

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE TERRY J. HATTER, JUDGE PRESIDING

UNITED STATES OF AMERICA,)	
)	
)	
)	
Plaintiff,)	
)	
)	
)	
Vs.)	No. CR 06-221 (B) TJH
)	
)	
WILLIAM SHAOUL BENJAMIN,)	
)	
)	
)	
Defendant.)	
)	
)	

REPORTER'S TRANSCRIPT OF TRIAL PROCEEDINGS
LOS ANGELES, CALIFORNIA
THURSDAY, JANUARY 31, 2008

LEANDRA AMBER, CSR 12070, RPR
OFFICIAL U.S. DISTRICT COURT REPORTER
312 NORTH SPRING STREET, # 442
LOS ANGELES, CALIFORNIA 90012
(213) 613-0179

A P P E A R A N C E S

**IN BEHALF OF THE PLAINTIFF,
UNITED STATES OF AMERICA:**

U.S. DEPARTMENT OF JUSTICE
U.S. ATTORNEY'S OFFICE
BY: JUDITH HEINZ, AUSA
JANET HUDSON, AUSA
312 NORTH SPRING STREET
12TH FLOOR
LOS ANGELES, CALIFORNIA 90012
(213) 894-7280

**IN BEHALF OF THE DEFENDANT,
WILLIAM SHAOUL BENJAMIN:**

LAW OFFICES OF JAMES E. BLATT
BY: JAMES E. BLATT, ESQ.
16000 VENTURA BOULEVARD
PENTHOUSE, SUITE 1208
ENCINO, CALIFORNIA 91436
(818) 986-4180
j.blatt@jamesblatt.com

LAW OFFICES OF ARAKELIAN &
ARAKELIAN
BY: MEDIA ARAKELIAN, ESQ.
15760 VENTURA BOULEVARD
SUITE 840
ENCINO, CALIFORNIA 91436
(818) 728-6958

ALSO APPEARING:

LILIANA KHOURY, CERTIFIED ARABIC INTERPRETER
HISHAM MALEK, CERTIFIED ARABIC INTERPRETER
GABRIEL KARTOUCH, CERTIFIED ARABIC INTERPRETER
JAMES RUBIN, FBI AGENT
LOAN MCINTOSH-RUPP, ICE AGENT

I N D E X

GOVERNMENT'S WITNESS

PAGE

MR. SARGON

CROSS-EXAMINATION (RESUMED) BY MR. BLATT	5
REDIRECT EXAMINATION BY MS. HUDSON	67

JOHNSON DAVID KARAM

DIRECT EXAMINATION BY MS. HEINZ	82
CROSS-EXAMINATION BY MR. BLATT	89

PAUL DALE COLE

DIRECT EXAMINATION BY MS. HEINZ	101
CROSS-EXAMINATION BY MR. BLATT	110

ROLAND EDWARD LYONS

DIRECT EXAMINATION BY MS. HEINZ	115
CROSS-EXAMINATION BY MR. BLATT	141

EXHIBITS	IDENTIFIED	RECEIVED
9		80
11		98
12		99
13		100
14	101	101
15		114
17		114
20		98

1 LOS ANGELES, CALIFORNIA; THURSDAY, JANUARY 31, 2008

2 9:09 A.M.

3 -o0o-

4
5 (Out of the presence of the jury.)

6 THE CLERK: Please remain seated and come to order.
7 This Court is once again in session.

8 THE COURT: Good morning.

9 We're outside the presence of the jury. Any
10 matters that any counsel wish to raise?

11 MR. BLATT: No, your Honor.

12 MS. HUDSON: No, your Honor.

13 THE COURT: We'll bring the members of the jury in
14 then.

15 THE CLERK: Please rise.

16 (Whereupon, at 9:10 a.m., the jury entered the
17 courtroom.)

18 THE COURT: Please be seated and good morning,
19 ladies and gentlemen.

20 Ladies and gentlemen, has anything at all come to
21 your attention about this case since you were last here
22 yesterday? If so, please raise a hand.

23 I see no hands having been raised.

24 We're going to continue with the Government's case
25 in chief.

1 And, Mr. Sargon, would you once again state your
2 nickname and spell it for the record.

3 THE WITNESS: My name is Sargon, S-a-r-g-o-n.

4 THE COURT: And you understand you are still under
5 oath in this matter?

6 THE WITNESS: Yes, your Honor.

7 THE COURT: Mr. Blatt, you may continue with your
8 cross-examination.

9 MR. BLATT: Thank you, your Honor.

10 **CROSS-EXAMINATION**

11 BY MR. BLATT:

12 Q. Mr. Sargon, what was your rank in reference to the
13 I.S.S. -- my mistake -- I.I.S.?

14 A. I was a branch director.

15 Q. Is that a high position?

16 A. Middle.

17 Q. How many people did you have working under you?

18 A. Well, the number wasn't a fixed number, but, however,
19 more than 20 officers in Baghdad in the center and also to
20 that center some stations abroad were connected to it.

21 Q. And when you cooperated with the United States, did you
22 turn in the agents that you worked with both in your country
23 and abroad?

24 MS. HUDSON: Objection. Relevance.

25 THE COURT: Sustained.

1 BY MR. BLATT:

2 Q. Do you live in Iraq now?

3 MS. HUDSON: Objection, your Honor.

4 THE COURT: Sustained.

5 BY MR. BLATT:

6 Q. Why are you afraid to use your real name?

7 MS. HUDSON: Objection, your Honor.

8 THE COURT: Sustained.

9 BY MR. BLATT:

10 Q. After the fall of Baghdad, how long did you hide in your
11 house before you were arrested?

12 A. Could you -- you said before what --

13 Could you repeat the question, please.

14 Q. After the fall of Baghdad, how long did you hide in your
15 house before you were arrested?

16 A. Well, Baghdad fell April 9th, and I was arrested
17 April 22nd.

18 Q. During that time period did you hide in your house?

19 A. I was in my house, yes.

20 Q. Did you hide there?

21 MS. HUDSON: Objection. Relevance.

22 THE COURT: Sustained.

23 BY MR. BLATT:

24 Q. In reference to the understanding that you had with the
25 FBI, was part of that understanding, sir, that you would

1 fully cooperate in reference to all information that you had
2 concerning Iraqi Intelligence?

3 A. We didn't have such understanding.

4 Q. So you worked an arrangement out with the FBI that you
5 would work with them in reference to the files without
6 divulging your knowledge of Iraqi Intelligence in the
7 United States and Iraq?

8 MS. HUDSON: Objection. Argumentative, misstates
9 the witness's testimony, and irrelevance.

10 THE COURT: Sustained.

11 You may rephrase it.

12 MR. BLATT: I'll rephrase it.

13 BY MR. BLATT:

14 Q. What specific arrangement did you have with the FBI in
15 reference to your cooperation for payment?

16 A. We didn't have any agreement.

17 Q. What is your understanding of what you are supposed to
18 do in order to obtain the \$112,000?

19 A. I wasn't planning for anything.

20 Q. You have received money from the FBI?

21 A. Yes.

22 Q. What was that for?

23 A. I think we talked about this yesterday.

24 Q. What was it for, sir?

25 A. We said that part of it was for analyzing information.

1 Well, we spent a lot of time for analyzing these files; and
2 I was sick in prison; and also it's medical treatment
3 expenses, part of it; and other expenditures are for food and
4 travel and --

5 Q. At any time did you release information to the FBI about
6 your Iraqi Intelligence Service in reference to agents abroad
7 in the United States?

8 A. Well, that's -- that -- that's the essence of the
9 investigation.

10 Q. What I'm asking you is did you provide names of
11 individuals that you knew in the Iraqi Intelligence Service
12 who were in the United States?

13 MS. HUDSON: Objection. Relevance.

14 THE COURT: Sustained.

15 MR. BLATT: It goes -- it goes to his credibility,
16 your Honor.

17 THE COURT: It's sustained.

18 BY MR. BLATT:

19 Q. Could you be more specific as to how you get paid by the
20 FBI in reference to your analysis and testimony.

21 A. I didn't get any money for testimonies. Everything I
22 got was for analyzing information.

23 Q. So you were paid up front before you testified?

24 THE COURT: Are you asking?

25 MR. BLATT: Yes, your Honor.

1 BY MR. BLATT:

2 Q. Were you paid up front before you testified?

3 MS. HUDSON: Objection. Vague as to which
4 testimony.

5 THE COURT: Sustained.

6 BY MR. BLATT:

7 Q. Were you paid up front before any testimony that you did
8 in the United States?

9 A. Except -- except, you know, for what we talked about.
10 I just got \$900 when I was released from prison. That's all.

11 Q. You also received approximately \$112,000; is that
12 correct?

13 A. Well, you know that. We talked about it.

14 Q. Did you receive that money before you testified in any
15 court appearance?

16 A. Well, you know what? Your question is compound. You
17 know, it's difficult for me to answer.

18 THE COURT: Rephrase the question, please.

19 BY MR. BLATT:

20 Q. Well, do you know what it is to receive money?

21 A. Yes.

22 Q. I'm asking you did you receive money from the FBI of the
23 \$112,000 before you testified in any U.S. court appearance?

24 A. Before any testimony? No.

25 Q. So after you testified, you received the money; is that

1 correct?

2 A. Well, I received these -- you know, these money on
3 installments, and it's the four past years.

4 Q. And is the installments based upon you continuing to
5 cooperate with the United States Government?

6 A. Yes.

7 Q. And if you don't cooperate or testify, you quit getting
8 your money; is that correct?

9 A. Well, you can ask them. I don't know.

10 Q. You don't know whether you -- are you saying now, sir,
11 that you don't know whether you will receive money if you now
12 stop and refuse to testify in other proceedings?

13 A. As long as, you know, these files exist, you know, I am
14 the one who is responsible for analyzing it; and I didn't
15 have in my plan to stop cooperating.

16 Q. In fact, you're the only one out of the entire Iraqi
17 Intelligence Service that analyzes these files; is that
18 correct, sir?

19 A. I don't know. I don't know.

20 Q. As part of your duties as an intelligence officer, do
21 you ever go on the Internet to study what individuals are
22 saying or doing?

23 MS. HUDSON: Objection. Relevance.

24 THE COURT: Sustained.

25 ///

1 BY MR. BLATT:

2 Q. Did you ever look for your name on the Internet, sir?

3 MS. HUDSON: Objection. Relevance.

4 THE COURT: Sustained.

5 BY MR. BLATT:

6 Q. Is your responsibility to look at these files and to
7 determine that they are Iraqi Intelligence files?

8 A. That was the basis of the cooperation with the FBI.

9 Q. But it's not your responsibility to determine whether
10 the content of these files is truthful or not?

11 A. I don't understand your question.

12 Q. You've looked at Government's Exhibit No. 1.

13 To you that appears to be an Iraqi Intelligence
14 file?

15 A. Yes.

16 Q. You have no doubt about that?

17 A. No, not at all.

18 Q. Do you recall on direct examination when the assistant
19 U.S. Attorney asked you a question about the receipts and
20 money and you indicated that simply because there's a
21 receipt, it doesn't mean the person received the money? Do
22 you recall making that statement?

23 A. I didn't say that except for one case only pertaining to
24 expenditures of giving a visa on a passport because this
25 money goes directly to the passports department and not

1 necessarily that the source would get it or even see it.

2 Q. Isn't it a fact that many Intelligence officers worked
3 in the passport and immigration department near the airport
4 during the time period that Mr. Benjamin was coming in in
5 '94?

6 A. In the Department of Passports, no officers work -- I'm
7 sorry -- Intelligence officers worked there.

8 Q. Did they ever work in the Department of Immigration?

9 A. Well, Department of Immigration is different than
10 Department of Passports.

11 Q. Did they work in the Department of Immigration?

12 A. There are officers -- different officers work -- well,
13 you know, the Department of Immigration is connected to the
14 Intelligence Service.

15 Q. And individuals, especially Christians or Americans,
16 that would come into that country would be monitored by the
17 Immigration and Intelligence Service; is that correct, sir?

18 MS. HUDSON: Objection. Compound.

19 THE COURT: Sustained.

20 BY MR. BLATT:

21 Q. Would they be monitored by the Immigration Department --
22 Christians that came into the country?

23 A. We did not differentiate between Christian and Muslim.
24 We would monitor anybody we suspect.

25 Q. Would you monitor an individual who would be a wealthy

1 Christian who left the country to America and then would come
2 back every year in order to preserve the rights to his
3 property?

4 A. Well, this -- you know, what you are talking about now,
5 you know, have no basis. The basis for monitoring depends on
6 suspicions we receive about that person if he was connected
7 to enemy Intelligence services or not.

8 Q. Well, what if a person was a founder of an opposition
9 party, Christian party; left the country; was wealthy; left
10 all his property and money there -- are you saying when that
11 person came back, you wouldn't monitor him?

12 A. If he is practicing activities against Iraq, this person
13 cannot enter Iraq.

14 Q. If the person does enter Iraq, would he be monitored?

15 A. It's impossible for a person to enter Iraq if he is
16 known to be against the Iraqi regime.

17 Q. Isn't it a -- isn't it true that at times when Saddam
18 Hussein was in power, he was requesting Iraqis who had left
19 the country to come back with their relatives to see the
20 improvements in the country?

21 A. Yes.

22 Q. In reference to a --

23 THE COURT: Just a minute.

24 BY MR. BLATT:

25 Q. -- Exhibit 2 --

1 THE COURT: Wait until you come back to the
2 lectern, please.

3 MR. BLATT: I'm sorry, your Honor. I move around a
4 little. It won't happen again.

5 BY MR. BLATT:

6 Q. In reference to exhibit number -- Government's No. 2,
7 could you look at that for a moment, please.

8 A. You know, I don't know how they are arranged here.

9 Q. Government's 2?

10 A. Maybe this is the one.

11 Q. There should be a marker on it indicating
12 Government's 2. Do you have it in front of you, sir?

13 A. Yes.

14 Q. Now, that's in reference to a gentleman named Tobia
15 Ibrahim Giwargis, G-i-w-a-r-g-i-s.

16 THE COURT: Are you asking?

17 BY MR. BLATT:

18 Q. Is that the name of the file?

19 A. Yes.

20 Q. Are you familiar with that person's name?

21 A. No.

22 Q. You don't have any idea that he's a -- an Assyrian
23 writer --

24 A. No.

25 Q. -- who strongly opposed Saddam Hussein over the years?

1 THE COURT: This is assuming facts not in evidence,
2 so....

3 BY MR. BLATT:

4 Q. I'm asking if you have any knowledge of this.

5 MS. HUDSON: Objection, your Honor. Assumes facts
6 not in evidence.

7 THE COURT: Sustained.

8 BY MR. BLATT:

9 Q. Do you have any knowledge who that person is?

10 A. No.

11 Q. Do you have any knowledge, in reference to Exhibits 2
12 through 6, who those people are that came into the country?
13 Their backgrounds?

14 A. No, I don't know any of them.

15 Q. In reference to Government's 1, you indicated that you
16 knew the handlers of Mr. Benjamin.

17 THE COURT: Again, you're asking a question, I take
18 it?

19 MR. BLATT: Yes, I am, your Honor.

20 THE COURT: Well, ask your question.

21 MR. BLATT: Well, I'm sorry.

22 BY MR. BLATT:

23 Q. Have you previously indicated that you knew the handlers
24 of Mr. Benjamin in Government's 1?

25 A. Well, you know, you should correct your question. Maybe

1 these are not handlers. These are officers, intelligence
2 officers, and they are responsible for administering the
3 relation with the source.

4 Q. Do you know them?

5 A. Yes.

6 Q. And in reference to Mr. Abd-al-Salam --

7 A. Yes.

8 Q. -- before you testified today -- well, let me rephrase
9 this.

10 Do you know where he is now?

11 A. No.

12 Q. Did you make any effort to find this person?

13 A. Never.

14 Q. Have you ever talked to this person about his contacts
15 with Mr. Benjamin?

16 A. Never.

17 Q. Did you ever review any type of personal file in
18 reference to this individual concerning his honesty and
19 veracity?

20 A. What person? Do you mean Abd-al-Salam?

21 Q. Yes.

22 A. No.

23 Q. Did you know this person well?

24 A. I knew him.

25 Q. Did you know him well?

1 A. I -- I've known him, but he wasn't a friend. He -- he
2 worked under my command when he worked in Australia, and his
3 conduct was good during that period of time.

4 Q. Are you relying on his honesty as to whether money was
5 actually transferred to Mr. Benjamin?

6 MS. HUDSON: Objection. Vague.

7 THE COURT: Well, he may answer if he understands
8 the question.

9 THE WITNESS: Could you please repeat it.

10 BY MR. BLATT:

11 Q. You are relying on Mr. Salam's honesty as to whether
12 money was actually transferred to Mr. Benjamin?

13 A. I know him. He's a clean person.

14 Q. Is he clean like you?

15 A. Maybe.

16 Q. Or is he cleaner?

17 A. I told you. He's clean.

18 Q. Have you ever looked at his personnel file at any time
19 while he was working there?

20 MS. HUDSON: Objection. Asked and answered.

21 THE COURT: Overruled.

22 You may answer again.

23 THE WITNESS: Well, the file we have is just a
24 normal file for any person who is working in a station
25 abroad.

1 BY MR. BLATT:

2 Q. Did you ever testify previously that there's two types
3 of collaborators -- those individuals that know they're a
4 collaborator, and those that don't know they're a
5 collaborator?

6 A. Yes.

7 Q. How do you use people as a collaborator when they don't
8 know they're a collaborator?

9 A. Well, this is a matter of administering the sources in
10 the Intelligence Service. The Iraqi is always called a
11 collaborator while a foreigner could know that he's working
12 for the Iraqi Intelligence, or he doesn't -- or he doesn't
13 know that he is working for the interest of the Iraqi
14 Intelligence.

15 But this definition does not apply to the Iraqi.
16 The Iraqi should know he's working for the Iraqi
17 Intelligence.

18 Q. Are you saying that foreigners sometimes don't know
19 they're working for the Iraqi Intelligence, but Iraqis always
20 know they're working for the Iraqi Intelligence?

21 A. Not all foreigners.

22 Q. In Intelligence work, isn't one of the goals to utilize
23 people and receive information from them when they don't know
24 they're assisting?

25 A. This applies to foreigners.

1 Q. It never applies to Iraqis? Well, let me rephrase that.
2 Why would it apply only to foreigners and not to
3 Iraqis?

4 A. Supposedly the Iraqi is helping his country in this
5 domain, the domaine of Intelligence without taking any other
6 cover while the foreigner -- you know, we cannot do it.

7 Q. During the time you were an Intelligence officer,
8 weren't a lot of Iraqis arrested by your department in
9 reference to being a traitor?

10 A. My department? No. Never.

11 Q. Well, maybe a department right next to you.

12 MS. HUDSON: Objection. Relevance.

13 THE COURT: It's overruled.

14 You may answer.

15 THE WITNESS: Well, the foreign service doesn't
16 arrest people.

17 BY MR. BLATT:

18 Q. So you're saying that no Iraqis were arrested by your
19 Intelligence services while Saddam Hussein was in power?

20 MS. HUDSON: Objection. Misstates the testimony.

21 THE COURT: Overruled.

22 He may answer.

23 THE WITNESS: Could you repeat the question,
24 please.

25 ///

1 BY MR. BLATT:

2 Q. Are you -- is it -- is it your understanding that no
3 Iraqis were arrested by your Intelligence Service while
4 Saddam Hussein was in power?

5 A. Well, pertaining to my work, no.

6 Q. Pertaining to your -- the Intelligence department, the
7 entire department -- were Iraqis arrested during the time
8 Saddam Hussein was in power?

9 MS. HUDSON: Objection. Vague as to which
10 department.

11 THE COURT: Sustained.

12 BY MR. BLATT:

13 Q. The department that you worked for, the Iraqi
14 Intelligence Service -- did that service arrest Iraqis during
15 the Saddam Hussein for any reason [sic]?

16 A. Well -- well, this, you know, kind of work pertained to
17 M-5 and M-40, the Enemy Activities Department.

18 Q. Did they do it, sir?

19 A. Of course.

20 Q. And weren't thousands of Iraqis murdered through those
21 departments?

22 MS. HUDSON: Objection. Relevance.

23 THE COURT: Sustained.

24 BY MR. BLATT:

25 Q. If you know.

1 When you went through these files, did you go
2 through these files in detail to see how they connected to
3 one another?

4 A. Yes.

5 Q. Could you look at page one of Government's exhibit,
6 please.

7 THE COURT: Page one of which exhibit?

8 MR. BLATT: One, your Honor.

9 BY MR. BLATT:

10 Q. Page one of Government's 1.

11 A. Yes.

12 Q. Is that the first page of the file?

13 A. This is the cover.

14 Q. Does the cover sheet indicate a statement about taking
15 properties away from foreign residents?

16 A. Well -- well, this is, you know, this first line here --
17 it's written "Collaborator William Shaoul." And here this,
18 you know, other writing here -- we -- we don't write it on
19 the files.

20 Q. There's something not correct about the first page; am I
21 right about that, sir?

22 A. As -- as I told you, we -- we don't write, you know,
23 this. We don't write about somebody who works for us
24 "Collaborator."

25 Q. So --

1 A. I don't know when this was, you know, written.

2 Q. So, in other words, you -- you don't write this type of
3 statement on the front of the file, do you, sir?

4 A. Yes. I am certain this file did not have this here when
5 it was in the Intelligence Service.

6 Q. So -- so in other words --

7 A. Nothing is written on the files except for this right
8 here: The number, and it's administrative.

9 Q. Now, in reference to -- I'm sorry.

10 A. And especially on the source's files.

11 Q. There are a number of things wrong with the first page.
12 I want to go over them with you.

13 THE COURT: Strike that first part.

14 MR. BLATT: All right. Apologize.

15 BY MR. BLATT:

16 Q. There's a code, 9211.

17 Do you recall making a statement that that source
18 number is not used on the first page?

19 A. No. No. The number is used on the first page. I did
20 not say that, or otherwise how the Intelligence officer would
21 know to whom this file belongs?

22 Q. You don't -- you don't recall telling an FBI agent that
23 the source's number should never be put on the first page?

24 A. I didn't say that.

25 Q. Well, what about the word "agent"? Perhaps I made a

1 mistake, sir. The use of the word "agent" -- is that usually
2 used on the first page?

3 A. No. No, it's not written.

4 Q. And when you look at the first page, are there three
5 different types of colors of ink on it?

6 A. Yes.

7 Q. Is that unusual based upon your training and experience
8 for the first page to have three different types of ink in
9 writing?

10 A. I told you about this writing here. It wasn't -- it
11 wasn't on this file when this file was in the Intelligence
12 Service and to be -- to be very specific, up to April 9,
13 2003.

14 Q. So, in other words, based on your testimony, someone
15 changed that file after it left the Intelligence Service and
16 put that writing on there.

17 THE COURT: You're asking him?

18 MR. BLATT: I'll rephrase it.

19 BY MR. BLATT:

20 Q. Did someone change the file after it left the
21 Intelligence Service to put that writing on it?

22 A. I -- I didn't see any changes any file, but only this
23 writing on the cover of the file.

24 Q. Why would there be three different colors of ink on the
25 first page, based on your training and experience?

1 A. Well, I -- I know this red ink here, you know, it could
2 be any color. It depends on the officer, and -- and I don't
3 have any analysis after April 9, you know, about what
4 happened with the files who -- who looked at it, who got it.

5 Q. Going back to the -- going back to the Immigration
6 Department, how large of a contingent of Iraqi Intelligence
7 officers would work in the Immigration Department?

8 A. I know -- I don't have information about that.

9 Q. Is it your testimony, sir, that Christians were not
10 monitored after they left the country and came back before
11 the fall of Baghdad?

12 A. Well, you know, this is an actual discrepancy, sir. You
13 know, you are working on this religion detail, and, you know,
14 there we don't buy that with a penny.

15 Q. So, in other words, what you're saying is there's no
16 prejudice in Iraq against Christians and Jews?

17 A. Before 4-9 there was no discrimination between Muslims
18 and Christians.

19 Q. Before what, sir?

20 A. Before 4-9; before occupation.

21 Q. So it all occurred afterwards?

22 A. Well, discrimination and the civil war and, you know,
23 and the emigration of Christians and, you know, the war
24 happened after 4-9. The cover -- the Government was
25 controlling this issue and did not allow any religious

1 discrimination in Iraq.

2 Q. How did it control it?

3 A. Well, that's the power of the State.

4 Q. Did it control it by violence?

5 MS. HUDSON: Objection. Relevance.

6 MR. BLATT: If you know.

7 THE COURT: Sustained.

8 BY MR. BLATT:

9 Q. Do you know how they controlled it?

10 MS. HUDSON: Objection. Relevance.

11 THE COURT: Sustained.

12 BY MR. BLATT:

13 Q. Tell me about your experience about corruption in the
14 Iraqi Intelligence Service during the time period that
15 Mr. Benjamin was coming in and out of the country.

16 A. I don't have information.

17 Q. To your knowledge, there was almost zero corruption in
18 the Iraqi Intelligence Service; am I correct?

19 A. I can't say. I can't say that.

20 Q. Was there corruption throughout the other parts of the
21 country during that time period?

22 A. This is not my responsibility.

23 Q. Was there corruption throughout the rest of the country
24 based upon your living there as a citizen during that time
25 period?

1 A. Yes, there was corruption.

2 Q. Was there a lot of corruption in everyday life during
3 that time period?

4 A. No.

5 Q. Are you saying to your knowledge during the time period
6 of Saddam Hussein there was no discrimination against
7 Christians or Jews in Iraq?

8 THE COURT: Well, that's compound. Ask it
9 differently.

10 MR. BLATT: Yes, your Honor.

11 BY MR. BLATT:

12 Q. Are you saying, sir, that there was no discrimination
13 during the time period Saddam Hussein was in Iraq for control
14 of Iraq against Christians?

15 A. There was no discrimination.

16 Q. And no discrimination against Jews?

17 MS. HUDSON: Objection. Relevance.

18 THE COURT: Sustained.

19 BY MR. BLATT:

20 Q. Why would on page one there would be a statement about
21 taking away assets of a foreign citizen?

22 MS. HUDSON: Objection. Calls for speculation.
23 Lack of foundation.

24 THE COURT: He may answer if he knows.

25 Go ahead.

1 THE WITNESS: I don't know who wrote it, why it was
2 written, and when. I told you before occupation, before 4-9,
3 this wasn't written.

4 BY MR. BLATT:

5 Q. So it could have been written after the fall of Baghdad?

6 A. Certainly.

7 Q. Do you think that was written after the fall of Baghdad?

8 THE INTERPRETER: I'm sorry, Counsel. Could you
9 repeat that.

10 BY MR. BLATT:

11 Q. Do you think it was written after the fall of Baghdad?

12 A. If it wasn't written before the fall of Baghdad, that
13 means it was written after the fall of Baghdad.

14 Q. But based on your training and experience, why would
15 someone write on the front of the file about taking away
16 assets if that person is a source?

17 MS. HUDSON: Objection. Asked and answered.

18 THE COURT: It calls for speculation. It's
19 sustained.

20 MR. BLATT: I asked based on his training and
21 experience, your Honor.

22 THE COURT: Sustained.

23 BY MR. BLATT:

24 Q. When you reviewed Government's 1 for identification,
25 when there was an exchange of money to Mr. Benjamin, is there

1 any indication in the file that something was given in return
2 for that money?

3 A. Could you repeat the question, please.

4 Q. There's numerous exchanges of money in reference to
5 Government's 1 where Mr. Benjamin received money in receipts.

6 Is there anything in the file that the Iraqi
7 government got in exchange for that money in Government's 1?

8 A. Yes. Yes. It exists.

9 Q. Where? Which page?

10 A. On page three.

11 Q. Now, on that page, sir, isn't that a directive of what
12 Mr. Benjamin is supposed to do?

13 A. This is a request to get the approval to disburse money
14 to give directions to the source and tell him to follow up --
15 follow up with the enemy activities in -- on -- on American
16 land and to arrange with him how to exchange information.

17 Q. Is there anything in the file that indicates how
18 arrangements were to be made in exchange of information?

19 A. Well, on this page here, it says to arrange for a new
20 encoding correspondence with him.

21 Q. Is there anything in the file that indicates a coding
22 correspondence in reference to Mr. Benjamin in
23 Government's 1?

24 MS. HUDSON: Objection. Vague as to --

25 MR. BLATT: I'll rephrase it.

1 THE COURT: Sustained.

2 BY MR. BLATT:

3 Q. Is there any information given by Mr. Benjamin in
4 Government's 1 in reference to page three?

5 A. Well, here, it says that we assigned him only to follow
6 up the enemy Assyrian activities against Iraq and that we
7 invited him here to assign more tasks to him.

8 Q. What I'm asking you, sir, is in the file with all these
9 exchanges of money, is there any information, specific
10 information, that Mr. Benjamin gave in reference to that
11 letter?

12 A. Well -- well, according to your question specifically,
13 no. There is no sign here, but it exists in other places.

14 Q. We'll get to that, sir.

15 A. And it's on page four.

16 Q. Page four of Government's 1?

17 A. Yes.

18 Q. What does page four say?

19 A. The first paragraph, this Source 9211, one of our
20 confidential sources, and that we assigned him to infiltrate
21 the Assyrian organizations in America and that he achieved
22 good results and that his information was delivered to the
23 presidency, the presidency of the republic.

24 Q. Is there anything in the file, sir, that indicates in
25 Government's 1 specific information that Mr. Benjamin gave in

1 reference to this?

2 A. Well, it exists in the other files.

3 Q. I'm just talking about Government's 1, his file.

4 A. Only what I have mentioned, and that's the way we work
5 in the Intelligence Service. We don't put all details.

6 Q. Well, don't you put details in someone's file if they're
7 paid money for a service and they provide that service, that
8 information? Doesn't it go in the file?

9 A. Well, it is in the file. I meant this page, which is,
10 you know, delivered to the person in charge in the
11 Intelligence Service. We are not asked to mention all
12 details. So -- so, you know, he wouldn't spend all his time
13 just reading information that's not necessary to be
14 mentioned.

15 Q. Well, how about any detail -- any detail whatsoever in
16 Government's 1 that indicates Mr. Benjamin coming back and
17 giving specific information for the money he received. One
18 detail?

19 A. Well, the whole content of the file indicates the thing.

20 Q. What I'm asking you, sir, is a detail -- in other words,
21 a statement by Mr. Benjamin to these intelligence officers
22 that -- indicating he's giving information about what he's
23 supposed to do.

24 A. The reports and the other reports also that was filed
25 indicates that. We -- we cannot take only one page out of

1 context and start discussing it. The whole file is
2 connected.

3 Q. Well, that's what I keep asking you, sir, about the
4 whole file, Government's 1. Is there one specific detail in
5 Government's 1 that Mr. -- Mr. Benjamin gave to your
6 intelligence officers about what he did?

7 A. Yes. Yes. The first paragraph here is very clear.

8 Q. Isn't that saying -- that's a letter sent to someone;
9 correct? And they're talking about great results?

10 A. Yeah. What do you mean?

11 Q. What is in the file that indicates Mr. Benjamin provided
12 great results?

13 A. Well, the whole file proves this result.

14 Q. In the file there's certain questions by Mr. Benjamin in
15 reference to business licenses, immigration, citizenship.

16 Do you recall those, sir?

17 A. Yes.

18 Q. And in reference to his request to change or modify his
19 citizenship regarding his Iranian background, that was
20 denied.

21 THE COURT: You're asking?

22 BY MR. BLATT:

23 Q. Was that denied?

24 A. I don't know, but -- but, you know, in the documents
25 here there was no change.

1 Q. So, in other words, his request to change -- that was
2 denied concerning his background of being Iranian?

3 A. I did not see any decision here either to accept or to
4 deny.

5 Q. And in reference to the business licenses, the request
6 that he made concerning that, in the file does it indicate
7 that after the money was given the licenses were already in
8 existence?

9 Does that refresh your recollection of what's in
10 the file concerning the business license?

11 MS. HUDSON: Objection. The witness has not
12 testified to a lack of recollection.

13 THE COURT: Sustained.

14 BY MR. BLATT:

15 Q. If someone is a valuable source, doesn't the Iraqi
16 Intelligence Service try to help him with their problems?

17 A. As much as they could, yes.

18 Q. Is there any indication in the file in reference to the
19 request that Mr. Benjamin made to Mr. Salam -- were any of
20 those ever granted?

21 A. Well, they actually were interested in his application,
22 and they actually asked the legal department and -- about the
23 business licenses. They went ahead, and they issued them.

24 Q. Well, was there one single request ever granted that
25 Mr. Benjamin requested concerning Mr. Salam?

1 A. Which request exactly?

2 Q. Did you ever make an inquiry during the evaluation of
3 these files as to who originally Mr. Benjamin -- got
4 Mr. Benjamin involved with the I.I.S.?

5 A. I don't recall.

6 Q. Wouldn't that be important in your evaluation of how he
7 came to this service, whether he volunteered or was brought
8 in by someone he knew?

9 A. No. This issue does not interest me. I -- you know,
10 I'm interested in the documents we are talking about.

11 Q. Could you go to Government's 1, page 74.

12 THE INTERPRETER: Counsel, I didn't get the --

13 THE COURT: Page 74.

14 MR. BLATT: Sorry, sir.

15 BY MR. BLATT:

16 Q. Would you go to Government's 1, pages 74 and 75. Would
17 you go to those pages, sir.

18 A. Yes.

19 Q. I'm going to go to 75 first.

20 That's a communication to disburse \$2,400 to 9211;
21 correct, sir?

22 A. Yes.

23 Q. And also indicates that Mr. Hamadi is to receive this
24 money and issue the reconciliation statement?

25 A. Yes.

1 Q. What is a reconciliation statement?

2 A. After getting the approval of the Intelligence Service
3 director to disburse the money, the officer in charge of this
4 file would write this kind of letter to the accounting
5 department, and he'll attach to it the approval of the
6 service director. And when he gets the money from the
7 accounting department, it will be written under his name.
8 He'll be liable for it.

9 After giving it to the source, he will get a
10 receipt from the source; and two officers, in addition to the
11 officer who gave the money, should approve that; and then he
12 will go back to the accounting department and say, "I gave
13 the money to the source."

14 And after that, the accounting department will take
15 it off his name and consider the amount spent completely.

16 Q. Would you go to page 74, sir.

17 A. Yes.

18 Q. Doesn't that indicate that Mr. Benjamin's lawyer
19 received the money from an accountant?

20 A. Yes.

21 Q. Why would a lawyer receive money in an Intelligence
22 operation instead of Mr. Benjamin?

23 A. Because Mr. Benjamin is not in Iraq and Mr. Benjamin
24 told the Intelligence officer, "Give the money to this
25 individual, Abu Ghazwan, and Abu Ghazwan will transfer it."

1 Q. Do you know who Abu Ghazwan is?

2 A. No, I don't know him.

3 Q. Now, the name Abu Ghazwan -- is that sort of a nickname
4 in terms of his children?

5 A. Supposedly, yes.

6 Q. And it's not unusual for individuals to use various
7 types of names based upon their time and life in the Arabic
8 community?

9 A. Well, when he's called "Abu Ghazwan," he stays "Abu
10 Ghazwan."

11 Q. So what you're saying is it's not unusual for someone
12 not involved in the Intelligence operation to go to the
13 Intelligence office and pick up the money?

14 A. Well, I did that myself. I gave money to people through
15 another individual. You know, we do this in the Intelligence
16 Service.

17 Q. Tell me about the money you gave.

18 A. Well, this is not your business.

19 MR. BLATT: Could the Judge instruct the witness to
20 answer, please.

21 THE COURT: If there's no objection.

22 MS. HUDSON: Objection. Relevance.

23 THE COURT: Sustained.

24 BY MR. BLATT:

25 Q. Yesterday, as we -- as the jury was leaving, you didn't

1 want to come back, did you?

2 MS. HUDSON: Objection. Relevance.

3 THE COURT: Sustained.

4 BY MR. BLATT:

5 Q. And you said so.

6 MS. HEINZ: Objection.

7 THE COURT: Sustained.

8 MR. BLATT: I didn't hear the --

9 THE COURT: Sustained.

10 MR. BLATT: All right.

11 BY MR. BLATT:

12 Q. During this break from yesterday and today, did you have
13 an opportunity to speak to the U.S. Attorney or any special
14 agents concerning this matter about your testimony yesterday
15 and today?

16 A. Yes.

17 Q. And did they try to help you during the break as to how
18 to testify today?

19 A. No.

20 Q. Could you go to Exhibit No. 4, page 1798. I'm sorry.
21 It's 17, in Arabic it's 1484.

22 A. Yes.

23 Q. Could you read -- that is --

24 A. Which page?

25 THE COURT: 1484.

1 BY MR. BLATT:

2 Q. On the --

3 THE COURT: Just a minute.

4 THE WITNESS: You were talking about Exhibit 4.

5 MS. HUDSON: Your Honor, I believe counsel is
6 referring to the wrong page number.

7 THE COURT: Perhaps you can --

8 MS. HUDSON: The documents in the exhibit book are
9 numbered according to the pencilled-in number on the lower
10 left-hand corner of the document rather than the Bates number
11 on the right-hand corner.

12 THE COURT: Okay.

13 BY MR. BLATT:

14 Q. Do you have page 1484 there?

15 A. And you are talking about Exhibit 4, no. I don't have
16 that.

17 Q. 1798?

18 A. Yes.

19 Q. In the third paragraph does it talk about a source for
20 Mr. Benjamin who is his attorney?

21 A. What -- what exactly you want?

22 Q. Well, is there -- does it indicate that an attorney of
23 the Assyrian sect, Yusuf al-Diru, provided intelligence
24 services with a phone number and private fax of Mr. Benjamin
25 and requested to have it passed on?

1 THE INTERPRETER: Counsel, I'm sorry. Your Honor,
2 may the interpreter, you know, just --

3 THE COURT: Yes.

4 THE INTERPRETER: If you don't speak in the
5 microphone, it's hard sometimes.

6 MR. BLATT: I'm sorry.

7 THE INTERPRETER: I'm missing some words.

8 Thank you.

9 BY MR. BLATT:

10 Q. In reference to the third paragraph, it indicates that
11 9211 gave information concerning a certain World Council; is
12 that correct?

13 A. I don't know if you understand the subject, or maybe
14 there is a problem in the translation. It says -- it says --

15 THE INTERPRETER: Hold on.

16 THE WITNESS: The Source 9211 informed us that
17 Mr. Butrus Jibra'il is now holding the title of the
18 Immigration Director in the International Church Council and
19 that Butrus Jibra'il called the attorney Yusuf al-Diru and
20 gave them the telephone of the person who called him and
21 said, "Let the Intelligence Service call me." That's the
22 essence of the issue here.

23 BY MR. BLATT:

24 Q. Did you ever make a determination whether Yusuf al-Diru
25 was the civil lawyer for Mr. Benjamin?

1 A. Well, they're not talking about Mr. Benjamin. The whole
2 thing is about Butrus Jibra'il.

3 Q. Well, what I'm asking you is that al-Diru was mentioned.
4 Did you ever connect up al-Diru as the civil lawyer
5 handling the financial affairs for Mr. Benjamin?

6 A. No. No. I did not see it that way.

7 Q. Did you ever connect up that name, al-Diru, with the
8 person who picked up the money, the \$2,400 in
9 Government's 1 -- the attorney that's mentioned?

10 A. In this page there is nothing indicating that.

11 Q. Well, what I'm asking you, sir, is that you don't know
12 who al-Diru is, do you?

13 A. Diru, I know him personally.

14 Q. And is he a source?

15 A. He used to be a source, yes.

16 Q. And is he a Christian?

17 A. Yes.

18 Q. And is he an attorney?

19 A. Yes.

20 Q. And is he the attorney for Mr. Benjamin?

21 A. I don't know. I was introduced to him in 1982, but
22 after that -- you know, now, I don't know what happened with
23 him.

24 Q. And does it indicate that this attorney played a role in
25 reestablishing contact with Mr. Benjamin?

1 A. I didn't see that here.

2 Q. You didn't see that in paragraph three, the last couple
3 of sentences?

4 A. It's -- okay. You either misunderstood this paragraph,
5 or it's mistranslated. This -- well, what -- this
6 paragraph -- I'm going to repeat it so you understand well.

7 Q. If I just may ask you this question. If this al-Diru is
8 a source, was he turning in other Christians who would come
9 into the country?

10 MS. HUDSON: Objection. Lack of foundation.
11 Relevance.

12 MR. BLATT: If he knows. It's his source.

13 THE COURT: It's overruled.

14 He may answer if he can.

15 THE WITNESS: I don't know this issue. I know this
16 person from 1982. He was an attorney for a Japanese company,
17 and I was responsible for him at that time. After that, I
18 don't know what happened, but here there is no connection
19 here.

20 Here the officer is saying we -- we received
21 information from two sources about Butrus Jibra'il, one of
22 them through 9211 and the second one through the source Yusuf
23 al-Diru, and that Butrus Jibra'il gave al-Diru his phone
24 number and asked to be contacted.

25 And -- and it seems that Yusuf al-Diru, the

1 attorney, was the one that helped establish the relationship
2 with Butrus Jibra'il previously in 1984 and that -- well,
3 this is in the year 2000.

4 Q. Do you have any idea who the attorney is, then, who
5 picked up the \$2,400 in reference to that exhibit?

6 A. No.

7 THE COURT: All right. We're going to stop at this
8 time. Let's take a morning recess, ladies and gentlemen.

9 Everyone please rise for the jury.

10 (Whereupon, at 10:29 a.m., the jury exited the
11 courtroom.)

12 THE COURT: You may step down, Mr. Sargon, and
13 return in 20 minutes.

14 Please be seated. We are outside the presence of
15 the jury.

16 Any matters that any counsel wish to raise?

17 MS. HUDSON: No, your Honor.

18 MR. BLATT: No, your Honor.

19 THE COURT: Do you have an estimate of how much
20 longer you're going to be with this witness on
21 cross-examination?

22 MR. BLATT: Half hour to an hour, your Honor.

23 THE COURT: 20 minutes.

24 THE CLERK: This Court is in recess.

25

1 (Whereupon, from 10:30 a.m. to 10:56 a.m., a break
2 was taken.)

3 (Outside the presence of the jury.)

4 THE CLERK: Please remain seated and come to order.
5 This Court is once again in session.

6 THE COURT: We are again outside the presence of
7 the jury.

8 Are there any matters that any counsel wish to
9 raise?

10 MS. HUDSON: No, your Honor.

11 MR. BLATT: No, your Honor.

12 THE COURT: Mr. Blatt, do you have something you
13 wish to raise?

14 MR. BLATT: No, your Honor.

15 THE COURT: All right. Let's bring the jury in.

16 THE CLERK: Please rise.

17 (Whereupon, at 10:57 a.m., the jury entered the
18 courtroom.)

19 THE COURT: Please be seated, ladies and gentlemen.
20 Mr. Sargon, would you once again repeat your name
21 and spell your last name for the record.

22 THE WITNESS: My name is Sargon, S-a-r-g-o-n.

23 THE COURT: And, Mr. Sargon, you understand that
24 you are still under oath?

25 THE WITNESS: Yes, your Honor.

1 THE COURT: Go ahead, Mr. Blatt.

2 MR. BLATT: Thank you, your Honor.

3 BY MR. BLATT:

4 Q. Mr. Sargon, in reference to the Iraqi citizenship
5 documents, doesn't it usually indicate a person's religion
6 and nationality?

7 A. Yes.

8 Q. If there's no religious discrimination, why is it put
9 into the identification card, a person's religion and ethnic
10 background?

11 MS. HUDSON: Objection. Argumentative.

12 THE COURT: Overruled.

13 He may answer.

14 THE WITNESS: Well, discrimination is not on paper.
15 Discrimination is an act. And, you know, in the pyramid of
16 authority in Iraq, you know, the second person was Christian
17 Tarek Aziz.

18 BY MR. BLATT:

19 Q. Going back to Exhibit No. 4, in Arabic 1484, you
20 disagree with my translation of this; is that correct, sir?

21 A. I don't agree with your understanding. I don't know
22 about the translation.

23 Q. Is it your understanding that Mr. Yusuf al-Diru was the
24 contact person for Mr. Timathows?

25 THE INTERPRETER: "Timathows" you said, Counsel?

1 MR. BLATT: Yes.

2 THE WITNESS: The document says that Timathows
3 called Yusuf al-Diru and gave him the phone number. And the
4 document says that Yusuf al-Diru was the one to reestablish
5 the contact with him in 1994. And the essence, now, of this
6 statement here is Butrus Jibra'il.

7 BY MR. BLATT:

8 Q. And when did you start working with Mr. Diru as a
9 source? What year?

10 A. It was around '81. No, '80. '80.

11 Q. Did you have a lot of Christian sources assisting you in
12 reference to your Intelligence investigations?

13 A. I -- I was in charge of the southeast Asia countries and
14 specifically embassies and companies working in Iraq. We had
15 a lot of sources, Muslims and Christians who used it to work
16 in these companies and in embassies.

17 Q. Did you have --

18 A. I don't have statistics for that.

19 Q. Did you ever have sources that gave you information and
20 they didn't know they were acting as an agent for the Iraqi
21 Intelligence Services?

22 A. No, I don't recall that. But all, you know, people who
23 worked in these, you know, establishments, organizations, or
24 embassies -- they had to get our approval before they worked
25 there, and we used to meet them and see them.

1 Q. Sir, I'm not talking about the embassies. I'm talking
2 about people -- businessmen, visitors, tourists -- that would
3 come to Iraq. Would you ever use them as a source without
4 their knowledge?

5 A. I think we talked about this issue. We said that a
6 foreigner could -- could -- you know, we could establish a
7 relationship with him and get information from him without
8 him knowing that we are Intelligence services.

9 Q. How would that occur?

10 A. That's our method of working.

11 Q. How would your method of working occur?

12 A. We tell them we are from the Information Ministry,
13 Foreign Ministry.

14 Q. You would lie to them; is that correct?

15 A. That's Intelligence Service method.

16 Q. And lying is an inherent part of Intelligence in order
17 to obtain information?

18 A. Could you repeat the question, please.

19 Q. Isn't lying an inherent part of how you produce sources
20 in your Intelligence services?

21 A. No, not inherent. Not essential. And we were actually
22 very truthful and honest with the Iraqi citizens. We used to
23 tell them we are Intelligence services.

24 Q. Would you approach somebody and say, "I'm a spy. By the
25 way, can you tell me something?" Is that your usual

1 procedure, sir?

2 A. You know, this is not, you know, a way of talking. You
3 know, first of all, you are not an Intelligence Service
4 officer to talk in that way. If you know anything about
5 Intelligence services, you wouldn't be talking like that.

6 I advise you to -- I advise you to go get some
7 training and some knowledge in Intelligence services and the
8 way they work before you come here so we can talk. You know,
9 we can understand each other.

10 Q. I did that for two years in the U.S. Army.

11 THE COURT: All right. Strike that.

12 MR. BLATT: I'll withdraw.

13 THE COURT: Let's have another question.

14 MR. BLATT: May I continue?

15 THE COURT: Let's have a question.

16 BY MR. BLATT:

17 Q. What I'm asking you is that would it be your normal
18 procedure to say, "I'm a spy. Can you tell me something?"

19 A. I don't say, "I'm a spy." An Intelligence Service
20 officer doesn't mean a spy. The definition of a spy is
21 different than Intelligence Service officer. If you -- if
22 you said that, you weren't in Intelligence.

23 Q. Well, were you a -- you weren't a spy then; is that
24 correct, sir?

25 A. I am an Intelligence Service officer. I used to

1 administer spies.

2 Q. Does that make you a spy?

3 A. Well, what you call a spy, you know, but we call them
4 sources.

5 Q. In reference to the use of the word "agent," does that
6 apply in reference to your files to foreigners?

7 A. We don't call agent actually to any of our sources.

8 Q. Then why would the name "agent" be on the first page of
9 the file?

10 A. I told you this statement wasn't written before
11 4-9-2003.

12 Q. I understand, sir.

13 But assuming it wasn't written to your knowledge,
14 why was it written?

15 MS. HUDSON: Objection. Lack of foundation.

16 THE COURT: Calls for speculation.

17 MR. BLATT: That was a poor question.

18 BY MR. BLATT:

19 Q. Do you have any idea, based on your training and
20 experience, why someone would write the word "agent" on the
21 front of the file concerning Government's 1?

22 A. Well, you know, I'm going to give you my opinion, but
23 you won't be happy with it.

24 THE COURT: No. No.

25 ///

1 BY MR. BLATT:

2 Q. Please do.

3 THE COURT: Let's have another question.

4 BY MR. BLATT:

5 Q. What is your opinion?

6 THE COURT: I said no.

7 MR. BLATT: I'm sorry, your Honor.

8 BY MR. BLATT:

9 Q. Do you recall there being a law that if an Iraqi citizen
10 left the country that he would have to return within a
11 certain time period so that if he had any property, it would
12 not be lost or taken by the State?

13 A. Yes, I did say that. The law -- you know, Iraqi file,
14 is in the file, yes.

15 Q. Exhibit No. 1, page 127, I'm sorry, the Arabic would be
16 85.

17 A. Yes.

18 Q. To your knowledge, was Mr. Benjamin's property taken
19 from him in Iraq?

20 A. I don't know.

21 Q. In your analysis of these files did you ever make an
22 effort to determine whether his real estate and cash was
23 taken from -- was taken by the Iraqi government?

24 A. Well, here, you know it's talking about a Joan case, not
25 in particular.

1 Q. Well, does it indicate in the letter that all necessary
2 measures need to be taken?

3 A. Yes. Yes. Measures could be taken if the Iraqi
4 acquired a foreign citizenship and stayed out of Iraq for two
5 consecutive years.

6 Q. Mr. Benjamin immigrated to the United States.

7 Wouldn't he have to come back every two years so he
8 wouldn't lose his properties?

9 MS. HUDSON: Objection. Calls for a legal opinion.

10 BY MR. BLATT:

11 Q. If you know.

12 THE COURT: He may answer if he has knowledge.

13 THE WITNESS: He kept his Iraqi citizenship; so he
14 doesn't have a problem.

15 BY MR. BLATT:

16 Q. Well, if he doesn't have a problem, why is there a
17 letter in there indicating this is a problem?

18 MS. HUDSON: Objection. Calls for speculation.

19 THE COURT: Sustained.

20 BY MR. BLATT:

21 Q. If he doesn't have a problem, why is there this letter?

22 MS. HUDSON: Same objection.

23 THE COURT: Sustained.

24 BY MR. BLATT:

25 Q. Was it -- let me rephrase it.

1 Did your government look kindly on people who left
2 the country after the gulf war to the United States? The
3 enemy that bombed them?

4 THE INTERPRETER: Sorry, Counsel. I didn't get
5 that.

6 BY MR. BLATT:

7 Q. The enemy that bombed Baghdad -- not Baghdad, but
8 defeated you in the first gulf war -- did your country or at
9 least the Intelligence Service look upon these people who
10 left to go to the United States in a friendly way?

11 A. You know, this is none of my business.

12 Q. But it was your business to use spies to gather
13 information to protect your country; correct?

14 A. On enemy countries.

15 Q. And the United States was an enemy.

16 THE COURT: Are you asking?

17 BY MR. BLATT:

18 Q. Well, is the United States still your enemy, sir?

19 A. No.

20 Q. Do you like the occupation?

21 MS. HUDSON: Objection. Relevance.

22 THE COURT: Sustained.

23 BY MR. BLATT:

24 Q. To your knowledge, when wealthy Iraqis would return from
25 the United States to Iraq, would there be someone from the

1 Intelligence Service or Immigration to greet them and to
2 monitor them?

3 THE COURT: Well, it's compound now.

4 BY MR. BLATT:

5 Q. Just strike the word "monitor."

6 Just greet. Would they greet them?

7 A. Greet? Greet who?

8 Q. Iraqis that left for the United States to live there and
9 returned after the first gulf war, would your agency meet
10 them at the airport or other immigration departments and
11 monitor them?

12 A. We used to welcome any Iraqi who goes back to his
13 country.

14 Q. I want to talk to you about your last sentence of
15 welcoming. In Files 2 through 5 -- I'm sorry.

16 Government's 2 through 5, these are individuals who came to
17 Iraq that were connected with Mr. Benjamin?

18 A. Yes.

19 Q. Do the files indicate that you welcomed them or watched
20 them?

21 THE COURT: It's compound now.

22 MR. BLATT: I apologize.

23 BY MR. BLATT:

24 Q. When these individuals came, in Government's 2 through
25 5, did you monitor their activities in Iraq?

1 A. I told you, if there was any suspicions, we would
2 monitor anybody.

3 Q. And, in fact, in reference to Files 2 through 5,
4 intelligence files were created when they visited your
5 country; correct?

6 Let me rephrase it. Each person did not have an
7 intelligence file until they visited your country, in
8 reference to 2 through 5 for identification.

9 THE COURT: Ask a question, please. Ask a
10 question.

11 MR. BLATT: I will, your Honor. I'm just waiting
12 for the interpreter to finish.

13 BY MR. BLATT:

14 Q. Was there any intelligence file in reference to the
15 individuals in 2 through 5 prior to them coming to your
16 country?

17 A. When the information was reported from the source to the
18 Intelligence Service, well, the Intelligence Service
19 certainly have information about these people.

20 Q. In reference to these individuals 2 through 5, weren't
21 these individuals who had left Iraq and were concerned about
22 their safety if they returned?

23 A. Well, no. The issue is not -- well, you know, this is
24 none of my business.

25 Q. But you --

1 A. Well -- well, you know, okay. Well, you're asking me,
2 you know, questions, you know, my -- my job is to analyze if
3 these, you know, files were, you know, true or not. But, you
4 know, I am not the director of the Intelligence Service. You
5 are asking me out of my scope.

6 Q. Well, would it be a more precise statement that it's not
7 whether the file is true or not but whether it's an Iraqi
8 Intelligence file?

9 A. Well, honestly, I didn't understand your question.

10 Q. I thought you stated that your job was to determine
11 whether or not the file was true. Isn't your real job to
12 determine that these files are part of an Iraqi Intelligence
13 Service agency?

14 A. Yes.

15 Q. And in reference to Exhibit 2, could you go to that,
16 sir? Government's 2. That would be the Giwargis file,
17 G-i-w-a-r-g-i-s.

18 A. Yes.

19 Q. You don't know anything about that person, do you?

20 A. No, I don't.

21 Q. You don't know why he's even in the country, do you?

22 A. No.

23 Q. You don't know if he had a criminal complaint against
24 him for murder in reference to the Kurds a number of years
25 ago?

1 MS. HUDSON: Objection, your Honor. Relevance.

2 MR. BLATT: I'm asking if he knows.

3 THE COURT: It's sustained.

4 BY MR. BLATT:

5 Q. And you don't know what happened to him when he came to
6 your country, do you, sir?

7 A. No.

8 Q. Does the file indicate that this Intelligence file began
9 when this person returned to the country?

10 A. Well, I need to look.

11 Q. Well, why don't you, sir.

12 A. You know, I don't think your question is that important
13 to spend time on it, but let's look for it.

14 Q. Thank you, sir.

15 A. Well, here on page 33 it says that -- at the beginning
16 it says that we have a record of William Giwargis, Tobia
17 Giwargis, and that means that Tobia Giwargis had a file prior
18 to '98.

19 Q. And in reference to the letters that were in there
20 concerning Mr. Benjamin on behalf of Mr. Giwargis, does it
21 indicate in general terms Mr. Benjamin's concern for his
22 safety?

23 A. Give me a page number, please.

24 Q. I will.

25 To your knowledge was there a ban on travel in

1 reference to Mr. Giwargis?

2 A. You know, I cannot answer you. I did not memorize all
3 the information --

4 Q. So --

5 A. -- about him.

6 Q. So you don't know then whether Mr. Benjamin asked this
7 gentleman to go there or whether this person asked
8 Mr. Benjamin for his assistance in writing letters so he
9 could survive the trip?

10 MS. HUDSON: Objection. Compound.

11 THE COURT: Sustained.

12 BY MR. BLATT:

13 Q. Does the file indicate who contacted who first?

14 A. I have to review the file.

15 THE COURT: Do you wish to have him review the
16 file?

17 MR. BLATT: In a moment, your Honor.

18 BY MR. BLATT:

19 Q. Could you go to Exhibit 6, please.

20 Is there a label, sir, on that file?

21 A. Yes.

22 Q. What is the label?

23 A. Well, it's -- it's -- it's a name, actually. I couldn't
24 figure the first name, but the last name appears to be
25 Hermez. And it says, you know, under reach or under hand.

1 Q. Is there anything in that file who indicates which
2 Intelligence Service officer created that file?

3 A. In the beginning, the officer's name is Yusuf Shehada.

4 Q. And who does that Yusuf Shehada relate to in the file?

5 A. It appears that he is the officer who received the
6 initial information and, you know, opened the file, or the
7 director had assigned him to establish the file.

8 Q. In reference to a letter by Mr. Benjamin, is there any
9 indication there as to how that letter got into that file?

10 A. Please -- please give me which --

11 Q. 1466?

12 A. -- document.

13 THE INTERPRETER: Did you say 66, Counsel?

14 MR. BLATT: I'm sorry. 1547.

15 THE WITNESS: I don't see 1547.

16 MS. HUDSON: Your Honor, I believe counsel is
17 referring to page 1667.

18 MR. BLATT: Okay. Thank you.

19 THE COURT: Okay. Thank you.

20 THE WITNESS: Yes.

21 BY MR. BLATT:

22 Q. Is there any indication as to how that letter got into
23 that file?

24 A. Well, you know, I have to first read the report. But if
25 you want to, I'll tell you my personal opinion why this

1 letter, you know, entered this file --

2 Q. Sir --

3 A. -- you know, from my experience.

4 Q. -- is there an indication in the file as to how that
5 letter got there?

6 A. This report, you know, supposed to carry information
7 about this person, about this person, you know, which, you
8 know, his name is Hermez or -- and the information system --
9 or in the information system in the Iraqi intelligence if we
10 receive information from a source that would, you know, ask
11 for opening a new file, we take a copy of this document and
12 put it in the new file, and the original report supposedly
13 stays in the intelligence file.

14 Q. Is there any particular reason why this letter wouldn't
15 be in the administrative file for Mr. Benjamin?

16 A. If Mr. Benjamin is the one who wrote this report -- and
17 it carries information about this person. So it is
18 necessary, according to the intelligence practices, to make a
19 copy and put it in this file.

20 Q. But why wouldn't there be the original in one of his
21 files?

22 MS. HUDSON: Objection. Vague as to "his."

23 THE COURT: Sustained.

24 MR. BLATT: I'll rephrase it.

25 ///

1 BY MR. BLATT:

2 Q. Where is his intelligence file?

3 MS. HUDSON: Objection. Vague as to "his."

4 MR. BLATT: It's Mr. Benjamin.

5 THE COURT: Sustained.

6 BY MR. BLATT:

7 Q. Where is Mr. Benjamin's Intelligence file?

8 A. I don't know.

9 Q. Did you ever make an opportunity to look for it?

10 A. Where to look for it?

11 Q. Did you ever make an opportunity to look at any type of
12 records that would indicate that Mr. Benjamin had an
13 Intelligence file?

14 A. I told you that there should be a -- an Intelligence
15 file and administrative file for a source.

16 Q. I'm asking you, what efforts did you make to look for
17 that Intelligence file?

18 A. I told you I did not make any effort.

19 Where should I, you know, look for it?

20 Q. Are you saying you don't have any idea of where to look
21 for his Intelligence file after the administrative file was
22 found?

23 A. Could you repeat the question. I don't understand you.

24 Q. You have a copy of his administrative file?

25 A. Yes.

1 Q. You know which department it came from?

2 A. Yes.

3 Q. You know some of the people in the department?

4 A. Yes.

5 Q. Did -- why wouldn't you make an effort to look for that
6 Intelligence file under those -- with that information?

7 A. This is not my responsibility.

8 Q. Government never asked you to do that, did they?

9 A. No.

10 Q. You're just here to say these are Intelligence files and
11 get your money and go home?

12 MS. HUDSON: Objection. Argumentative.

13 THE COURT: Sustained.

14 BY MR. BLATT:

15 Q. In reference to the Intelligence officer Abd-al-Salam,
16 did he also go by the name Abu Ahmad?

17 A. Well, it appears, yes, from the documents his name also
18 Ahmed. And, yeah, I recall they called him Abu Ahmad.

19 Q. In reference to the information in the file that
20 Mr. Benjamin was in Tunis, parts of Algeria or Jordan, did
21 you ever make an effort to verify that?

22 A. Your question is wrong.

23 Q. Going back to the -- I want to get an idea how much
24 money in American dollars was Mr. Salam making at the time
25 when the defendant, Mr. Benjamin, met him in 93-94 as an

1 Intelligence Service officer.

2 A. You know, I don't have information about this -- about
3 this -- it's in the documents here.

4 Q. Well, there's no information -- well, is there any
5 information in the documents as to how much this Intelligence
6 officer is making financially during that time?

7 A. In the file?

8 Q. Yes.

9 A. No. No. No. This file is about the source, not about
10 the officer. It doesn't talk about the officer and how much
11 he makes and --

12 Well, please, please. If you can just, you know,
13 clarify your questions.

14 Q. Just asking you, sir, if you have a basic understanding
15 as to how much this Intelligence officer was making at the
16 time he met with Mr. Benjamin for a month in American
17 dollars.

18 A. I don't know.

19 Q. Well, could it be around \$50 a month?

20 A. I don't know.

21 Q. You don't know or you don't want to say?

22 A. I don't know. I do not have specific information about
23 these things.

24 Q. Again, how much exactly in American dollars were you
25 making?

1 THE COURT: It's been asked and answered.

2 Do you have anything else?

3 MR. BLATT: Just briefly, your Honor.

4 BY MR. BLATT:

5 Q. What would happen in the Intelligence services if
6 someone was caught taking a bribe?

7 A. He would be transferred to court, and he would be doubly
8 imprisoned.

9 Q. What does "doubly imprisoned" mean?

10 A. It's considered failure to follow the employment conduct
11 or ethics. And on top of that also it's a theft.

12 Q. Does the name Lyon, L-y-o-n, Hard, H-a-r-d, mean
13 anything to you in reference to Government 1?

14 THE INTERPRETER: Could you repeat the name again,
15 Counsel.

16 MR. BLATT: H-a-r-d.

17 THE INTERPRETER: Okay. Hard.

18 THE WITNESS: I don't know.

19 BY MR. BLATT:

20 Q. Do you recall that that was a PO box using that name
21 open for Mr. Benjamin?

22 A. Please, if you can show me the document, and then we can
23 talk about it.

24 Q. Do you have any idea who Mr. Lyon Hard is?

25 A. No.

1 Q. During the period of '93, '94, was it -- was it a --
2 still a law in Iraq that you couldn't take more than a couple
3 hundred dollars out of the country when you left?

4 A. This is an old law, yes. And it's not to -- to
5 hundred -- hundred dollars. Before it wasn't not even a
6 penny, and around the end of the '90s, it was about \$50 to
7 \$100, I believe.

8 Q. So based on your experience as an Intelligence officer,
9 if someone wants to leave Iraq with some money, how did they
10 go about doing it?

11 A. Iraqi or foreigner who comes from abroad, he would
12 declare in the airport how much money he's bringing in. If
13 he left, you know, in less than a month -- you know, if he
14 left Iraq, you know, he can take with him all the money he
15 declared.

16 And if it was more than a month, there is a special
17 formula how much money they deduct. The Iraqi -- the Iraqi
18 citizen -- if an Iraqi citizen would leave, there is a
19 special law how much money he can, you know, go exchange in
20 the bank. That was up to the 90. And after that, this law
21 was actually canceled, and they didn't allow any more, I
22 believe.

23 If an Iraqi citizen wants to leave, he should leave
24 without money, and his money should be out of the country.
25 So the Iraqi people actually found some kind of a, you know,

1 way how to get their money out of the country.

2 Q. And was that a way to bribe Immigration employees to
3 give them permission to take some of the money out?

4 A. You know, I don't have information about this issue.

5 Q. Well, sir, you say you don't have --

6 A. Well, we have -- we have Customs. We don't have
7 Immigration.

8 Q. Well, let's go to Customs.

9 You say you don't have information on this. How
10 does an Iraqi citizen --

11 THE COURT: Wait just a minute. You asked a
12 question. I haven't heard an answer.

13 MR. BLATT: I'm sorry, sir.

14 THE COURT: You're going to have to start again.
15 One question at a time.

16 BY MR. BLATT:

17 Q. How does an Iraqi citizen take a couple thousand dollars
18 out of your country legally?

19 THE COURT: At what time?

20 MR. BLATT: '93 to '98.

21 THE WITNESS: Who is that citizen?

22 BY MR. BLATT:

23 Q. Mr. Benjamin.

24 A. He cannot take any amount unless he gets the approval of
25 the Intelligence Service.

1 Q. And is that Intelligence Service part of the -- part of
2 the safeguards is an Intelligence Service officer gets the
3 money and then gives it to him?

4 Let me rephrase that.

5 You've testified that the Intelligence officer
6 would request money in reference to expenses to give to
7 the -- to give someone -- to give to a source; correct?

8 A. Of course. I mean, he will get it only from the officer
9 who -- who is going to give him the money.

10 Q. Well, what happens if the source has millions of dollars
11 of his own in Iraq and is trying to get some of the money
12 right out? Would the Iraqi Intelligence Service --

13 A. He cannot.

14 Q. -- help him?

15 THE COURT: Just a minute. You have two questions
16 now.

17 BY MR. BLATT:

18 Q. Will your Iraqi Intelligence Service help someone get a
19 couple thousand dollars out that's not related to -- that
20 it's his own money?

21 A. The -- the Iraqi Intelligence Service only should give
22 money or let money out for the sources, which the -- the
23 sources is given by the Intelligence Service.

24 Q. How did you exist on a couple of hundred dollars a month
25 in Iraq?

1 A. This is none of your business. I worked as a -- you
2 know, a diplomat in -- you know, abroad for five years. And
3 \$200, you know, was a lot, you know, as, you know, a salary
4 up to 1995 because we had everything free. Medical,
5 electricity, water, fuel -- everything was free.

6 Q. So if Mr. Benjamin had millions of dollars in the bank,
7 that would be very unusual, wouldn't it?

8 MS. HUDSON: Objection. Relevance. Assuming facts
9 not in evidence.

10 THE COURT: Sustained.

11 BY MR. BLATT:

12 Q. You took bribes, didn't you, sir, to supplement that
13 huge \$200-a-month income?

14 A. I never did that.

15 Q. You betrayed your country, didn't you?

16 MS. HUDSON: Objection. Argumentative.

17 THE COURT: Sustained.

18 BY MR. BLATT:

19 Q. Did you give up names of people that worked for you so
20 that you could get out of jail?

21 MS. HUDSON: Objection. Asked and answered.
22 Argumentative.

23 THE COURT: Asked and answered.

24 MR. BLATT: It goes to credibility.

25 THE COURT: Asked and answered.

1 MR. BLATT: I don't believe he did answer that.

2 THE COURT: You are entitled to your beliefs. I've
3 ruled.

4 BY MR. BLATT:

5 Q. Has there been any discussions about additional monies
6 that you will receive in reference to your testimony today?

7 A. No. Never.

8 Q. Are you working now?

9 A. Yes, I have.

10 Q. Is this the work you do -- testify?

11 A. No.

12 MR. BLATT: One moment, your Honor.

13 THE COURT: Very well.

14 Just be at ease, ladies and gentlemen.

15 BY MR. BLATT:

16 Q. When you were an Intelligence officer and you
17 interviewed those Iraqis, did you show them a lot of
18 compassion?

19 MS. HUDSON: Objection. Relevance. Argumentative.

20 THE COURT: Sustained.

21 BY MR. BLATT:

22 Q. Are you proud to be here today, sir?

23 MS. HUDSON: Objection. Argumentative. Relevance.

24 THE COURT: Sustained.

25 MR. BLATT: Thank you, your Honor.

1 Nothing further.

2 THE COURT: Thank you.

3 Redirect, please, Ms. Hudson.

4 MS. HUDSON: Yes, your Honor.

5 **REDIRECT EXAMINATION**

6 BY MS. HUDSON:

7 Q. Mr. Sargon, you have testified about the notations on
8 the cover of Exhibit 1; is that correct?

9 A. Yes.

10 THE COURT: Ms. Hudson, please don't characterize
11 your questions in that fashion, asking him if something is
12 correct because on cross-examination, of course, you may;
13 otherwise, it's leading.

14 MS. HUDSON: I apologize, your Honor.

15 THE COURT: Please rephrase it.

16 BY MS. HUDSON:

17 Q. I wish to direct your attention, Mr. Sargon, to the
18 cover of Exhibit 1.

19 Can you explain what, if anything, appears on that
20 file cover that you believe was added after April 9, 2003.

21 A. Yes.

22 Q. What --

23 A. I -- I -- I said we wouldn't write "Agent William
24 Shaoul." This is forbidden. And, you know, the officer
25 would take actually disciplinary action or punishment.

1 Q. Do you see anything else on that file cover of Exhibit 1
2 that you believe was added after April 9, 2003?

3 A. Well, this -- that this is related to the -- this Iraqi
4 about his property. This, you know, wouldn't be written on
5 the source file. I don't know. I don't know why it was
6 written here.

7 Q. Do you see anything else that you believe was added?

8 A. No. No. Nothing else.

9 Q. Please take a look at Exhibit 2.

10 A. Well, of course this label here -- I mean, this yellow
11 label wasn't, probably.

12 Q. Are you referring to the exhibit sticker for -- that
13 says "Exhibit 1"?

14 A. Yes.

15 Q. All right. Exhibit -- could you look please at
16 Exhibit 2, and I direct your attention to the outside of the
17 file cover.

18 A. Yes.

19 Q. Do you see anything on the outside of the file cover
20 that you believe was added after April 9, 2003?

21 A. Yes.

22 Q. What do you see that you believe was added?

23 A. Well, this -- the first statement here, "Agent Tobia
24 Giwargis," was added. And, you know, this couldn't be
25 written, you know, in our service. And -- and it's

1 impossible to write a source for Intelligence services
2 abroad. Whoever wrote it is a person outside of the
3 Intelligence -- Iraqi Intelligence Service.

4 Q. Do you see anything else on the file cover of this
5 Exhibit 2 that you believe was added after April 9, 2003,
6 other than the yellow exhibit sticker?

7 A. And this number here was added.

8 Q. Which number?

9 A. 1740, right here.

10 Q. Those are the numbers we've been referring to here in
11 court?

12 A. Yes.

13 Q. I would direct your attention, please, to the outside
14 file cover of Exhibit 3.

15 Do you see anything on that -- on the outside of
16 that file cover that you believe was added after April 9,
17 2003?

18 A. I -- I can't decide.

19 Q. Can you tell us what it says.

20 A. Well, you know, since the number was written here, the
21 name of the source wasn't supposed to be written. But here,
22 you know, he did not, you know, write agent -- put Newton
23 Hermez or some -- some officers forget the number sometimes;
24 so they would write the name. And -- and -- and -- and here,
25 you know, "Saheb Hamama," "Al-Ikhtiar Magazine" -- it wasn't

1 supposed to be written here.

2 Q. Could you look at the file cover for Exhibit 4.

3 A. Yes.

4 Q. Do you see anything on the outside cover of that file
5 that you believe was written after April 9, 2003?

6 A. Yes. Yes, clear.

7 Q. What do you believe was written after April 9, 2003?

8 A. The word "agent"; the collaborator, "Jibra'il"; and
9 "Chicago."

10 Q. Would you take a look at Exhibit 5, please.

11 Do you see anything on the outside file cover of
12 Exhibit 5 that you believe was added after April 9, 2003?

13 A. Most likely these words here.

14 Q. What do they say?

15 A. Collaborator, John Malki, and then address, California.

16 Q. Please take a look at Exhibit 6.

17 Do you see anything on the outside file cover of
18 Exhibit 6 that you believe was added after April 9, 2003?

19 A. Well, I -- I can't decide about this here.

20 Q. What does it say?

21 A. Well -- well, I -- I could tell you that we actually
22 forbid the officer to write anything on the cover of the file
23 for security reasons. Because when this file is on the
24 officer's table and any -- any person, you know, from an
25 adjacent office passing by shouldn't see any name written on

1 the file cover.

2 Q. Is there currently a name written on the cover of that
3 file?

4 A. Yes. There is here a Newton Hermez.

5 Q. Other than the outside of file covers for Exhibits 1
6 through 6, did you see any documents inside the files of
7 Exhibits 1 through 6 that you believe contained writing that
8 was -- that you believe was added after April 9, 2003?

9 MR. BLATT: Objection.

10 BY MS. HUDSON:

11 Q. Other --

12 MR. BLATT: Speculation.

13 BY MS. HUDSON:

14 Q. -- than page number?

15 THE COURT: Overruled.

16 THE WITNESS: No. I didn't see anything.

17 BY MS. HUDSON:

18 Q. Mr. Sargon, if you would please turn to Exhibit, 1 and I
19 would direct you to pages 94 and 95.

20 Do you have those pages?

21 A. Yes.

22 Q. Looking at the back of page 94, do you see writing on
23 the back of that page?

24 A. Yes.

25 Q. Do you believe that writing existed at the time that

1 that document was in the files of the Iraqi Intelligence
2 Service prior to April 9, 2003?

3 A. Yes.

4 Q. Does the fact that there is writing on the back of that
5 page change your assessment of whether that document,
6 referring to page 94, is authentic?

7 A. No. No. It doesn't change anything.

8 Q. Is there a reason why the document on page 94 would have
9 been written on a piece of paper with some English writing on
10 the back of it?

11 A. Yes. We -- we had a problem with the availability of
12 paper in the Intelligence Service; so we used to write on any
13 paper we have.

14 Q. Could you look, please, at page 114.

15 A. Yes.

16 Q. And could you look, please, at the back of page 114,
17 which has been marked page 115.

18 A. Are you talking to me? I'm sorry.

19 Are you talking 114 or 115?

20 Q. Is it the same piece of paper?

21 A. Well, I have 114, and then I have 116. Yes. Yes.

22 Q. Do you see 115 on the back of 114?

23 A. Yes. Yes.

24 Q. Then with respect to page 115, do you see some writing
25 in English on that page?

1 A. Yes.

2 Q. Do you have any reason to believe that that writing was
3 added after April 9, 2003?

4 A. No.

5 Q. And do you know of any reason why the document on -- or
6 the writing on page 114 would be written on a piece of paper
7 that had that English writing that we just saw on the back?

8 A. Same reason. Same reason we talked about. We had a
9 problem, you know, paper problem. Well, we used to get paper
10 from either our old sources or from friends, actually, and
11 just write on it.

12 MS. HUDSON: Nothing further.

13 THE COURT: Recross?

14 MR. BLATT: May I have a moment, your Honor?

15 THE COURT: Please.

16 MR. BLATT: No questions, your Honor.

17 THE COURT: Thank you very much, Mr. Sargon. You
18 are excused.

19 MR. BLATT: Excuse me. Your Honor, may the witness
20 be on call?

21 THE COURT: Oh.

22 THE WITNESS: Thank you, your Honor.

23 THE COURT: You are not excused. You'll remain on
24 call in case we need you further.

25 All right. Ladies and gentlemen, we're going to

1 take the luncheon recess at this time. I'll remind you of
2 the admonition not to discuss the matter among yourselves or
3 with anyone. Come back at 1:45, please.

4 Everyone please rise for the jury.

5 Oh, and ladies and gentlemen, before you go out, I
6 think we're able to clear our calendar for Monday. Determine
7 whether you would like to come in on Monday rather than on
8 Tuesday, and then we'll talk about it after lunch. Okay?

9 Thank you.

10 (Whereupon, at 12:09 p.m., the jury exited the
11 courtroom.)

12 THE COURT: Please be seated. We're outside the
13 presence of the jury.

14 Are there any matters that any counsel wish to
15 raise?

16 MR. BLATT: No, your Honor.

17 MS. HUDSON: No, your Honor.

18 THE COURT: All right. Thank you.

19 Now, let me ask the Government: How many more
20 witnesses do you expect to call?

21 MS. HEINZ: I think we have three or four more
22 witnesses, your Honor.

23 THE COURT: All right.

24 MS. HEINZ: And then other than that, just some
25 stipulations to offer.

1 THE COURT: All right. 1:45 then.

2 Thank you.

3 (Whereupon, from 12:10 p.m. to 1:48 p.m. the
4 afternoon lunch break was taken.)

5 (Out of the presence of the jury.)

6 THE CLERK: Please remain seated and come to order.

7 This Court is once again in session.

8 THE COURT: Good afternoon.

9 We're outside the presence of the jury.

10 Are there any matters that any counsel wish to take
11 up?

12 MR. BLATT: No, your Honor.

13 MS. HEINZ: Just briefly, your Honor.

14 The Government does expect that it may be finished
15 today, may rest its case-in-chief.

16 THE COURT: Yes.

17 MS. HEINZ: We have no witness list from the
18 defense. We understand they, of course, can make a decision
19 whether or not the defendant can take the stand --

20 THE COURT: Of course.

21 MS. HEINZ: -- at any time, but we don't have --

22 THE COURT: There should be --

23 MS. HEINZ: We would like a witness list.

24 THE COURT: There should be a witness list if you
25 intend to put on any evidence whatsoever.

1 MR. BLATT: Yes, your Honor. Depending -- we would
2 like to put on our defense, if we're going to call the
3 defendant, not at the end of the day, but on Monday or
4 Tuesday when we come back. I anticipate this will last to
5 between 4:00 and 5:00 o'clock today.

6 THE COURT: That's right. And it would appear that
7 it would be Tuesday. I'm told that while half of the jurors
8 want Monday, the other half want Tuesday; so it's going to be
9 Tuesday.

10 But beyond that there is one juror -- I don't know.
11 Ms. Skipper, you don't know which one it is for sure? -- who
12 evidently has a family illness. A very close relative, who
13 raised her evidently, and is near death I understand. So I'm
14 going to bring her in, talk to her about it, and more than
15 likely excuse her if indeed it is as dire as I'm told.

16 And if that were to occur, then of course Mr. -- is
17 it Xxxx, X-x-x-x, who is Alternate Number 1, would replace
18 this juror.

19 Anyone wish to be heard?

20 MR. BLATT: No, your Honor.

21 MS. HEINZ: No, your Honor.

22 THE COURT: All right. Let -- let's see if we can
23 bring in this juror, please.

24 (Whereupon, the juror entered the courtroom.)

25 THE COURT: Come right in, ma'am. Right there is

1 fine. Over a little bit.

2 Thank you.

3 Give us your name again for the record.

4 THE JUROR: XXXXXX XXXXXX.

5 THE COURT: And you are juror number --

6 THE JUROR: 12.

7 THE COURT: Twelve, yes.

8 I understand that you've received some bad news
9 about a family member. Would you tell us.

10 THE JUROR: The nursing home called me at my lunch
11 that my aunt is expected to pass away --

12 THE COURT: Sorry.

13 THE JUROR: -- very soon. And they're calling the
14 family to come and see her. Of course they don't know when.

15 THE COURT: Of course.

16 THE JUROR: It could be today. It could be
17 tonight. I don't know.

18 THE COURT: And where is she?

19 THE JUROR: My aunt is in Duluth, Minnesota, and
20 she raised me.

21 THE COURT: Yes.

22 THE JUROR: She's like my second mother.

23 THE COURT: Of course. You don't need to go any
24 further, and you have the sympathy from all of us. I've
25 talked about it with the attorneys, and we all sympathize

1 with you and understand how dire the situation is. And we
2 want to thank you for the service that you provided, but you
3 are excused.

4 THE JUROR: Okay.

5 THE COURT: Our prayers are with you.

6 THE JUROR: Okay. Thank you.

7 Like right now?

8 THE COURT: Yes.

9 THE JUROR: Thank you very much.

10 (Whereupon, the juror exited the courtroom.)

11 THE COURT: You may bring the members of the jury
12 in, please.

13 THE CLERK: Please rise.

14 (Whereupon, at 2:03 p.m. the jury entered the
15 courtroom.)

16 THE CLERK: Please be seated.

17 THE COURT: And good afternoon, ladies and
18 gentlemen.

19 Ladies and gentlemen, as you see, one of your
20 colleagues, Juror Number 12, Xx. Xxxxxx, who may have
21 mentioned to you has had some fairly grave news from her
22 family with regard to a relative who raised her and is near
23 death. So she has been excused, and we all appreciate her
24 service.

25 That means, however, that our first alternate,

1 Xx. Xxxx, will now come and take that seat. And, Xx. XxXxxx,
2 would you move to the seat behind you.

3 Thank you.

4 I'm also told, ladies and gentlemen, that there's
5 a fairly even split among you as to whether we'll be here
6 Monday or Tuesday. That means we'll do Tuesday. It will be
7 9:00 o'clock. I think we're going to move along fairly quick
8 here.

9 And the Government is ready to call its next
10 witness.

11 Ms. Heinz?

12 MS. HEINZ: Thank you.

13 THE COURT: Does this witness require an
14 interpreter as well?

15 MS. HEINZ: Your Honor, first I'm going to offer a
16 stipulation and then the next witness -- if he could have a
17 standby interpreter.

18 THE COURT: All right. If you would stand by.

19 Go ahead, Ms. Heinz.

20 MS. HEINZ: Thank you, your Honor.

21 At this time we would offer a stipulation.

22 Okay. This stipulation has been marked Exhibit
23 Number 9. It reads as follows:

24 "Plaintiff United States of America, by and through
25 its counsel of record Assistant United States Attorneys

1 Judith A. Heinz and Janet C. Hudson, and Defendant William
2 Shaoul Benjamin, individually and by and through his counsel
3 of record James E. Blatt and Michael G. ^ Raab, Offices of
4 James E. Blatt, hereby agree and stipulate as follows:

5 "At no time did defendant ever notify the Attorney
6 General of the United States that he would be acting in the
7 United States as an agent of the government of Iraq, and
8 defendant knew that he had not provided such notification to
9 the Attorney General.

10 "It is so stipulated."

11 It is dated January 22, 2008, and it is signed by
12 myself, Judith A. Heinz; by the Defendant William Shaoul
13 Benjamin; and by James E. Blatt, counsel for defendant.

14 THE COURT: Mr. Blatt, is that the stipulation that
15 you have agreed upon with regard to your client?

16 MR. BLATT: Yes, your Honor.

17 THE COURT: It will be received.

18 (Exhibit 9 received.)

19 MS. HEINZ: Thank you.

20 Your Honor, at this time the Government calls
21 Johnson Karam.

22 THE COURT: Very well.

23 Sir, would you come forward. Come right up on the
24 witness stand straight ahead. Right up here, sir.

25 THE WITNESS: Good afternoon.

1 THE CLERK: Please raise your right hand.

2 Do you solemnly swear that the testimony you are
3 about to give in the matter now pending before this Court
4 shall be the truth, the whole truth, and nothing but the
5 truth so help you God?

6 THE WITNESS: Will be it.

7 THE CLERK: Please have a seat.

8 State and spell your name for the record.

9 THE WITNESS: My name is Johnson Karam.
10 J-o-h-n-s-o-n. Karam is the last name, K-a-r-a-m.

11 THE COURT: Mr. Karam, do you have a middle name?

12 THE WITNESS: Yes. David, D-a-v-i-d.

13 THE COURT: And, Mr. Karam, what is your primary
14 language?

15 THE WITNESS: My primary language is Assyrian.

16 THE COURT: And you are also fluent in English, are
17 you?

18 THE WITNESS: Yes. I can speak with English.

19 THE COURT: Do you think you might need an
20 interpreter for any reason?

21 THE WITNESS: Not really.

22 THE COURT: All right. Thank you.

23 THE WITNESS: You're welcome.

24 THE COURT: I think we can excuse your services.
25 Thank you.

1 THE INTERPRETER: Thank you, your Honor.

2 THE COURT: Thank you very much.

3 MS. HEINZ: Your Honor, may I inquire?

4 THE COURT: Yes.

5 MS. HEINZ: Thank you, your Honor.

6 **DIRECT EXAMINATION**

7 BY MS. HEINZ:

8 Q. Mr. Karam, where were you born?

9 A. I was born in Baghdad, Iraq.

10 Q. And what is your ethnic background?

11 A. Assyrian.

12 Q. When did you come to the United States?

13 A. November 1962.

14 Q. And how long have you been in Southern California?

15 A. About -- from '74 to today.

16 Q. What do you do for a living?

17 A. I'm a civil engineer.

18 Q. Do you know a person by the name of William Benjamin?

19 A. Yes. I know him very well.

20 Q. Do you see the person you know as William Benjamin in
21 the courtroom?

22 A. Yes. He's sitting on the right -- left hand -- to the
23 attorney, the lady.

24 THE COURT: And what does he have on?

25 THE WITNESS: He has a microphone.

1 THE COURT: Earphones?

2 THE WITNESS: Earphones, yeah.

3 THE COURT: All right. Indicating for the record
4 the defendant here.

5 In what city do you reside, sir?

6 THE WITNESS: North Hollywood in California.

7 THE COURT: That's fine.

8 Go ahead, please.

9 BY MS. HEINZ:

10 Q. Have you known the defendant during the time you have
11 lived in Southern California?

12 A. I know him from 1994.

13 Q. Okay. I'm now going to place on the monitor -- okay.
14 I am placing on the monitor page number 115 of Government's
15 Exhibit 1.

16 And, Mr. Karam, I would like you to look at page
17 number 115 of Government's Exhibit 1 of the monitor that's in
18 front of you.

19 A. Yes. I see that, yes.

20 Q. Do you recognize the letterhead on page 115?

21 A. Yes.

22 Q. And why do you recognize that letterhead?

23 A. KCE Matrix is structural engineers. I used to have a --
24 rented room for my office in their building.

25 Q. And at what time period did you rent that office space?

1 A. I start on my own in 1997, and I was first -- when I
2 start my office, it was in this office.

3 Q. And about how long did you rent office space there?

4 A. Around two years, close.

5 Q. And do you know the people who run KCE -- KCE Matrix?

6 A. Yes. I know them very well.

7 Q. And how many people run it?

8 A. There were two at the time. There were two partners.

9 Q. All right. Were you present at a meeting in 1997 or
10 1998 at that location in which traveling to Beirut, Lebanon,
11 was discussed?

12 A. Yes.

13 Q. And was the defendant, William Benjamin, present at that
14 meeting?

15 A. Yes, he was present.

16 Q. Who else was present at the meeting?

17 A. I was with the meeting and the two partners and William.

18 Q. And we're talking about the two partners from KCE?

19 A. KCE Matrix, yeah.

20 Q. What was the substance of the discussion during the
21 meeting?

22 A. We had had -- there was a convention -- our engineering
23 convention in the Middle East out in Beirut, and they had to
24 go over there to present this company. They wanted to
25 present themselves and show their work. They want to get

1 jobs overseas.

2 Q. And was it part of the discussion that there would be
3 travel to Beirut?

4 A. Yes.

5 Q. And did you travel to Beirut, Lebanon?

6 A. No, I never did.

7 Q. After this meeting, at any time did the defendant,
8 William Benjamin, ever say anything to you about whether or
9 not he traveled to the engineering convention in Beirut?

10 A. He did travel with them, but not to Beirut.

11 Q. What did the defendant say about the travel?

12 A. They went to Jordan. They were going to go to Jordan
13 first, then Beirut. He could -- cannot get to Beirut --

14 Q. And --

15 A. -- Lebanon. He stayed in Jordan, I think.

16 Q. Did he say anything about why he could not get to
17 Beirut?

18 A. I think they didn't give him the visa. Lebanese
19 government didn't give him visa for some --

20 Q. Mr. Karam, I'm now going to ask you some questions about
21 a trip to Iraq.

22 A. Yeah.

23 Q. After you left Iraq in 1962, did you ever go back?

24 A. No.

25 Q. Did --

1 A. I never went back to Iraq.

2 Q. Okay. Did you ever visit Iraq in the 2000's?

3 A. Yes. I went 2000 for expatriate, yes.

4 Q. What do you mean by "expatriate"?

5 A. That was a -- that was a time that Iraq invited
6 expatriate to Iraq, and I was interested to go there because
7 I didn't go for years. So I asked -- I wanted to go very
8 badly to see back my country.

9 Q. And did you go?

10 A. Yes, we went. I went there.

11 Q. Did the defendant assist you at all in arranging for
12 that travel?

13 A. Yes. I was -- he was assisting us to make our visa to
14 go to Iraq.

15 Q. If you know, what did he do to assist you?

16 A. He did the paperwork for the visas for Iraq embassy in
17 Washington.

18 Q. Did anyone else go with you?

19 A. Yes. I was alone. Me and my wife, my sister, my
20 uncle's son and his wife -- five people.

21 Q. What -- what is the name of your uncle's son?

22 A. Sargon Isaac.

23 MS. HEINZ: Your Honor, may the clerk please place
24 Exhibit 3 in front of the witness at this time.

25 THE COURT: Certainly.

1 BY MS. HEINZ:

2 Q. And, Mr. Karam, if you could please look at Exhibit 6,
3 Pages 1768 and 1769.

4 A. Yes. I can see that.

5 Q. Mr. Karam, on page 1769, near the bottom of the page --

6 And I believe you're looking at the Arabic language
7 version.

8 A. Yes.

9 Q. Do you see the words in Arabic "Abu Nahrain"?

10 A. Yes, I see that.

11 Q. And if you know, who is Abu Nahrain?

12 A. It is defendant; it is Abu Nahrain. They used to call
13 him.

14 Q. And now could you please look at the top of page 1768.

15 A. Yeah.

16 Q. Near the top of page 1768, do you see the words
17 "Honorable Abu Tony"?

18 A. Yes. I can see that, Abu Tony.

19 Q. Do you know who "Honorable Abu Tony" is?

20 A. No, I don't know.

21 Q. And now, please look a little further down on page 1768.

22 Do you see the words "Sargon Dawod Isaac" there?

23 A. Yes.

24 Q. Do you know that person?

25 A. Yes, he's my uncle's son.

1 Q. And is that the same person that traveled with you --

2 A. Exactly.

3 Q. -- to --

4 Now could you please look at the bottom of both
5 those pages of 1769 and 1768.

6 A. Yes, I can see it. It's my name on it.

7 Q. Just wait. There's no question.

8 THE COURT: Just a minute.

9 MS. HEINZ: I'm sorry, your Honor.

10 THE COURT: It's all right.

11 BY MS. HEINZ:

12 Q. All right. At the bottom of those pages do you see a
13 printed name "Johnson Karam" and a number?

14 A. Yes. Both of them, yeah.

15 Q. Do you recognize that?

16 A. Yeah. This is my fax number.

17 Q. And where was the fax?

18 A. That was my office.

19 Q. And did you send this fax?

20 A. No, I did not send the fax.

21 Q. Did the defendant ever use the fax machine in your
22 office?

23 A. Yes.

24 MS. HEINZ: I have no further questions, your
25 Honor.

1 THE COURT: Very well.

2 Cross-examination, Mr. Blatt?

3 MR. BLATT: Thank you.

4 **CROSS-EXAMINATION**

5 BY MR. BLATT:

6 Q. Good afternoon, sir.

7 A. Yes. Good afternoon.

8 Q. Mr. Karam, you're a friend of the defendant, aren't you?

9 A. Yeah, very good friend.

10 Q. And you like and respect him, don't you?

11 A. How? I didn't follow.

12 Q. You like and respect him, don't you?

13 A. Yes.

14 Q. Very much?

15 A. Yes.

16 Q. And were you aware of some of his history in Iraq?

17 A. Yes.

18 Q. Were you aware that there was an assassination attempt
19 on him?

20 MS. HEINZ: Objection, your Honor. Beyond the
21 scope. Relevance.

22 THE COURT: Sustained.

23 BY MR. BLATT:

24 Q. Did you come to know the defendant as a soccer coach in
25 the United States?

1 MS. HEINZ: Objection, your Honor. Relevance.
2 Beyond the scope.

3 THE COURT: Sustained.

4 BY MR. BLATT:

5 Q. You asked Mr. Benjamin for assistant to go to Iraq; is
6 that correct?

7 A. It's true, yes.

8 Q. He didn't come up to you and say, I want you to go to
9 Iraq. You went to him?

10 A. Yes. That's true.

11 Q. And you asked him to give you some assistance --

12 A. Yes.

13 Q. -- because you were afraid that something may happen to
14 you if you go back to Iraq because --

15 A. Yes.

16 Q. All right. And was that based on your failure to
17 complete military service?

18 A. That's true.

19 Q. Would you relate what you did in reference to that.

20 A. Yes.

21 Q. Why were you afraid of going back to Iraq?

22 A. There was three reasons I was afraid: One was
23 military -- that I didn't serve Iraq; second, my wife was
24 Iranian citizen; and the third because I was member of Bet
25 Nahrain Democrat matter from 1979 until then until now too.

1 Q. Was that the same -- was that an Assyrian political
2 organization?

3 A. Yes.

4 Q. Was it an opposition organization?

5 A. To the Government, yes.

6 Q. Was the defendant connected to that organization?

7 A. No.

8 Q. Was he connected to another organization that you were
9 aware of?

10 MS. HEINZ: Objection, your Honor. Relevance.
11 Beyond the scope.

12 THE COURT: Sustained.

13 BY MR. BLATT:

14 Q. When you went back to Iraq, did you have to go through
15 Jordan?

16 A. Yes.

17 Q. Because you weren't permitted to fly into Iraq directly?

18 A. No, there was no flight. It was blocked.

19 Q. When you went through Jordan, was there an attempt made
20 to bribe you?

21 MS. HEINZ: Objection, your Honor. Relevance.
22 Beyond the scope.

23 THE COURT: Sustained.

24 MR. BLATT: We're talking about what happened in
25 Iraq, your Honor.

1 THE COURT: I think you heard the ruling.

2 MR. BLATT: Yes, I did.

3 BY MR. BLATT:

4 Q. When you went to Iraq, were you followed in any way?

5 MS. HEINZ: Objection, your Honor. Relevance.
6 Beyond the scope.

7 THE COURT: Sustained.

8 MR. BLATT: I can just call him as your [sic] own
9 witness later, your Honor.

10 THE COURT: Then do that.

11 MR. BLATT: I will.

12 BY MR. BLATT:

13 Q. In reference to the exhibits that you were shown --

14 A. Yes.

15 Q. -- concerning the page -- I believe it's Exhibit 3,
16 1768 --

17 A. Uh-huh.

18 Q. -- do you also read Arabic, sir?

19 A. A little bit, yeah. Not as good as defendant, but I'm
20 okay. I can read some.

21 Q. Could you look at the Arabic version of that.

22 A. Yeah, I'm looking.

23 Q. On the right-hand side -- let me ask you this.

24 Are you familiar with the -- Mr. Benjamin's
25 handwriting in reference to Arabic? Have you seen it before?

1 A. Yeah, I see it a lot.

2 MS. HEINZ: Objection, your Honor. Relevance.
3 Beyond the scope.

4 THE COURT: Sustained.

5 MR. BLATT: This exhibit was shown.

6 THE COURT: What -- well, you indicated that you
7 intend to call this witness in your case-in-chief. You can
8 go into this.

9 MR. BLATT: All right.

10 THE COURT: It's beyond the scope.

11 BY MR. BLATT:

12 Q. In reference to pages 1768 and 1769 --

13 A. Uh-huh.

14 Q. -- these were letters written by Mr. Benjamin to assist
15 you in your travelling?

16 A. Yes.

17 Q. In order that you could have a safe exit, entry, and
18 exit?

19 THE COURT: Just --

20 MS. HEINZ: Objection, your Honor. Relevance.
21 Beyond the scope.

22 THE COURT: Besides we're having statements again.
23 Ask questions, please, but that particular statement was a
24 question.

25 ///

1 BY MR. BLATT:

2 Q. Did these letters assist you in your travels to Iraq?

3 MS. HEINZ: Objection, your Honor. Lack of
4 foundation.

5 THE COURT: Well, he can answer if he knows.

6 BY MR. BLATT:

7 Q. If you know -- sir, did these letters help you, if you
8 know?

9 A. It did help us. Got the visa at least.

10 Q. And in reference to Mr. Benjamin working with you with
11 the visa, did you go with him?

12 A. No. I never went with him to Washington for visa, no.
13 He sent it by mail.

14 Q. And when he filled it out, were you with him to offer
15 him assistance?

16 MS. HEINZ: Objection, your Honor. Asked and
17 answered.

18 THE COURT: Sustained.

19 BY MR. BLATT:

20 Q. Do you remember how he filled it out?

21 A. I don't remember, no.

22 MS. HEINZ: Objection, your Honor. Lack of
23 foundation.

24 THE COURT: Sustained.

25 ///

1 BY MR. BLATT:

2 Q. Were you present when he filled it out?

3 MS. HEINZ: Objection, your Honor.

4 THE COURT: He may answer that.

5 MR. BLATT: Thank you.

6 THE COURT: Strike the "thank you."

7 BY MR. BLATT:

8 Q. Were you present when he filled it out?

9 A. I don't remember really.

10 Q. Why do you like and respect Mr. Benjamin?

11 MS. HEINZ: Objection, your Honor. Beyond the
12 scope.

13 THE COURT: Sustained.

14 MS. HEINZ: Relevance.

15 THE COURT: Anything further of this witness?

16 MR. BLATT: No, your Honor. Except I ask then that
17 he not be excused, and I will call him on his [sic]
18 case-in-chief.

19 THE COURT: He will be on call.

20 Anything else?

21 MS. HEINZ: Nothing further, your Honor.

22 THE COURT: You may step down, but you are still on
23 call.

24 You may call your next witness.

25 MS. HEINZ: Yes, your Honor.

1 Your Honor, at this time the Government would offer
2 another stipulation.

3 THE COURT: Very well.

4 MS. HEINZ: The Government offers as Exhibit 20 a
5 stipulation of the parties regarding defendant's foreign
6 travel.

7 "Plaintiff United States of America, by and through
8 its counsel of record Assistant United States Attorneys
9 Judith A. Heinz and Janet C. Hudson, and Defendant William
10 Shaoul Benjamin, individually and by and through his counsel
11 of record James E. Blatt and Michael G. ^ Raab, Offices of
12 James E. Blatt, hereby agree and stipulate as follows.

13 "Stipulation:

14 "The Government and defendant agree to the
15 following facts concerning defendant's foreign travel. On
16 November 4, 1993, at approximately 10:17 p.m., defendant
17 entered the United States from overseas at Los Angeles
18 International Airport in Los Angeles, California.

19 "On April 20th, 1994, at approximately 10:27 p.m.,
20 defendant entered the United States from overseas at
21 Los Angeles International Airport in Los Angeles, California.

22 "On February 1st, 1995, at approximately 4:32 p.m.,
23 defendant entered the United States from overseas at
24 Los Angeles International Airport in Los Angeles, California,
25 using his U.S. alien registration identification.

1 "On June 13, 1996, at approximately 8:17 p.m.,
2 defendant entered the United States from overseas at O'Hare
3 International Airport in Chicago, Illinois, using his U.S.
4 alien registration identification.

5 "On May 24, 1997, at approximately 4:57 p.m.,
6 defendant entered the United States from overseas at
7 Los Angeles International Airport in Los Angeles, California.

8 "On December 8, 1997, at approximately 7:45 p.m.,
9 defendant entered the United States from overseas at O'Hare
10 International Airport in Chicago, Illinois, using his U.S.
11 alien registration identification.

12 "On October 21, 1999, at approximately 2:03 a.m.,
13 defendant entered the United States from overseas at John F.
14 Kennedy International Airport in New York, New York.

15 "On July 7, 2000, at approximately 4:17 p.m.,
16 defendant entered the United States from overseas at John F.
17 Kennedy International Airport in New York, New York.

18 "On August 7, 2000, at approximately 4:07 p.m.,
19 defendant entered the United States from Toronto, Canada, at
20 Pearson International Airport in Toronto, Canada.

21 "On June 25, 2001, defendant obtained a visa at
22 Queen Alia International Airport in Amman, Jordan, and
23 entered Jordan on the same date.

24 "On July 1st, 2001, defendant exited the country of
25 Jordan at Queen Alia International Airport in Amman, Jordan.

1 "On July 1st, 2001, at approximately 7:21 p.m.,
2 defendant entered the United States from overseas at John F.
3 Kennedy International Airport in New York, New York, using
4 his United States passport.

5 "Government's Exhibit 11 is a true and accurate
6 record of the international border crossings by defendant
7 shown in that exhibit and is admissible.

8 "It is so stipulated.

9 "It is dated January 30, 2008, and it is signed by
10 myself, Judith A. Heinz, on behalf of the United States; the
11 Defendant William Shaoul Benjamin; and James E. Blatt, the
12 attorney for the defendant."

13 THE COURT: Mr. Blatt, is that the stipulation that
14 you reached on behalf of your client?

15 MR. BLATT: Yes, your Honor.

16 THE COURT: It will be received.

17 Thank you.

18 (Exhibit 20 received.)

19 MS. HEINZ: And, your Honor --

20 THE COURT: And Exhibit 11 will also be received.

21 (Exhibit 11 received.)

22 MS. HEINZ: Sorry, your Honor. I have one more
23 stipulation.

24 THE COURT: Okay.

25 MS. HEINZ: So this is Exhibit 12.

1 This is a stipulation of the parties regarding
2 defendant's United States passport.

3 "Plaintiff United States of America, by and through
4 its counsel of record Assistant United States Attorneys
5 Judith A. Heinz and Janet C. Hudson, and Defendant William
6 Shaoul Benjamin, individually and by and through his counsel
7 of record James E. Blatt and Michael G. Raab, Offices of
8 James E. Blatt, hereby agree and stipulate as follows:

9 "Stipulation:

10 "The Government and defendant agree that the color
11 duplicate copy of defendant's United States Passport Number
12 204719075 is a true and accurate copy of defendant's United
13 States passport and is admissible at trial.

14 "It is so stipulated."

15 It's dated January 22, 2008, and it's signed by
16 myself, Judith A. Heinz, on behalf of the United States; the
17 Defendant William Shaoul Benjamin; and James E. Blatt, the
18 attorney for the defendant.

19 THE COURT: Mr. Blatt, is that a stipulation in
20 which you have agreed on behalf of your client?

21 MR. BLATT: Yes, your Honor.

22 THE COURT: Thank you.

23 It will be received.

24 (Exhibit 12 received.)

25 THE COURT: And 13 will also be received.

1 (Exhibit 13 received.)

2 MS. HEINZ: Thank you, your Honor.

3 The Government now calls Paul Cole to the stand.

4 THE COURT: Sir, would you come straight ahead,
5 come right up to the witness stand to be sworn, please.

6 THE CLERK: Please raise your right hand.

7 Do you solemnly swear that the testimony you are
8 about to give in the matter now pending before this Court
9 shall be the truth, the whole truth, and nothing but the
10 truth so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Please have a seat.

13 State and spell your name for the record.

14 **PAUL DALE COLE,**

15 called as a witness by counsel for the Government, being
16 first duly sworn, testified as follows:

17 THE WITNESS: My name is Paul Cole. P-a-u-l, last
18 name Cole, C-o-l-e.

19 THE COURT: Mr. Cole, do you have a middle name?

20 THE WITNESS: Yes. Dale, D-a-l-e.

21 THE COURT: Thank you.

22 Go ahead, Ms. Heinz.

23 MS. HEINZ: Your Honor, may I inquire?

24 THE COURT: Yes, please.

25 MS. HEINZ: Thank you.

DIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. HEINZ:

Q. Mr. Cole, what is your occupation?

A. District adjudications officer.

Q. And do you specialize in certain adjudications?

A. I interview people who filed the N-400 for citizenship.

Q. And who is your employer?

A. Department of Homeland Security.

THE COURT: Where do you office, sir?

THE WITNESS: I'm across the street in the federal building.

THE COURT: Okay.

BY MS. HEINZ:

Q. And how long have you been doing this kind of work?

A. About 12 years.

MS. HEINZ: Your Honor, Government's Exhibit 14 is a certificate copy of defendant's immigration file. My understanding is that there is no objection to this exhibit.

THE COURT: Mr. Blatt? No objection?

MR. BLATT: No objection, your Honor.

THE COURT: Thank you.

It will come in.

(Exhibit 14 identified and received.)

MS. HEINZ: Your Honor, may the clerk please place Government's Exhibit 14 in front of the witness?

1 THE COURT: Certainly.

2 BY MS. HEINZ:

3 Q. Mr. Cole, please look at pages one through four of
4 Government's Exhibit 14.

5 A. I have.

6 Q. Now, looking at pages one through four of Government's
7 Exhibit 14, can -- please tell us what kind of a document
8 that is.

9 A. This is a Form N-400. It is an application for
10 citizenship.

11 Q. And I'd like to direct your attention to page four.

12 Mr. Cole, looking at page four of the bottom there,
13 do you see your name?

14 A. Yes, I do.

15 Q. Okay. And -- and looking at that -- can you tell
16 by looking at that page, whether or not you conducted a
17 naturalization interview for this application?

18 A. Yes, I did.

19 Q. And would you please describe for us, Mr. Cole, how you
20 usually begin a naturalization interview.

21 A. First thing I do is I swear them in under oath like was
22 done to me just now; and then I ask to see their green card,
23 driver's license; if they have it with them, their Social
24 Security number.

25 Q. Okay.

1 MS. HEINZ: Excuse me, your Honor.

2 BY MS. HEINZ:

3 Q. Could you please look at page 7 of Government's
4 Exhibit 14.

5 A. I see it.

6 Q. Do you recognize page 7 of Government --

7 A. Yes, I do.

8 Q. -- Government's Exhibit 14.

9 What is it?

10 A. It's got his green card, William S. Benjamin's, Social
11 Security card, and his driver's license.

12 Q. And the fact that that page appears in this defendant's
13 immigration file, does that tell you anything about how it
14 got there?

15 A. Yes. I put it in the file. I made copies of the cards
16 and placed them in there.

17 Q. Directing your attention to page one of Government's
18 Exhibit 14, now, Mr. Cole, I see some red lines and circled
19 numbers in part one.

20 Do you see that?

21 A. Yes, I do.

22 Q. Tell me if you know who made those red marks.

23 A. I did.

24 Q. And what were the circumstances of when you made those?

25 A. Each mark I made is a question I verified.

1 Q. Now, I'd like you to look down and look at part three.

2 A. I see it.

3 Q. Do you see where it says, "Other names used since you
4 became a permanent resident"? And there's a little red
5 circle with a "six" on it right near there.

6 A. Oh, yes.

7 Q. Do you see that?

8 A. Yes, I do.

9 Q. Okay. Please describe for us that -- what you did there
10 in the interview.

11 A. He stated he used the full name of "William Shaoul" --
12 I probably pronounced it wrong -- "Benjamin." So I placed
13 the full name in there, and I numbered which one it was.

14 Q. And is that the only name that he gave you there?

15 A. Yes.

16 Q. How do you know that?

17 A. Because that's the only one I put down.

18 Q. If he had given you other names, would you have written
19 them down?

20 A. Yes, I would have.

21 Q. And do you know whether or not you specifically asked
22 the defendant this question?

23 A. Yes.

24 Q. How do you know that?

25 A. Because I put a -- scratched out the "none" he has here,

1 and I wrote in the full name.

2 Q. At the bottom of part three, do you see the words
3 "absences from the U.S."?

4 A. Yes, I do.

5 Q. Did you go through this section with the defendant?

6 A. Yes, I did.

7 Q. And what does the red writing there mean?

8 A. The number seven -- that's the seventh addition I made
9 to his file. August 5, 2000, he left the country to Canada;
10 and August 10, 2000, he returned, and he said he went to a
11 wedding.

12 Q. And did the defendant tell you about any other absences
13 from the U.S.?

14 A. None.

15 Q. How do you know that?

16 A. Because I would have put them down.

17 Q. And I see a red slash mark there at the -- sort of near
18 the bottom of page one.

19 Do you see that, right across sort of --

20 A. Yes.

21 Q. -- "yes and no" there? That slash?

22 A. It means "no more."

23 Q. It means "no others"? "No more" did you say?

24 A. No more visits.

25 Q. Please look at part four, question three.

1 A. I see it.

2 Q. Okay. This question says "list your employers during
3 the last five years."

4 Do you see that?

5 A. Yes.

6 Q. And do you see the red slash mark under "disability,
7 Social Security"?

8 A. Correct.

9 Q. What does that red slash mean?

10 A. It means no other employers.

11 Q. And did you specifically ask the defendant about any
12 other employers?

13 A. Yes, I did.

14 Q. How do you know that?

15 A. Because it says here he was on disability, Social
16 Security from 1999 to the present.

17 Q. And could you look now at part six.

18 Okay. This section asks for information about the
19 defendant's children.

20 A. Yes.

21 Q. What are the red marks next to where it says, "Nahrain
22 W. Eshoo"?

23 A. This is the date of birth. It was just the year. I
24 added on the month and the date.

25 Q. Okay. I'd like to direct your question -- your

1 attention to part seven.

2 Okay. Directing your attention to part seven, did
3 you ask the defendant all those questions in part seven?

4 A. Yes, I did.

5 Q. How do you know that?

6 A. Because I put a red slash through each question.

7 Q. And what do the red slashes mean?

8 A. It means I asked a question and he answered no. So I
9 made a mark through each "No."

10 Q. I'd like you to look at part eight, question two.

11 Did you ask the defendant this question? This
12 question says are you willing to take the full oath of
13 allegiance to the United States? Did you ask the question --
14 the defendant this question?

15 A. Yes.

16 Q. How do you know that?

17 A. Because I made a mark through "yes" that he said he
18 would.

19 Q. Okay. I'd like -- I'd like you to look at part nine.

20 Part nine asks the defendant -- asks the person
21 filling out the application -- it says, "Please list your
22 present and past membership and affiliation with every
23 organization, association, fund, foundation, party, club,
24 society, or similar group in the United States or in any
25 other place."

1 What does the red slash mean in this section,
2 Mr. Cole?

3 A. That there was only the two marked there, the two he put
4 down.

5 Q. And did you --

6 A. No others.

7 Q. And did you ask the defendant this question?

8 A. Yes.

9 Q. I'd like you to look at the bottom of page four.

10 Do you see at the bottom of page four there's sort
11 of a line there where it says, "Do not complete the following
12 until instructed to do so at the interview."

13 Do you see that section?

14 A. Yes, I do.

15 Q. And then it -- it says, "I swear that I know the
16 contents of the application and supplemental pages one
17 through one [sic] and that the corrections numbered 1 through
18 29 were made at my request and that this amended application
19 is true to the best of my knowledge and belief."

20 Do you see that section?

21 A. Yes, I do.

22 Q. Okay. And below that, whose signature is that?

23 A. That would be Mr. Benjamin's signature.

24 Q. And when did he sign it?

25 A. At the time of the interview.

1 Q. And did you witness that signature?

2 A. Yes, I did.

3 Q. I'd like you to look at page five of Government's
4 Exhibit 14.

5 Who completed this form?

6 A. I did.

7 Q. And where did you get the information that's on the
8 form?

9 A. From Mr. Benjamin.

10 Q. And when did you complete this form?

11 A. The day of the interview.

12 Q. At the bottom of page five is the oath of allegiance.

13 Do you see that, Mr. Cole?

14 A. Yes, I do.

15 Q. Whose signature is that at the bottom below where it
16 says, "The oath of allegiance," where it says "applicant's
17 signature"?

18 A. Mr. Benjamin's.

19 Q. And did the defendant sign that in front of you?

20 A. Yes.

21 Q. And did he sign it during his naturalization interview?

22 A. Yes.

23 MS. HEINZ: I have no further questions.

24 THE COURT: Cross-examination, Mr. Blatt?

25 MR. BLATT: Yes.

CROSS-EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. BLATT:

Q. Mr. Cole --

THE COURT: Wait, please.

BY MR. BLATT:

Q. -- could you go to exhibit 14, page 132.

A. 132?

Q. Well, that's what I have here.

THE COURT: Do you have that many pages?

THE WITNESS: 99 here. 99 on the right side and 10
on the left.

THE COURT: All right. They'll get it straight.

MR. BLATT: 32. My mistake. I thought it was 132.
It's 32.

BY MR. BLATT:

Q. Do you recognize that, sir?

MS. HEINZ: Objection, your Honor. Beyond the
scope.

THE COURT: It does appear to be.

MR. BLATT: It's part of Exhibit 14, your Honor.

THE COURT: All right. You may proceed on it.

MR. BLATT: Thank you.

BY MR. BLATT:

Q. Do you recognize that document, sir?

A. It's an I-130, and I did not do this. This was done

1 when he got his green card.

2 Q. And in reference to the right-hand side where it says
3 petition was filed October 20th, '77, what does that mean,
4 sir?

5 MS. HEINZ: Objection. Lack of foundation.

6 THE COURT: Sustained.

7 BY MR. BLATT:

8 Q. Well, do you -- in reference to your training and
9 experience, do you have an understanding of what that means?

10 A. That is when he filed a petition to enter the United
11 States.

12 Q. 1977?

13 MS. HEINZ: Objection, your Honor. Lack of
14 foundation --

15 THE COURT: Sustained.

16 MS. HEINZ: -- as to this -- as to this witness's
17 knowledge.

18 THE COURT: Sustained.

19 BY MR. BLATT:

20 Q. Did you ever -- or let me rephrase it.

21 Were you ever requested by the Assistant U.S.
22 Attorney to make an inquiry as to when he filed a petition to
23 enter the United States?

24 MS. HEINZ: Objection, your Honor. Beyond the
25 scope. Relevance.

1 THE COURT: Sustained.

2 BY MR. BLATT:

3 Q. Did you ever look at any record to see whether he ever
4 requested entry or petition the United States?

5 MS. HEINZ: Objection. Relevance.

6 BY MR. BLATT:

7 Q. In 1977 did you ever do that, sir?

8 MS. HEINZ: Objection. Objection. Relevance.

9 THE COURT: Sustained.

10 BY MR. BLATT:

11 Q. Do you know whether Saddam Hussein was in power before
12 1977?

13 MS. HEINZ: Objection. Relevance.

14 THE COURT: Sustained.

15 MR. BLATT: Nothing further.

16 THE COURT: Anything further of this witness?

17 MS. HEINZ: Nothing further, your Honor.

18 THE COURT: Thank you.

19 Mr. Cole, you are excused.

20 MR. BLATT: I would like him on call, your Honor.

21 THE COURT: Would you just remain in the witness
22 room. You may be called a little later.

23 THE WITNESS: All right.

24 THE COURT: Who is your next witness to be?

25 MS. HEINZ: Your Honor, at this time the Government

1 would like to offer a stipulation.

2 THE COURT: Go ahead.

3 MS. HEINZ: This is Exhibit 17, and it is a
4 stipulation of the parties regarding defendant's Social
5 Security application.

6 THE COURT: Go ahead.

7 MS. HEINZ: Plaintiff United States of America, by
8 and through its counsel of record Assistant United States
9 Attorneys Judith A. Heinz and Janet C. Hudson, and Defendant
10 William Shaoul Benjamin, individually and by and through his
11 counsel of record James E. Blatt and Michael G. Raab, Offices
12 of James E. Blatt, hereby agree and stipulate as follows:

13 "The Government and defendant agree that the
14 duplicate copy of defendant's Social Security application
15 marked as Government Exhibit 15 is a true and accurate copy
16 of defendant's Social Security application and is admissible
17 at trial."

18 It is so stipulated, dated January 28, 2008. It is
19 signed by myself, Judith A. Heinz, on behalf of the United
20 States; by the Defendant William Shaoul Benjamin; and by
21 James E. Blatt, the defendant -- the attorney for the
22 defendant.

23 MR. BLATT: Not yet.

24 THE COURT: Mr. Blatt, is that the stipulation to
25 which you've agreed --

1 MR. BLATT: Yes, your Honor.

2 THE COURT: -- on behalf of your client?

3 It will be received.

4 (Exhibit 17 received.)

5 THE COURT: And Exhibit 15 will also be received.

6 (Exhibit 15 received.)

7 MS. HEINZ: Thank you, your Honor.

8 And may I publish Exhibit 15?

9 THE COURT: Yes. Go right ahead.

10 MS. HEINZ: Your Honor, the Government has one more
11 witness. I anticipate he may be a half an hour or so.

12 Should we continue or -- at this time?

13 THE COURT: Can you continue?

14 MS. HEINZ: Yes, I can. I'm prepared to continue.

15 I didn't know if there was going to be a break or not.

16 THE COURT: No.

17 MS. HEINZ: Then, your Honor, the Government would
18 call Roland Lyons.

19 THE COURT: Very well.

20 Sir, would you come right up on the witness stand
21 and be sworn straight ahead.

22 THE CLERK: Please raise your right hand.

23 Do you solemnly swear that the testimony you are
24 about to give in the matter now pending before this Court
25 shall be the truth, the whole truth, and nothing but the

1 truth so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Have a seat.

4 State and spell your name for the record.

5 **ROLAND EDWARD LYONS,**

6 called as a witness by counsel for the Government being first

7 duly sworn, testified as follows:

8 THE WITNESS: Roland Lyons. First name is

9 R-o-l-a-n-d; last name Lyons, L-y-o-n-s.

10 THE COURT: Mr. Lyons, do you have a middle name?

11 THE WITNESS: Yes, I do. It is Edward, E-w --

12 E-d-w-a-r-d.

13 THE COURT: Thank you.

14 Go ahead, please.

15 MS. HEINZ: May I inquire, your Honor?

16 THE COURT: Yes.

17 **DIRECT EXAMINATION**

18 BY MS. HEINZ:

19 Q. Mr. Lyons, what is your occupation?

20 A. I'm a section manager with U.S. Citizenship and
21 Immigration Services.

22 Q. And what is U.S. Citizenship and Immigration Services?

23 A. It is the federal agency under the Department of
24 Homeland Security that is charged with making decisions on
25 applications for immigration benefits.

1 Q. And how long have you been with that -- with Citizenship
2 and Immigration Services?

3 A. Over 13 years.

4 THE COURT: Where do you office, sir?

5 THE WITNESS: Excuse me?

6 THE COURT: Where do you office?

7 THE WITNESS: My office is at 300 North Los Angeles
8 Street here in downtown.

9 THE COURT: Go ahead, please.

10 BY MS. HEINZ:

11 Q. All right. And during the time that you've been with
12 Citizenship and Immigration Services, what did you start
13 outdoing?

14 A. I was an adjudications officer. I was responsible for
15 interviewing and making decisions on applications for
16 naturalization.

17 Q. And what is your current position?

18 A. I'm a section manager. I -- I am one of two managers
19 that oversee our citizen and naturalization program at the
20 Los Angeles field office.

21 Q. What does Citizenship and Immigration do?

22 A. Can you clarify the question.

23 Q. Yes.

24 What -- Citizenship and Immigration Services --
25 what does that agency or subagency do?

1 A. We are responsible for making decisions on applications
2 for benefits such as green cards, also known as permanent
3 residency, and making decisions on applications for U.S.
4 citizenship, as well as other immigration benefits.

5 THE COURT: Were you previously known as INS?

6 THE WITNESS: Yes, we were previously known as the
7 Immigration and Naturalization Service.

8 THE COURT: Go ahead.

9 BY MS. HEINZ:

10 Q. Please describe any formal training you have received in
11 the area of naturalization.

12 A. Within my first year of employment I attended a
13 four-month training at our academy in Glenco, Georgia.
14 I also received classroom training at our office in
15 Los Angeles.

16 Q. And I believe you mentioned before that you started out
17 as a naturalization adjudicator; is that correct?

18 A. That is correct.

19 Q. And how long did you do that for?

20 A. I was an adjudicator for the naturalization program for
21 three years.

22 Q. And what did you do at Citizenship and Immigration
23 Services after that?

24 A. After that I was assigned to our Congressional liaison
25 unit, where I was responsible for handling inquiries that

1 come in from the Congressional office about immigration
2 cases.

3 Q. And was that here in Los Angeles?

4 A. Yes, it was.

5 Q. And what did you do after that?

6 A. After that I was promoted to supervisor, and my first
7 assignment was to be the director of our Congressional
8 liaison unit, and I ran that unit for five years.

9 Q. And then what did you do after that?

10 A. After that I was an acting section manager, overseeing
11 our miscellaneous benefits unit; I-130 petitions, which are
12 petitions for alien relatives; and our services program. I
13 was also our acting deputy district director for the
14 Los Angeles district. And as of last August I've been a
15 section manager for the citizenship and naturalization
16 program.

17 Q. Have you reviewed naturalization applications in your
18 job?

19 A. Yes, I have.

20 Q. Approximately how many have you reviewed?

21 A. I would say over a thousand.

22 Q. And during the time you've been with Citizenship and
23 Immigration Services, have you conducted naturalization
24 interviews?

25 A. Yes, I have.

1 Q. Approximately how many?

2 A. Over a thousand.

3 Q. Have you ever testified in court as an expert witness on
4 naturalization?

5 A. Yes, I have.

6 Q. Tell us. What is naturalization?

7 A. Naturalization is the process for someone who is not
8 born a United States citizen, becomes a United States
9 citizen.

10 Q. And how does that happen?

11 A. The most basic process is for someone who has been a
12 lawful permanent resident of -- in other words, has their
13 green card, has it for at least five years, and files an
14 application known as an N-400, and they have certain
15 eligibility requirements they have to meet in order to
16 qualify for U.S. citizenship.

17 Q. And after the applicant files the application, what's
18 the next thing that happens?

19 A. The next thing that happens is they will get a
20 fingerprint -- an appointment to have their fingerprints
21 taken.

22 Would you like me to continue?

23 Q. Yes.

24 A. Okay. After the fingerprint clearances are taken care
25 of, they will receive an appointment to come in and be

1 interviewed for naturalization. Every applicant is
2 interviewed for citizenship.

3 Q. And once that person is interviewed, if -- if everything
4 is okay and the process goes forward, what is the next thing
5 that happens?

6 A. After they are interviewed, if they meet all the
7 eligibility requirements their application is approved, and
8 they are notified when they will be attending a
9 naturalization ceremony. They are not a U.S. citizen until
10 they take the oath of allegiance before -- in Los Angeles
11 they must take it before a U.S. District Court Judge.

12 Q. Okay. I'd like you to look at Government's Exhibit 14,
13 please, which may be in front of you. I'm not sure. I'm
14 sorry. Could --

15 THE COURT: Could we find Exhibit 14 there, please.

16 BY MS. HEINZ:

17 Q. And could you please look at pages 1 through 4 of
18 Government's Exhibit 14.

19 A. Okay.

20 Q. Okay. And specifically I'd like you to look at part
21 two.

22 A. Yes.

23 Q. Okay. Part two says "Basis For Eligibility."

24 Do you see that?

25 A. Yes, I do.

1 Q. Okay. And what is checked there?

2 A. Box A, which says, "I have been a permanent resident for
3 at least five years."

4 Q. And -- and what does that mean in terms of eligibility?

5 A. There are different sections of law that allow someone
6 to apply for naturalization. The most common one is this one
7 where an individual has been lawfully admitted as a permanent
8 resident, which means they have a green card and that they
9 have had that status for at least five years.

10 Q. And what is the time period that they have to have this
11 status?

12 A. They must have their lawful permanent resident for at
13 least five years to apply for naturalization.

14 Q. Okay. And is there a certain point in time for that
15 five years? In other words, can it have been five years,
16 ten years ago, compared to when they are applying for
17 naturalization?

18 A. The -- can you ask the question again just so I
19 understand it.

20 Q. Yes. Let me try to clarify.

21 If we look at the time when an applicant files
22 their application for naturalization -- okay.

23 And when does this five-year period have to be?

24 A. Are you asking if -- when is the statutory period or
25 what is the -- when is it that someone must meet at least

1 five years of residency before they can apply?

2 Q. Let me see if -- does the five-year period have to be
3 immediately preceding when they file the application?

4 A. When we are reviewing -- if I'm understanding the
5 question correctly, when we are making decisions on an
6 application for naturalization, we look at the five-year
7 period immediately preceding the filing of the application.

8 That's considered the statutory period.

9 Q. And have you had a chance to look at -- at the
10 defendant's A file?

11 A. Yes, I have.

12 Q. And can you tell by looking at it whether or not he was
13 a lawful permanent resident alien?

14 A. Yes, he is.

15 Q. And/or he was?

16 A. He was, yes. He was. Sorry.

17 Q. And in looking at the file, can you tell how he gained
18 his status as a lawful permanent resident alien?

19 A. Yes. He was petitioned by his brother, who was a
20 United States citizen. His brother filed the petition for
21 alien relative on his behalf.

22 Q. Could you please look at page 32 of Government's
23 Exhibit 14.

24 A. Sure.

25 Q. Okay. Looking at page 32, at the top, is this the

1 petition that his -- defendant's brother filed?

2 A. Yes, it is.

3 Q. Okay. And looking over at page 33, can you tell when
4 this petition was signed and submitted to Immigration?

5 A. The petition was signed on July 16th, 1991. By the --
6 brought by the United States citizen brother.

7 Q. Now I'd like you to go back and look at page 32. And up
8 at the top there in sort of the -- the top right-hand corner,
9 you see something that says, "Petition filed on 10-20-77"?

10 A. Yes.

11 Q. And do you see down where it says "A, relationship" and
12 there it says, "Please preserve original priority date of
13 10-20-77"?

14 A. Yes.

15 Q. Do you see that?

16 A. Yes, I do.

17 Q. Can you explain to us what means.

18 A. What that means is that this was the -- not the first
19 petition that was filed by the U.S. citizen brother. His
20 brother had filed a -- the first time his brother filed for
21 him was back in 1977.

22 Q. And do you know what happened to that petition, the '77
23 petition?

24 A. I do not. I just know it's not contained in his A file.

25 Q. Could you please take a look at pages 28 through 31 of

1 Government's Exhibit 14.

2 A. Okay.

3 Q. Okay. That looks to me like a form. Can you tell us
4 what that form is.

5 A. That is an application for immigrant visa and alien
6 registration.

7 Q. And can you tell by looking at it who filled this out or
8 at least who signed it. I'm looking at page 31.

9 A. Yes. It was filed -- it was signed by William Benjamin.

10 Q. Can you tell what date it was signed?

11 A. It was signed on February 17, 1992.

12 Q. Directing your attention -- directing your attention
13 back to page 28, and I'd like you to look at Box 10 --

14 A. Yes.

15 Q. -- where it says "Occupation."

16 A. Yes.

17 Q. And it says, "Translator and Trade -- Trading Bureau."

18 Do you see that?

19 A. Yes, I do.

20 Q. Okay. Why is it important for the U.S. State Department
21 to know the occupation?

22 THE COURT: Excuse me. Is -- State Department?

23 MR. BLATT: Immigration.

24 MS. HEINZ: I'm sorry. I'm sorry. It's the
25 United States State Department form.

1 BY MS. HEINZ:

2 Q. Why is it important for -- for the United States
3 Immigration to know the occupation?

4 A. One of the main reasons is to look at -- especially if
5 it's an employment-based immigrant visa, we would have to
6 know if the work that they're doing actually matches with the
7 employer that actually petitioned for them. We also look at
8 whether or not the person is going to become a public charge.
9 If they -- meaning that they would come here and start
10 receiving Welfare. So we have to make sure that this person
11 is actually gainfully employed. So we ask about their
12 employment status.

13 Q. Can you tell by looking at page 32 whether or not this
14 petition for alien relative was approved?

15 A. Yes, it was.

16 Q. When was it approved?

17 A. It was approved on August 20, 1991.

18 Q. I'd like for you to look at page 15.

19 A. Okay.

20 Q. What is page 15 of Government's Exhibit 14?

21 A. That is the immigrant visa and alien registration form.
22 It's usually a cover sheet for the immigrant visa
23 application.

24 Q. And can you tell, looking at that, when the defendant
25 William Shaoul Benjamin entered the United States?

1 A. Yes. He entered the United States as a lawful permanent
2 resident on May 7, 1992.

3 Q. All right. I'd like to direct your attention back to
4 page one.

5 A. Okay.

6 Q. All right. Looking at part two, basis for eligibility,
7 are there any other requirements in addition to being a legal
8 permanent resident alien for five years? Are there any other
9 eligibility requirements that defendant needed to fulfill in
10 order to become a United States citizen?

11 A. Yes. There are other eligibility requirements for
12 naturalization. In addition to the five years as a lawful
13 permanent resident, the individual must be able to show that
14 they can speak, read, and write understand English and
15 understand the history and government of the United States,
16 which is most commonly known as the test. They have to show
17 that they have resided continuously in the United States and,
18 for half of that time of the five-year period, that they were
19 physically present in the United States.

20 They also have to show that they are a person of
21 good moral character, which looks a lot at their criminal
22 history and their activities. This might reflect only their
23 moral character, as well as being able to take the full oath
24 of allegiance, show an attachment to the Constitution, and to
25 be well disposed to the good order and happiness of the

1 United States.

2 Q. Could you please look at page 17 of Government's
3 Exhibit 14.

4 A. Okay.

5 Q. And what is page 17?

6 A. That is an adjudication processing worksheet that the
7 officer must complete to annotate what eligibility
8 requirements were either met or not met at the time of the
9 interview.

10 Q. And the eligibility requirements that you've just
11 described for us -- do you see those listed here on the
12 processing worksheet?

13 A. Yes, I do.

14 Q. Okay. I'm going to sort of point to things here, and if
15 you could just tell me --

16 A. Sure.

17 Q. -- what is -- what is this requirement?

18 A. That means that the applicant was able to establish that
19 they -- the English literacy requirement and that they passed
20 the history and civics test.

21 Q. And this requirement?

22 A. That involved his continuous residency and physical
23 presence in the United States, looking at how many times he's
24 been out of the country.

25 Q. And this requirement?

1 A. That involves his criminal history and other activities
2 that reflect on his moral character.

3 Q. And this requirement?

4 A. And that is establishing attachment to the Constitution
5 and his ability to take the full oath of allegiance.

6 Q. What does the term "good moral character" mean --

7 A. "Good moral character"?

8 Q. -- in the context of immigration?

9 A. In the context of immigration, it's looking at someone's
10 conduct to determine if they are deserving of the status of
11 United States citizenship because U.S. citizenship is one of
12 the most highest and valuable benefits that our Government
13 can bestow on someone. And in exchange for all the rights
14 and privileges that you obtain when becoming a U.S. citizen,
15 the Government wants to make sure that all the new citizens
16 can be held to a high standard of conduct. So we look at
17 good moral character.

18 Q. And what is the time period that Citizenship and
19 Immigration Services is allowed to look at in determining
20 good moral character?

21 A. Well, we begin by looking at the five-year period for
22 someone who is required to have five years of lawful
23 permanent residency. However, the law gives us permission to
24 look outside the five-year period of their entire life if we
25 see fit that it would actually have a bearing on their good

1 moral character.

2 Q. And you spoke briefly about rights and responsibilities
3 of United States citizenship. What are some of the rights?

4 A. There are so many of them. I mean, the most common ones
5 that people talk about is the right to vote, the right to run
6 for elected office, the right to seek employment with the
7 federal government, to serve on jury duty, obtain a U.S.
8 passport and travel with that document.

9 Basically when you become a U.S. citizen, our
10 government is telling you, "We are going to embrace you as
11 one of our own and accept you as one of our own, and in
12 exchange for that you have these certain requirements that
13 you have to meet."

14 Q. And you also spoke about responsibilities. What are the
15 responsibilities of the United States citizen?

16 A. To obey the laws of our government, to show an
17 attachment to our Constitution. And I would say those are
18 the two most basic responsibilities.

19 Q. You've used the term "attachment to the Constitution."

20 A. Uh-huh.

21 Q. What does this mean in the context of an application for
22 naturalization?

23 A. It means that someone shows that they -- they're --
24 their attitude towards the Constitution is that they support
25 and will support and defend it; that they really believe in

1 the essence of what the Constitution is about. Our form of
2 government is very different from what other governments are
3 in the world.

4 And when we want someone to show an attachment to
5 the Constitution, it's showing that their attitude about the
6 document and what it stands for, if they believe in it and
7 will support it.

8 Q. I'd like you to look at page number 1 again.

9 A. Uh-huh.

10 Q. So I have a page number one of Government's Exhibit
11 14 -- page one, part three.

12 A. Yes.

13 Q. There's a question there that says: "Other Names Used."

14 Do you see that?

15 A. Yes, I do.

16 Q. Okay. Was Mr. Benjamin required to write down all the
17 names he had ever used since 1992?

18 A. The way the application is written, it says -- yes,
19 since 1992, correct. Since becoming a permanent resident.

20 Q. And if he didn't write them down, what would happen?

21 A. Well, that would be considered a material
22 misrepresentation.

23 Q. And why would it be material?

24 A. Because we'd want to know every single name that an
25 applicant has used because it's very possible that somebody

1 may have engaged in some activity using a different name that
2 would have had a bearing on their good moral character.

3 Q. In that same part, three, there's a section called
4 "Absences From the United States."

5 Do you see that?

6 A. Uh-huh. Yes, I do.

7 Q. Why is this question on the application?

8 A. Because it goes towards the eligibility requirement of
9 continuous residency and physical presence in the
10 United States.

11 Q. Was the defendant required to list all of his absences
12 from the United States since becoming a permanent resident?

13 A. Yes, he was.

14 Q. Even if he went to Mexico for a day?

15 A. Yes.

16 Q. If instead of three times, three absences, which is what
17 is indicated on this application --

18 A. Uh-huh.

19 Q. -- if Mr. Benjamin had really been absent from the
20 United States nine times, would that have been important for
21 Citizenship and Immigration to know?

22 A. Yes.

23 Q. Why?

24 A. Because we would have to look at where the trips were
25 and for how long because they would have a bearing on whether

1 he had the physical presence in the United States, and it
2 also would affect his eligibility under continuous residency
3 as well.

4 Q. If Mr. Benjamin had been to Iraq six times, which is not
5 listed on this application, would that have been important in
6 evaluating his application for citizenship?

7 A. Yes. It would have been.

8 Q. Why?

9 A. Again, looking at his physical presence and continuous
10 residence in the United States.

11 Q. If it were true that Mr. Benjamin had been to Iraq six
12 times or even had been absent from the United States --
13 strike that.

14 I'm going to withdraw that question.

15 If it was true that in addition to the three
16 absences that Mr. Benjamin listed that he had also been
17 absent from the United States an additional six times and he
18 knowingly didn't write that down, would that have been
19 important?

20 A. Yes.

21 Q. Why?

22 A. Well, that would have prevented -- it would -- by not
23 putting that information down, Mr. Benjamin would have cut
24 off a line of inquiry for the Government to make an accurate
25 assessment about his eligibility for naturalization.

1 Q. Would that also have had a bearing on a determination of
2 good moral character?

3 A. Yes. I guess if we were looking at what was the purpose
4 of the trip, what was the reason that he was traveling back
5 to Iraq.

6 Q. And if he knowingly didn't put that down, would that
7 have been considered concealment?

8 A. It would have been considered a misrepresentation, yes.
9 And during the interview, when he's under oath, that would be
10 considered false testimony.

11 Q. And would false testimony have had a bearing on the
12 determination of good moral character?

13 A. Yes. By regulation, if someone provides false testimony
14 for the purpose of obtaining an immigration benefit, they
15 cannot establish good moral character; and, therefore, their
16 application must be denied.

17 Q. I'd like for you to look at page two, part four.

18 THE WITNESS: May I pour some water?

19 THE COURT: Of course. That's why it's there.

20 THE INTERPRET: Your Honor, can I say something?

21 The interpreter would like to request to the Court if the
22 witness can slow down a little bit. We cannot keep up.

23 THE COURT: Yes.

24 Please, take your time.

25 ///

1 BY MS. HEINZ:

2 Q. Please look at page two, part four, subpart three.

3 A. Okay.

4 Q. Okay. Subpart three asks for a list of all employers
5 for the past five years.

6 Do you see that?

7 A. Yes, I do.

8 Q. Okay. And I'd like you -- I'm sorry. Just one more
9 time -- to look at page four, part 11.

10 A. Yes.

11 Q. Okay. Looking at page -- page four, part eleven, that
12 is a signature block.

13 Do you see the date next to Mr. Benjamin's
14 signature?

15 A. Yes, I do.

16 Q. Okay. And what is that date?

17 A. January 28, 1998.

18 Q. So when we're going back and looking at subpart three
19 and it asks for a list of employers for the past five years
20 and Mr. Benjamin is filling this out, what is the time period
21 that is required there? What is the time period for the
22 employers?

23 A. Based on the date that he signed the application, he
24 would want to start as far back as 1993.

25 Q. And so Mr. Benjamin -- was Mr. Benjamin supposed to list

1 all his employers since 1993?

2 A. Yes.

3 Q. If Mr. Benjamin was, at that time period for any part of
4 that time period, a paid source for an Iraqi Intelligence
5 Service, was he supposed to list that there?

6 A. Yes.

7 Q. And if he had listed it there, would it have made a
8 difference to the adjudication of his application for
9 naturalization?

10 A. Yes.

11 Q. Why?

12 A. It would have gone to his ability to take the full oath
13 of allegiance and show an attachment to the constitution and
14 our form of government.

15 Q. Could you please look at page four, part nine.

16 A. Okay.

17 Q. Okay. This part asks for the applicant to list his
18 present and past membership in or affiliation in a long list
19 of ways to say "organization," "association" in different
20 groups.

21 A. Uh-huh.

22 THE COURT: Is that "yes"?

23 THE WITNESS: Yes. I'm sorry. Yes.

24 BY MS. HEINZ:

25 Q. If Mr. Benjamin was a paid source for the Iraqi

1 Intelligence Service, was he supposed to list that there?

2 A. Yes.

3 Q. And if Mr. Benjamin had written down that he was a paid
4 source for the Iraqi Intelligence Service, would that have
5 affected his eligibility for U.S. citizenship?

6 A. Yes.

7 Q. Now, was Mr. Benjamin supposed to list all associations
8 and memberships for his entire life there?

9 A. Yes.

10 Q. If the C -- if Citizenship and Immigration Services had
11 somehow learned that Mr. Benjamin was a paid source for the
12 Iraqi Intelligence Service but had not disclosed it on his
13 application for naturalization, would that have affected his
14 eligibility for U.S. citizenship?

15 A. If he did not disclose it during his interview when he
16 was placed under oath, yes, that would have affected his
17 eligibility for naturalization. He would have been found
18 that he did not have good moral character because he provided
19 false testimony during his interview.

20 Q. Could you please look at page 19 of Government's
21 Exhibit 14.

22 A. Okay.

23 Q. Now, I believe you already testified and told us about
24 the process of obtaining United States citizenship, and you
25 told us that after filling out the application the applicant

1 has to come in for an interview; is this correct?

2 A. That's correct.

3 Q. Okay. Looking at this page, page 19 of Government's
4 Exhibit 14, what is page 19?

5 A. That is an adjudication processing worksheet that is
6 filled out at the time -- at -- for every interview that is
7 conducted.

8 Q. And on -- on that page I see a date sort of under
9 "Remarks" there that says: "No show on 7-13-00."

10 Do you see that?

11 A. Yes, I do.

12 Q. Do you understand what that is?

13 A. Yes, I do.

14 Q. Okay. Would you explain to us what that means.

15 A. That means that Mr. Benjamin was scheduled to appear for
16 a naturalization interview on July 13, 2000, and he failed to
17 appear for that interview.

18 Q. What happens when an applicant fails to appear for the
19 naturalization interview?

20 A. The application is administratively closed, and the
21 applicant has up to one year from the date that we close the
22 application to reopen it.

23 Q. Please look at page 12 of Government's Exhibit 14.

24 A. Okay.

25 Q. What is page 12 of Government's Exhibit 14?

1 A. Page 12 is a notice notifying Mr. Benjamin when he is
2 scheduled to appear for his naturalization ceremony. We call
3 it the Form N-445.

4 Q. Please describe the naturalization oath ceremony.

5 A. In Los Angeles we are required to hold ceremonies that
6 are presided over by U.S. District Court Judges. The
7 applicants are scheduled to appear at one of three different
8 locations in Southern California. When they arrive, they
9 present this form, which is their appointment notice for the
10 ceremony. They also present their permanent resident card or
11 green card. That is our last opportunity to make sure that
12 the applicant is still eligible for naturalization.

13 On the back of this form are a series of questions
14 that we ask them to make sure that they are still eligible.
15 If nothing is disclosed at that point that would make them
16 ineligible, we take their green card, and we write "Okay" on
17 the notice. As you can see, it was written on this one.

18 We give it back to the applicant, and they go in to
19 have a seat in the area where the judge will be presiding
20 over the ceremony.

21 Would you like me to continue?

22 THE COURT: Just one minute, though. Isn't it also
23 the fact that on occasion our magistrate judges sometimes
24 preside and bankruptcy judges?

25 THE WITNESS: Yes, they do. Yes, they do.

1 BY MS. HEINZ:

2 Q. I'd like you to look at page 13 of Government's
3 Exhibit 14.

4 I believe you just testified about a series of
5 questions or form that the applicant has to turn in when he
6 arrives at the oath ceremony.

7 A. Yes.

8 Q. Okay. Is -- is that what government -- page 13 is?

9 A. Yes. Page 13 is the back of the form with those
10 questions.

11 Q. And looking at that, can you tell the date that the
12 defendant took the oath of allegiance?

13 A. I can't because sometimes the date on the back differs
14 from the date of the ceremony, but if I look at the first
15 page, I can see that he was scheduled on May 9, 2001.

16 Q. Can someone become a United States citizen without
17 taking the oath of allegiance?

18 A. No, they cannot.

19 Q. Well --

20 A. Well, no. Sorry. Yes, they can.

21 Q. Without taking any oath of allegiance?

22 A. Without going to the ceremony and raising their right
23 hand and repeating the oath or taking the oath, yes, they
24 can.

25 Q. And how would that happen?

1 A. That would happen if the person suffers from some mental
2 disability or physical impairment that prevents them from
3 even understanding what the oath of allegiance is. There are
4 certain documents they have to submit to show that they just
5 don't have the capacity to understand what the oath of
6 allegiance is; so that is waived. And that process is done
7 at our office. It does not involve going to a ceremony.

8 Q. Looking at the defendant's immigration file, is -- is
9 that what happened to defendant?

10 A. No, it is not.

11 Q. Could you please look at page five of Government's
12 Exhibit 14.

13 A. Okay.

14 Q. I'd like you to look at the oath of allegiance there.

15 A. Okay.

16 Q. Is that the oath that the individual takes in the
17 naturalization oath ceremony?

18 A. Yes, it is.

19 Q. What if an individual takes the oath but doesn't truly
20 renounce their allegiance to their native country? Can they
21 still become a United States citizen?

22 A. By law, no.

23 Q. Why not?

24 A. Because the law requires that they take the oath of
25 allegiance to the United States and renounce their allegiance

1 to their former country or any other foreign country.

2 Q. If they take the oath but they haven't really renounced
3 their allegiance to their native country, are they eligible
4 for United States citizenship?

5 A. No, they are not.

6 MS. HEINZ: I have no further questions, your
7 Honor.

8 THE COURT: Cross-examination, Mr. Blatt?

9 **CROSS-EXAMINATION**

10 BY MR. BLATT:

11 Q. Sir, based upon your testimony, if someone is acting as
12 an agent or a spy in reference to a foreign power, that is
13 material?

14 A. That is correct.

15 Q. There's no question about this. Is that -- am I right
16 about that?

17 A. Yes.

18 Q. And in reference to whether someone doesn't put their
19 name in or doesn't list a particular employment, that's not
20 as material; correct?

21 A. That is -- that is not correct.

22 Q. So if someone forgets to put in their name, that is
23 equally material as if you're a spy against another country
24 that we're at war with?

25 A. All information on the application is material.

1 Q. Isn't some more important than others?

2 A. Some have more relevance to the eligibility requirements
3 than others, but all the information is material.

4 Q. Wouldn't you consider the fact that someone is acting as
5 an agent for an enemy of our country -- wouldn't that be the
6 ultimate thing that would be the most material?

7 A. I don't know if I would consider that the most material.
8 There are other -- there's other information on the
9 application that would be equally as material.

10 Q. More equally material than someone acting as a spy?

11 A. Uh-huh.

12 Q. Is that a "yes"?

13 A. Yes. That is a yes.

14 Q. So it's equally material if you don't put your full name
15 there, one of your other names?

16 A. I wasn't referring to that one.

17 Q. What are you referring to, sir?

18 A. Criminal history.

19 Q. Is there anything that would indicate that Mr. Benjamin
20 has any criminal contacts whatsoever?

21 A. No, there isn't.

22 Q. In other words, if there was a situation in your
23 criminal history that you committed a murder, that would be
24 material; right?

25 A. Yes.

1 Q. And it would be less material if you were involved in a
2 traffic violation?

3 A. Still material but maybe not as material.

4 Q. Not as material.

5 Are you saying a murder is somehow close to a
6 traffic violation?

7 A. I'm not saying it. It sounds like you are.

8 Q. Didn't you say it was material?

9 A. It is material.

10 Q. Did you have a conversation with the U.S. Attorney
11 before you testified?

12 A. Yes, I did.

13 Q. Did she go over certain aspects of this -- of Exhibit 14
14 as to what would be material or not?

15 A. Yes, she did.

16 Q. Did she go over page 32 with you before you testified
17 today?

18 A. Yes, she did.

19 Q. And in reference to where it indicates petition was
20 filed on October 27th -- 20th, 1977, that's in red ink; is
21 that correct?

22 A. On the line where it says "Relationship"?

23 Q. No. Where it says, "Petition Was Filed October 20,
24 '77," on the right hand -- top right.

25 A. I see that, yes. That is written in red ink.

1 Q. And there's also an indication here of "Remarks" and
2 that's in red ink. It looks like per SIE Brawn.

3 A. That is correct.

4 Q. Who is that if you know?

5 A. S-I-E, stands for Senior Immigration Examiner. So that
6 was probably the immigration examiner who wrote the notations
7 on the petition.

8 Q. So the senior immigrations examiner wrote that a
9 petition was filed in reference to this on October 20, '77?

10 A. That is correct.

11 Q. Why would he do that?

12 A. Because there was evidence in our system that indicated
13 there was a previous petition filed.

14 Q. Has there ever been an effort made by you to find that
15 petition?

16 A. No.

17 Q. Have you ever been requested to find that petition?

18 A. No.

19 Q. How would there be a record that it would be in the
20 files in reference to the '77 petition?

21 A. It's possible it was in our computer system or there was
22 some archive record that was retrieved.

23 Q. And that would be a petition from his brother requesting
24 that Mr. Benjamin come in in reference to him; is that
25 correct?

1 A. Yes, that is correct.

2 Q. In reference to the employment status, if someone worked
3 for a day or two part time helping a relative get a little
4 extra money, are they supposed to write that in there if it's
5 within the time period?

6 A. Yes.

7 Q. Have you ever known a citizenship to be denied because
8 someone didn't put down they worked for a relative for an
9 hour or two and got paid?

10 A. From my experience, my personal experience, no.

11 Q. But to you that could be material; right?

12 A. It could be.

13 MR. BLATT: Thank you, sir.

14 Nothing further.

15 THE COURT: Anything further of this witness?

16 MS. HEINZ: No, your Honor.

17 THE COURT: Thank you very much. You are excused.

18 THE WITNESS: Thank you.

19 THE COURT: Does the Government have any further
20 witnesses?

21 MS. HEINZ: Could I confer just for --

22 THE COURT: Of course.

23 MS. HEINZ: -- one moment?

24 THE COURT: Just be at ease, ladies and gentlemen.

25 (An off-the-record discussion was held.)

1 THE COURT: If you want to stand and stretch,
2 please feel free.

3 MS. HUDSON: Your Honor, I believe we are ready to
4 rest. However, we just want to make sure with the clerk that
5 we have all exhibits except, I believe, Exhibit 10 in
6 evidence.

7 THE COURT: All right. Well, you can certainly
8 check with her about that, but otherwise you rest?

9 MS. HEINZ: Yes, your Honor. Otherwise the
10 Government rests.

11 THE COURT: All right. Ladies and gentlemen, we
12 have some matters of law that we have to take care of, and I
13 don't see any reason to hold you around while we do that.

14 May I remind you once again of the admonition not
15 to discuss the matter among yourselves or with anyone.

16 Have a good, long weekend; and we'll see you
17 Tuesday at 9:00 a.m.

18 Everyone, please rise for the jury.

19 (Whereupon, at 3:39 p.m. the jury exited the
20 courtroom.)

21 THE COURT: Please be seated.

22 We're outside the presence of the jury.

23 Are there any motions of any kind at this time?

24 MR. BLATT: Your Honor, would it be possible to
25 have a brief recess for a short period?

1 THE COURT: All right. We'll take a 15-minute
2 recess.

3 MR. BLATT: Thank you very much, your Honor.

4 THE CLERK: This Court is in recess.

5 (Whereupon, from 3:40 p.m. to 4:07 p.m. a break
6 was taken.)

7 THE CLERK: Please remain seated and come to order.
8 This Court is again in session.

9 THE COURT: All right. We're outside the presence
10 of the jury.

11 Are there any motions of any kind?

12 MR. BLATT: Well --

13 THE COURT: Is there going to be a Rule 29 motion,
14 Mr. Blatt?

15 MR. BLATT: Yes, there is, your Honor.

16 THE COURT: Do you wish to be heard?

17 MR. BLATT: Yes, your Honor. There's going to be a
18 motion to dismiss in reference to this case.

19 THE COURT: Would you come to the lectern.

20 MR. BLATT: Sorry, your Honor. I apologize.

21 In reference to the Exhibits 1 through 6, your
22 Honor, I do not believe there has been a valid chain of
23 custody presented. There obviously is a difference in the
24 cover sheet of counts -- I mean of the files 1 through 6.

25 Initially when the first special agent -- FBI agent

1 was there, there was no lack of control for those two or
2 three weeks until the other agent picked it up. From that
3 point on there does appear to be a chain of custody.

4 I would indicate to the Court that there appears to
5 be an insufficiency of the evidence in reference to the
6 charges that he was an agent; that he knowingly was an agent
7 or that he was taking directions or orders from the Iraqi
8 government. I would respectfully submit that the Court
9 dismiss the case on all charges.

10 THE COURT: All right. Thank you.

11 Does the Government wish to be heard? Ms. Hudson?

12 MS. HUDSON: Yes, your Honor.

13 The documents in Exhibits 1 through 6 establish
14 that the defendant was knowingly acting as an agent of the
15 Iraqi Intelligence Service. Those documents were
16 authenticated by our witness with knowledge of -- detailed
17 knowledge of the workings of the Iraqi Intelligence Service.

18 And there was no evidence that any of the contents
19 of those files had been tampered with or altered in any way.
20 So the Government submits that there was sufficient evidence
21 to prove that the defendant was knowingly working as an agent
22 for the Iraqi Intelligence Service and that he made false
23 statements when he obtained citizenship to which he was not
24 entitled.

25 THE COURT: What about the chain of custody?

1 MS. HUDSON: With respect to the chain of custody,
2 your Honor, that goes to the weight but not admissibility of
3 the evidence. The fact that there could be tampering is of
4 no moment if there was not actually tampering, and there was
5 no indication that any of the contents of the files had, in
6 fact, been tampered with.

7 THE COURT: All right. Thank you.

8 Something further, Mr. Blatt?

9 MR. BLATT: Yes, your Honor.

10 Your Honor, we now have some additional evidence in
11 reference to these files, but we have a situation where
12 the -- Mr. Sargon -- and I think the Court can judge his own
13 credibility -- I believe based upon the evidence was not a
14 credible witness. We have the other difficulty of the
15 individuals that supposedly were the handlers or agents.
16 They are not available.

17 So we have a -- I'm renewing my objection in
18 reference to the hearsay and right to confront and
19 cross-examine the witness argument.

20 Plus we have the additional problem, your Honor,
21 where there is breaks in the chain of custody. There is the
22 initial break in the chain of custody, and then we have
23 Mr. Sargon testifying that there are changes in reference to
24 the files and that some of these items on all the cover
25 sheets should not have been there, which would indicate that

1 the files were tampered with after they left the Intelligence
2 Service.

3 That's very clear. Now, if that's the case, your
4 Honor, I think there's a major problem because we don't have
5 the right to confront and cross-examine all the witnesses
6 concerning them. We don't know who they are in reference to
7 the initial Intelligence officers.

8 So I would ask the Court -- I would renew my motion
9 on the confront and cross-examine the motions on fair say
10 [sic] concerning hearsay and submit it on the those grounds.

11 THE COURT: All right. The motion having been
12 renewed is denied with regard to confrontation clause.

13 The Rule 29 motion regarding the sufficiency of the
14 evidence -- well, even before that the chain of the custody,
15 as the Government points out, really goes to the weight and
16 not the admissibility. And with regard to the Rule 29 motion
17 itself, it is similarly denied.

18 Have you turned over to the Government your witness
19 list?

20 MR. BLATT: Yes, your Honor.

21 THE COURT: All right. And is your client on that
22 list?

23 MR. BLATT: Yes, your Honor.

24 THE COURT: All right. Well, Mr. Benjamin, I want
25 you to understand that while you certainly have the right to

1 testify if you choose to do so, you have no obligation to do
2 so under our laws.

3 Do you understand that?

4 THE WITNESS: Yes.

5 THE COURT: If you do decide upon the advice of
6 your attorneys to testify, you open yourself up to the
7 possibility of incriminating yourself not only through
8 answers to questions from the prosecution -- that is, the
9 Government -- but from your own attorney.

10 Do you understand that?

11 THE WITNESS: Your Honor, I'm ready for that.

12 THE COURT: All right. Well, I leave it to you and
13 your attorneys, but I'm forewarning you that there is that
14 possibility. And you don't have to testify unless you choose
15 to do so.

16 All right. Thank you.

17 All right. Do we have a copy of that witness list?

18 MR. BLATT: No, your Honor. I'll give it to the
19 Court right now.

20 THE COURT: Thank you.

21 MR. BLATT: Your Honor, time estimate for the
22 defense's case -- there's a possibility -- no more than
23 one day.

24 THE COURT: All right. Thank you for that.

25 All right. Well, hopefully we can also settle the

1 instructions then on Tuesday and be ready to argue the matter
2 probably on Wednesday morning if we don't have enough time
3 remaining on Tuesday.

4 All right. Thank you.

5 Yes? You have something further, Ms. Heinz?

6 MS. HEINZ: One more.

7 In speaking to defense counsel, defense counsel has
8 indicated that he does not think he will need to re-call
9 Mr. Sargon.

10 THE COURT: Oh, yes. Thank you.

11 And --

12 MR. BLATT: May I have a moment.

13 THE COURT: -- what about the other witness with
14 regard to items that you were able to go into with the last
15 witness?

16 MR. BLATT: I've already cleared that with the
17 Assistant, your Honor, United States Attorney. I will not
18 need those witnesses.

19 If I may have a moment.

20 THE COURT: Of course.

21 (An off-the-record discussion was held.)

22 MR. BLATT: There's no objection to Mr. Sargon's
23 release.

24 MS. HEINZ: With the Court's --

25 THE COURT: All the witnesses previously placed on

1 call are released.

2 MS. HEINZ: Thank you.

3 THE COURT: All right. Thank you.

4 MR. BLATT: You're welcome, your Honor.

5 THE COURT: 9:00 o'clock Tuesday. Thank you.

6 MS. HEINZ: Thank you.

7 THE CLERK: Court is adjourned.

8 (Whereupon, at 4:15 p.m., the proceeding
9 concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25