent to continue his conduct on behalf of the Syrian government is established by his own words. As alleged in the indictment, on July 7, 2011, the defendant called the handler and informed him of his detention at Dulles airport. The defendant referred to this event as a stroke. The defendant goes on to tell the handler that a stroke will not stop us.

At the detention hearing, Magistrate Judge Jones characterized the defendant as, at best, a low-level operative of the Syrian government. This finding is unsupported by the facts presented at the hearing. As Special Agent Richard Evanchech testified at the detention hearing, the defendant had access to multiple high-level officials within the Syrian government. The defendant met with President Assad in private during the defendant's trip to Syria in late June of this year. As alleged in the indictment, the defendant's trip was paid for by the Syrian government. When Special Agent Evanchech interviewed the defendant on August 3, 2011, the

defendant initially denied meeting with *any* Syrian government officials. It was only later during the interview that the defendant admitted to meeting with President Assad. The defendant also had access to, communicated with, and performed tasks for the Syrian Ambassador to the United States. On June 22, 2011, before the defendant left for Syria, he sent the Ambassador a message providing the Ambassador with the defendant's private number as well as the phone number of the defendant's handler in Syria. One month later, on or about July 20, 2011, the defendant asked his handler to tell the Ambassador, who was in Syria at the time, that he was following up on the protestors who had filed a lawsuit against the Ambassador.

A low-level operative for the Syrian government would not have been able to communicate directly with the President of Syria nor that country's Ambassador to the United States during the same month, particularly at such a time of civil upheaval and unrest in Syria. To the contrary, it demonstrates that the defendant had access to the highest levels of the Syrian government and was a valued asset. The Syrian Ambassador to the United States would not have jeopardized his ability to remain in the United States by receiving reports and contact information from a mere low-level operative. Arguments that the Ambassador was unaware of the defendant's conduct are belied by his receipt of contact information for the defendant's handler and the fact that the defendant asked the handler to inform the Ambassador that the defendant was gathering information on protestors.

The suggestion that the defendant was a low-level operator within the *Mukhabarat* is belied by the control he exercised over persons in the United States who were collecting information and recordings of protestors. The individual identified as Person 1 in the indictment needed permission from the defendant to call the handler. When the individual identified as

Person 2 in the indictment videotaped protestors in Washington, D.C., on July 30, 2011, Person 2 did not pass that videotape to the Syrian government. Rather, the defendant told Person 2 to provide him with the raw footage of the video.

The government is prepared to present evidence that on July 17, 2011, the defendant and his father discussed a specific individual in Syria. The defendant told his father that this individual is associated with a special unit that is very small and the defendant revealed that he is one of them. Based on the defendant's close affiliation and work with the *Mukhabarat*, it is reasonable to believe the defendant has the ability, or access to people with the ability, to thwart the constraints of a GPS device. Moreover, given the defendant's high-level access to Syrian officials, in particular the Syrian Ambassador, even if the defendant was detained at home, the Syrian government could provide him with a Syrian passport. There would be no need for the defendant to travel to the Syrian Embassy when the Syrian Ambassador or his operatives can travel to him.

b. Defendant's Attempts to Obtain Fraudulent Passport and Leave the Country

The defendant has recently discussed and taken steps to potentially leave the United States. The defendant has repeatedly spoke of his intentions to test, frustrate, and defeat the FBI's efforts to prevent him from leaving the United States should the FBI become fully aware of his activities and attempt to arrest him. After August 3, 2011, the defendant made efforts to obtain a fraudulent foreign passport. On September 2, 2011, he attempted to obtain a fraudulent Venezuelan passport from the CHS. He was serious enough about obtaining the fraudulent passport to provide the CHS with two passport photos. In late August, the defendant made inquiries into traveling to Peru. On September 6, 2011, he attempted set up a financial account

that he could access in Peru. More recently, the defendant was planning to accept a job located in Iraq. He intended to leave for Iraq in the coming months for an indeterminate period of time. The government is prepared to present evidence that the defendant spoke to an individual about the ability to travel outside of Iraq to include the nations of Syria, Lebanon and Jordan. The defendant also told this individual not to tell anyone about his job opportunity in Iraq.

The government is prepared to present evidence that on August 19, 2011, the defendant discussed fleeing the United States via the southwest border and Mexico. The defendant discussed that flying creates exposure and that the government has the ability to track passengers on air flights. The government is prepared to present evidence that on August 22, 2011, the defendant stated to the CHS that there is no way he can let the FBI apprehend him and that he has a plan. Further, on October 3, 2011, the defendant informed the CHS that he obtained two additional passports from the Syrian Embassy.

The defendant's desire to leave the United States is not speculative or theoretical. For each of the above allegations, the defendant took proactive steps to effectuate his departure. The government is also prepared to present evidence that the defendant also discussed with the CHS a codeword to be used when it was time to leave the country. His conduct demonstrates consciousness of guilt as well as his desire and preparations to flee.

c. Defendant Used Multiple Identities

The defendant held identifications with no less than five variations of his name. See Government Exhibits 3-5, and 7, filed at the detention hearing. One of those identifications was a Syrian passport bearing the name "M. Ans Swed Hassam." To date, that spelling is not reflected in any other identification for the defendant identified by the government. The passport

was obtained in March 2011, which corresponds with the beginning of the Syrian government's most recent crackdown of protestors and the defendant's efforts to collect information on protestors in the United States. With the defendant affirmatively employing so many variations of his name, the government would be limited in its ability to fully monitor the defendant if he is released.

At this time, the government does not know whether the aforementioned Syrian passport is fraudulent. However, the government does know that the defendant had access to the Syrian embassy, which provided him with a passport that would be difficult for law enforcement to trace. The government knows that the defendant had direct access to the Syrian Ambassador. The government knows that the defendant had access to high-level Syrian officials in Syria. And the government knows that the defendant's wife had worked at the Syrian consulate within the embassy for two years. Accordingly, the defendant may not have had a fraudulent Syrian passport, but he has the access to obtain one.

d. History of Deception

The defendant has repeatedly demonstrated his intent and ability to deceive the United States government and other individuals closely associated with him, including his family. Given this demonstrated and proven history of deception, this defendant will disobey any manner of conditions imposed by this Court, to include fleeing to avoid prosecution.

1. False Statements to U.S. Customs and Border Patrol

The defendant was questioned on July 6, 2011, by a Customs and Border Patrol Agent at Dulles airport upon his return from Syria. The defendant stated that the sole purpose of his overseas trip was to visit with his father. The agent noted that the defendant possessed three business suits. When the agent asked the defendant if any portion of his travel was for business purposes, the defendant stated that he did not travel for any business purpose.

These statements were blatantly false and misleading. Just minutes earlier, the defendant told his wife in a phone conversation that he only met with his family in Syria for 15 minutes. This fact is not disputed by the defense. The defendant had been in Syria for approximately two weeks, from June 23 to July 6, and spent only 15 minutes with his family. Yet, he told the CBP agent that the sole purpose for his trip was to visit with his father. Further, the defendant made no reference to meeting with members of the Syrian government, including President Assad. The defendant's efforts to conceal his conduct in Syria from U.S. government officials are wholly inconsistent with defense counsel's representations that the defendant merely had been a member of a fact-finding delegation to Syria. It bears noting that the defendant's wife's representation that Representative Kucinich was part of the delegation is plainly false.

2. False Address Stated on a Firearms Purchase Application

At the time of the defendant's arrest, and at other times material to this indictment, the defendant possessed two valid Virginia motor vehicle licenses. One license, issued on July 8, 2011, identified the defendant living at his true and current address. The second license identified the defendant with a former address, which he left in 2009. When the defendant purchased a firearm three days after receiving a driver's license with his current address, on July

11, 2011, he provided his old driver's license containing his 2009 address. There is no legitimate excuse for this conduct other than to deceive the government. Critically, on that same day, July 11, 2011, the defendant obtained a voter's registration card containing his true and current address.

3. False Statements to the Federal Bureau of Investigation

The defendant again attempted to deceive the U.S. government when the FBI interviewed the defendant on August 3, 2011. Putting the defendant's denial that he was an agent of a Syrian government aside, the FBI asked the defendant whether he was aware of any individual who was taking photographs or videotapes of people in the United States. The defendant denied being aware of any such recordings. As noted repeatedly in the indictment, at a minimum the defendant had multiple communications with individuals who took recordings of protestors in the United States. In fact, the defendant is the individual who directed those individuals to take recordings.

The evidence demonstrates that the defendant has repeatedly lied to the U.S. government. He says and does anything he wishes to suit his particular needs. Accordingly, the evidence demonstrates that the defendant will not abide by the release conditions set by the Magistrate Judge.

e. Defendant Has Access to Unknown Sums of Foreign Money

The defendant has access to substantial sources of money outside the United States. Notably, in late March 2011, the defendant sent an email to his cousin, Ms. Rasha Ellass. In the short email, he solicits \$160,000 and requests that it be delivered in two \$80,000.00 wire transfers to an account controlled by *Autos By Good Guys*, a used car dealership located in

Arlington, Virginia. The defendant provided the account number for the *Autos By Good Guys* bank account in his email communication. Soon after the communication, on April 4 and again on April 7, \$80,000.00 wire transfers were made to the *Autos By Good Guys* account from a bank in France, as directed by the defendant.

Defense counsel made no effort to explain why the \$160,000 was transferred to a used car dealership as opposed to the defendant. In fact, the government knows that at least \$30,000 of those funds were transferred to the defendant in installments in June and July 2011, and deposited into his Citibank checking account that he uses for his personal banking. This is the same account the defendant opened in 2009 under his father's name, Haitham Soueid, and using his father's date of birth. The defendant's wife claimed that the defendant operated the account under a power of attorney for his father. However, there is no power of attorney documentation on file with Citibank. Moreover, as Special Agent Evanchech testified, the defendant used money in the Citibank account primarily for expenditures in the United States, even though his father lives in Syria. In truth, the defendant operated the account for his personal benefit in order to shield his assets from the government.³

The defendant's cousin testified about the above transaction that her mother in Syria (the defendant's aunt) provided the defendant with \$200,000 in April 2011, ostensibly to help the defendant start a business; however, the money was delivered to the account of a used car dealership in which the defendant has no overt interest, and no other family business was identified at the hearing or otherwise. The defendant took this business venture so seriously that

³ The defendant has outstanding tax liens against his assets in the amount of \$111,000. These liens have been in effect for several years. In fact, the defendant acknowledged his tax liens and obligations in his 2008 bankruptcy filing. The defendant has made no effort to satisfy these obligations, and, in fact, he has taken deliberate steps to avoid these obligations. None of the money (in excess of \$200,000) accessible to the defendant over the last three years has gone to satisfy his admitted tax obligations.

he was planning to depart later this year to Iraq to obtain a new job. The government does not currently know where all of the \$200,000 is located. Nor does the government know how much of the aunt's money the defendant can access. Since the aunt lives in Syria and her financial accounts do not appear to be in the United States, the government does not know the extent of her financial resources. Their relationship begs the question that if the aunt was willing to provide the defendant with \$200,000 for a business venture of questionable substance, how much would she provide to keep him out of prison. Given the defendant's access to substantial financial resources, the defendant would appear to have all of the resources he would need to obtain the documentation, logistical assistance, and transportation to flee the country and to live a comfortable life outside the United States.

ii. Nature and Seriousness of Danger to Any Person or the Community

The potential for the defendant, or those associated with the defendant, to harm protestors is at the core of the government's allegations against the defendant. The only logical explanation as to why the Syrian government would want recordings of and information on protestors is to potentially harm or intimidate them. Again, this is the same government which has already killed over 3,000 of its own citizens since March.

The defendant has expressed his concurrence with this violent effort. As noted above, he expressed in an email on April 30, 2011, that violence against protestors was justified. There is nothing to suggest at this stage of the proceedings that the defendant has distanced himself from those views. If anything, the defendant's views have hardened over time and with recent events. The danger posed by the defendant is not theoretical. The government is prepared to present

evidence that the defendant bragged about his collection of weapons as recently as October 3, 2011.

The government is prepared to present evidence that the defendant repeatedly conveyed his violent inclinations to the CHS. Soon after the defendant met the CHS, the defendant asked the CHS if the CHS had ever killed anyone. The defendant also suggested and described to the CHS that people could be harmed by other means. The defendant has also stated to the CHS that his neck was in the defendant's hands, and *vice versa*. The defendant further stated that he could get the CHS a weapon if the CHS wanted one.

The government is prepared to present evidence that on July 7, 2011, after the defendant's return from Syria, he stated to the CHS that they have authority to use whatever means necessary, including violent means, to obtain information on Syrian dissidents. Later, on July 14, 2011, the defendant communicated to the CHS that the defendant had a plan A and a plan B for him. Plan A was the collection of information on dissident activities in the United States. Plan B was anticipated hostile activity targeting opposition leaders. The defendant stated, however, that the focus was on plan A and that plan B was for future consideration.

On July 11, 2011, the defendant travelled with the CHS to a shooting range in Lorton, Virginia. While at the range, the defendant spent approximately \$900.00 (in cash) to purchase a firearm, ammunition, memberships, and targets. The defendant and the CHS engaged in target shooting. The defendant later reported to his handler that the CHS shoots the gun well and he reported that the CHS is a master with the weapons. The defendant's conversation with the handler included details that either/both men took shots at the stomach, head and ears of the targets.

The government is prepared to present evidence that on September 24, 2011, the defendant stated that he will retaliate against the families of the individuals who filed the civil lawsuit against him if he is harmed by that civil action. The defendant specifically mentioned two prominent Syrian dissidents in the United States.

iii. Weight of the Evidence

The volume of evidence against the defendant is overwhelming, substantially supported and corroborated by court authorized electronic interception. The government is relying on the defendant's own words and statements. Each and every overt act in the indictment is supported by a recording or email involving the defendant. The government also has a confidential human source who corroborates the information from those recordings and emails. With such a strong case arrayed against the defendant, there is a substantial risk that he will flee to Syria -- the country of his birth, the country where his father lives, and the country for which he is an agent.

Standard of Review

The government seeks review of the Magistrate Judge's ruling pursuant to 18 U.S.C. § 3145(a)(1). This provision provides that a court with "original jurisdiction over the offense" may review the release order of a magistrate judge. 18 U.S.C. § 3145(a)(1). This matter was indicted on October 5, 2011, by a grand jury sitting in the Eastern District of Virginia, and the matter was assigned to the Honorable Claude M. Hilton. A review of a detention order is conducted *de novo*. United States v. Clark, 865 F.2d 1433, 1436 (4th Cir. 1989).

The government contends that the defendant should be detained because there are no conditions or combination of conditions that will reasonably assure his appearance and reasonably assure the safety of any other person and the community. The government need only

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Government's Motion for Stay and Revocation of Release Order and the Notice of Hearing were delivered to counsel of record for the defendant on October 21, 2011.

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