

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,	.	Criminal No. 1:01cr455
	.	
vs.	.	Alexandria, Virginia
	.	March 27, 2006
ZACARIAS MOUSSAOUI,	.	9:30 a.m.
a/k/a Shaqil, a/k/a	.	
Abu Khalid al Sahrawi,	.	
	.	
Defendant.	.	
	.	
. . . . .	.	

TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE LEONIE M. BRINKEMA  
UNITED STATES DISTRICT JUDGE

VOLUME X

APPEARANCES:

FOR THE GOVERNMENT:

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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## P R O C E E D I N G S

(Defendant and Jury in.)

THE CLERK: Criminal Case 2001-455, United States of America v. Zacarias Moussaoui. Counsel please note their appearance for the record.

MR. SPENCER: Good morning, Your Honor, Rob Spencer, David Novak, and David Raskin for the United States.

THE COURT: Good morning.

MR. MAC MAHON: Good morning, Your Honor, Edward MacMahon, with Ken Troccoli, Gerald Zerkin, Alan Yamamoto, and Anne Chapman for the defense.

THE COURT: Good morning.

Good morning, ladies and gentlemen. I see some of you had an interesting weekend. I hope everyone is feeling all right today. Again, I must ask you whether any of you feel that you might have been -- come into contact with any media, anybody see anything or hear anything about the case? No.

How about anybody try to talk to you about it? Any problems in that respect? Great.

Now, ladies and gentlemen, I try to alert juries to things that may be happening during the course of the week as much as possible, and you may recall when we were talking about the scheduling of the trial, I indicated that we would normally not have sessions on Fridays, but that if the jury were deliberating, I would like the jury to work through on Fridays. I think the

1 continuity of that process is valuable.

2 I cannot guarantee you, but I want to alert you that  
3 there is a possibility, given the rate at which the trial is  
4 moving, you might have this case for deliberation by Friday. So  
5 to the extent that you are going back to your regular jobs on  
6 Fridays, if you could give your folks a heads-up that you may or  
7 may not be there, and I will try to keep you posted as to the  
8 progress of the trial for your planning purposes.

9 Right now do any of you think you would have a problem  
10 being here on Friday? Just by raising your hand. It would give  
11 me a heads-up. No? Great.

12 Well, if you will just make those contingency plans,  
13 and, again, I will try to give you a more certain schedule as soon  
14 as I have a better sense of it.

15 All right. Any other preliminary matters before we  
16 commence the cross-examination?

17 MR. SPENCER: No, Your Honor.

18 THE COURT: All right. That's fine.

19 MR. MAC MAHON: No.

20 THE COURT: Then we need to bring the defense witness  
21 back on the stand.

22 We are continuing the cross-examination of Mr. Rigler,  
23 who was the defense's first witness, the expert witness on the  
24 status of the al-Hazmi and Midhar information.

25 MR. NOVAK: Good morning, Judge.

1 THE COURT: Good morning, Mr. Novak.

2 (ERIK T. RIGLER, Defendant's witness, previously affirmed,  
3 resumed.)

4 THE COURT: Mr. Rigler, you are under the same  
5 affirmation that you took on Thursday.

6 THE WITNESS: Thank you.

7 THE COURT: All right.

8 MR. NOVAK: Judge, may I proceed?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION (Cont'd.)

11 BY MR. NOVAK:

12 Q. Good morning, Mr. Rigler.

13 A. Good morning, sir.

14 Q. Mr. Rigler, are you able to operate your computer slide show?

15 A. If asked, I will, sir.

16 Q. I am asking. Can you, could you bring us to slide 24,  
17 please.

18 A. Would that be the correct one?

19 Q. That's perfect. I appreciate you doing that.

20 Mr. Rigler, on that slide you indicate that  
21 Mr. Al-Midhar had a multiple-entry U.S. visa; isn't that right?

22 A. That's correct.

23 Q. You don't indicate on your slide show that the U.S. visa was,  
24 in fact, a valid one; isn't that right?

25 A. It's -- it's only indicated as a multi-entry U.S. visa on my

1 slide.

2 Q. But actually the IG found that that was a legal, valid U.S.  
3 visa that allowed him to come into the country; isn't that right?

4 A. I think also the findings were that it was a false statement  
5 had been used to obtain that.

6 Q. Well, actually why don't you go to page 247. You have the  
7 report there; is that right?

8 A. Yes, sir.

9 Q. This slide is based upon the conclusions of the IG that are  
10 indicated on that page. Is that right?

11 A. It will take me just a minute, sir.

12 THE COURT: Just to remind everybody, IG is the  
13 Inspector General for the Federal Bureau of Investigation.

14 MR. NOVAK: Yes, Judge. I'm sorry for using slang.

15 THE COURT: It's all right. It's just it's been a few  
16 days, and I want to make sure that we're not losing our memory of  
17 some of that stuff.

18 MR. NOVAK: I'm becoming lazy after a couple of weeks.

19 THE WITNESS: What page was that, Mr. Novak?

20 BY MR. NOVAK:

21 Q. Page 247, sir. If you want, I could read it to you if you  
22 would like. If you look at, under -- on page 247, under where it  
23 says "O IG conclusions," the third bullet point, which corresponds  
24 to your third bullet point, it says Midhar had a valid  
25 multiple-entry U.S. visa. Isn't that correct?

1 A. Yes, sir.

2 Q. Okay. And you did not put in the fact that it was a valid  
3 visa. Is that right?

4 A. That's correct.

5 Q. In fact, nowhere in the conclusions is there any reference to  
6 any type of false statement regarding that entry in January of  
7 2000. Is that right?

8 A. No, I don't think I would agree with you on that. I do  
9 recall seeing somewhere where it was questioned regarding the  
10 decision to open it as a 199 or 265, was hinged upon the false  
11 statement.

12 Q. Well, I will just let you then take a look. You show me,  
13 this is your testimony, you show me where in those conclusions  
14 regarding the January 2000 entry that there is any indication of  
15 any illegality about his entry into the country.

16 A. I think the issue in the report was that the existence of the  
17 visa, multiple-entry visa was not disclosed to the FBI. That's  
18 the triggering point --

19 Q. Sure.

20 A. -- of communication failures between CIA and the FBI.

21 Q. Well, I completely agree with you. I think what -- you are  
22 saying something different. You are telling -- you have just  
23 testified that you think that there is something in error,  
24 something false or illegal about the nature of his entry into the  
25 United States, and, in fact, according to the IG, when he came in

1 in January of 2000, there was nothing illegal about that entry.  
2 Isn't that right?

3 A. No, I won't agree with that. If I may have a few minutes  
4 to --

5 Q. Sure, take all the time you need.

6 A. -- take another look.

7 Q. Mr. Rigler, if you want, I can help you and point you again  
8 to page 247, that's the summary of all the conclusions as it  
9 relates to the January 2000 entry. If you want to take some time  
10 and read the entirety of page 247, I would encourage you to do so  
11 and ask us -- and indicate where it is that you think it says that  
12 there was something illegal about that entry.

13 A. I don't find it now, Mr. Novak, but I do recall there was a  
14 question about the false statement on acquiring the multiple-entry  
15 visa by Midhar.

16 Q. All right. Well, I'm going to ask you then to look at 247,  
17 this summary page of all the conclusions about what you described  
18 as Opportunity No. 1. And I am asking you to tell us where in the  
19 IG's conclusions is there any reference to a false statement about  
20 the entry in January of 2000.

21 A. The page I'm referring to, Mr. Novak, is page 301, where it  
22 says Midhar falsely claimed that he had not previously applied for  
23 a nonimmigrant visa or had been in the United States. It's a  
24 footnote on page 301, about in the middle of the page.

25 Q. Sure. That has nothing to do with the January 2000 entry.



1 That's about the 2001 entry in July; isn't that correct? Do you  
2 want to take a look at that a little bit closer?

3 A. That's correct. That's what I'm talking about.

4 Q. Okay. But that's not what my question was. My question was  
5 on this slide that you're talking about, Opportunity No. 1 talks  
6 about his entry in January of 2000. Isn't that right?

7 A. Yes.

8 Q. Okay. And there was nothing, there was nothing improper or  
9 illegal about his entry into the United States in January of 2000.  
10 Isn't that right?

11 MR. TROCCOLI: Your Honor, I think that has been asked  
12 and answered.

13 THE COURT: Sustained.

14 BY MR. NOVAK:

15 Q. Your four bullet points that you have essentially track  
16 almost identically the language that's in the four bullet points  
17 on page 247. Isn't that right?

18 A. Let me take a look at 247 here.

19 Q. Sure.

20 A. They are similar, yes, sir.

21 Q. Okay. They are basically identical except for one missing  
22 word on the third bullet point. Isn't that right?

23 A. There are other ones that were cut for space, size.

24 Q. Okay. Well, can you tell us, the missing word in the third  
25 bullet point was the word "valid." Isn't that right?

1 A. That's correct.

2 Q. And who made the decision to eliminate the word "valid"  
3 before "multiple-entry U.S. visa"?

4 A. That was probably me. I prepared the PowerPoint.

5 Q. All right. Any particular reason why you decided to  
6 eliminate the word "valid" in front of "multiple-entry visa"?

7 A. Space, and also it was, the issue was whether or not the FBI  
8 failed in this Opportunity 1 of 5. It's not an issue of whether  
9 the visa was valid or not. The issue was the CIA had the  
10 information that he had the multiple-entry visa. They had that  
11 from the meeting in Kuala Lumpur, but yet they didn't pass the  
12 existence -- at the point that the FBI would take over as if the  
13 person was coming into the country or could have traveled to this  
14 country, that's the bell ringer right there.

15 Q. Sure. And my point is what exactly the information was that  
16 wasn't passed. You understand there's two parts to that, right?  
17 You understand there is whether it was passed and what the  
18 information was that was passed, right?

19 A. I understand that, yes.

20 Q. Okay. And the information was, that wasn't passed, was they  
21 had their pictures taken with other al Qaeda operatives and they  
22 entered on a valid multi-entry visa. Isn't that right? That's  
23 the information, right?

24 A. There was other pieces of the information also, that they had  
25 just come from the meeting in Kuala Lumpur where al Qaeda people

1 were present.

2 Q. Where they were photographed, right?

3 A. Yes.

4 Q. Okay. That's your first bullet point, right?

5 A. Yes, sir.

6 Q. The second bullet point is that they have gone to Bangkok  
7 with a third person. Isn't that right?

8 A. Yes.

9 Q. Nothing illegal about that. Isn't that right?

10 A. Well, I don't know whether it is legal or not. I'm only  
11 quoting what was in the Inspector General's report. I don't want  
12 to give an endorsement of legality, because the report, the  
13 purpose of the report was to examine what the FBI knew and when  
14 the FBI knew it.

15 Q. Sure. And there is nothing that the IG found that indicated  
16 any type of -- there is no reference to illegality in your bullet  
17 point that you took -- that, in fact, that's a verbatim quote,  
18 basically. Well, actually instead of "al-Hazmi," it says "they"  
19 traveled to Bangkok with a third person. Is that right? That's  
20 what's in the 247; is that right?

21 A. Yes.

22 Q. Okay. So there is nothing in there about anything being  
23 illegal about those, the fellows that went to Bangkok; is that  
24 right?

25 A. There is, there is no reference provided by the Inspector

1 General for legality about travel to Bangkok.

2 Q. Okay. And then of course then we have what we have already  
3 discussed, a valid multiple-entry U.S. visa, and then you have  
4 them actually coming into the United States in January of 2000.  
5 That's it; is that right?

6 A. That's correct.

7 Q. That's the bullet points for Opportunity No. 1 that you have  
8 described. Is that right?

9 A. On page, slide 24.

10 Q. Okay. If we can go to slide 28, please.

11 Okay. Slide 28 references what was described as  
12 Opportunity No. 2 regarding the fact that they resided in a  
13 residence as boarders for an FBI asset, an informant. Is that  
14 right?

15 A. That's correct.

16 Q. Okay. And the point that I think that you made was that  
17 the -- the question is whether the informant could have supplied  
18 any information about these fellows. Isn't that right?

19 A. I'm sorry, say that again?

20 Q. The point of missed Opportunity No. 2 that you are indicating  
21 from the IG's report is that the informant was not questioned  
22 about these two fellows, al-Midhar and al-Hazmi; is that right?

23 A. He provided some information, but he was not questioned in  
24 detail regarding those two individuals.

25 Q. Well, actually it says on page 253 what actually the

1 informant did say about these two gentlemen when he was asked by  
2 the FBI. Isn't that right? Do you see the last full paragraph on  
3 page 253?

4 A. The last paragraph, you mean, where it starts --

5 Q. The last full paragraph, where it starts off, "The asset was  
6 asked what information he provided to Stan" -- referring to the  
7 FBI agent handler -- "about al-Hazmi and al-Midhar before  
8 September 11." Do you see that paragraph?

9 A. Yes, sir.

10 Q. Okay. And in that, when he was interviewed, the informant  
11 indicated that al-Hazmi and al-Midhar were quiet tenants who paid  
12 the rent and were good Muslims who prayed a lot at the mosque,  
13 basically; is that right?

14 A. I can read the paragraph for you if you like.

15 Q. Sure. Go ahead. Why don't you go ahead and do that.

16 A. The last paragraph on page 253 that starts, "The asset was  
17 asked what information he provided to Stan about Hazmi and Midhar  
18 before September 11th. In these interviews the asset provided  
19 conflicting accounts regarding the information on Hazmi and Midhar  
20 that he had disclosed to Stan."

21 Q. I'm sorry, I directed you to the wrong paragraph. The  
22 paragraph above that, I'm sorry. "After the September 11th  
23 attacks."

24 A. "After the September 11th attacks, the FBI interviewed the  
25 asset and asked about the conduct and activities of Hazmi and

1 Midhar while they were living with the asset. In these  
2 interviews, the asset described them as quiet tenants who paid  
3 their rent. He said they were good Muslims who regularly prayed  
4 at the mosque. The asset said that Hazmi and Midhar often would  
5 go outside when using their cell phone -- cellular telephones.  
6 The asset insisted that he noted no indicators of nefarious  
7 activity by Hazmi or Midhar that should have resulted in his  
8 reporting their identities to the FBI."

9 Q. So the asset, the informant, had no information about any  
10 illegality committed by al-Hazmi and al-Midhar; is that correct?

11 A. I can just see that, like you, in that paragraph.

12 Q. And that's what it said, it said no indicators of nefarious  
13 activity; is that right?

14 A. That's correct.

15 Q. And you didn't indicate that in your slide, did you?

16 A. No, sir.

17 MR. TROCCOLI: Object, Your Honor. The point was the  
18 FBI didn't even know they were here.

19 THE COURT: All right, look. I think rather than this  
20 type of examination, a summary witness, and that's all that  
21 Mr. Rigler is, he has no independent knowledge other than what he  
22 got from reading this report, the most appropriate thing to do is  
23 to move the report into evidence. The jury can evaluate the  
24 adequacy of the summary by looking at the actual thing that was  
25 summarized. Does anyone have any objection to proceeding that

1 way?

2 MR. NOVAK: No objection at all, Judge. We prefer to do  
3 that.

4 MR. TROCCOLI: I have no objection to moving in chapter  
5 5. We have actually marked it as Defense Exhibit 952, and  
6 attached to chapter 5 we also are moving in Defense Exhibit 952 --  
7 it is 952A, and 952B is a name key, because chapter 5 uses  
8 pseudonyms throughout, and I have been provided an unclassified  
9 list of who the pseudonyms match up with in terms of their real  
10 names, and that's 952B.

11 THE COURT: All right. Any objection?

12 MR. NOVAK: Well, I don't have 952B. Can I see it?

13 MR. TROCCOLI: With that, Your Honor, we would withdraw  
14 our request to have the slides be sent back to the jury, because  
15 now they would have the chapter itself.

16 MR. NOVAK: May I just show this to --

17 THE COURT: Yes.

18 MR. NOVAK: Judge, may I just have a moment to confer?

19 THE COURT: Yes.

20 MR. NOVAK: While we're reviewing that, may I just  
21 proceed with my examination, Judge? I still think I have the  
22 ability to point out, I mean, they have put on what they thought  
23 were the bullet points that they thought were relevant, and I  
24 think I have the right to ask -- there are other bullet points  
25 that he did not bring out, and I think I have the right to examine

1 him on the point, to make those points to the jury.

2 THE COURT: I'm going to allow -- this is  
3 cross-examination, and leeway is allowed on cross-examination, but  
4 what I'm suggesting is let's not overdo it, because, again,  
5 ultimately the jury will have the ability to evaluate the accuracy  
6 of the summary by reading the actual material that was summarized.

7 MR. NOVAK: Sure. And I just want to be able to point  
8 out to the jury through this exam what the relevant ones, points  
9 are that were missed, Judge.

10 THE COURT: All right. Let's move on.

11 MR. NOVAK: I'm also told we have no objection to that  
12 exhibit, Judge.

13 THE COURT: All right. Well, now, 952, which is chapter  
14 5, that's the chapter in the Inspector General for the Federal  
15 Bureau of Investigation's report, will go into full evidence, so  
16 you can read the entire chapter for yourselves if you wish to.

17 952B is a key that will explain to you who "John" and  
18 "Mary" and these various people are, to the extent that is  
19 possible. There had been an objection to 952A. However, I find  
20 that that area was opened up on cross, and so 952A will also go in  
21 as that one-page exhibit that had been tendered on Thursday to  
22 which an objection had been noted.

23 (Defendant's Exhibit Nos. 952A and 952B were received in  
24 evidence.)

25 THE COURT: All right, let's proceed with the



1 cross-examination.

2 MR. TROCCOLI: Thank you, Your Honor.

3 MR. NOVAK: Judge, may I be heard on that point?

4 THE COURT: No. You opened the door, so it is in. Go  
5 ahead.

6 BY MR. NOVAK:

7 Q. Mr. Rigler, directing your attention then to the top of page  
8 254, the report also indicated that the FBI agent also was  
9 interviewed about what the informant had told him about those two  
10 gentlemen. Isn't that right?

11 A. At the top of page 254?

12 Q. Yes.

13 A. It says that he refused or declined, he declined to be  
14 interviewed by the Inspector General. He retired.

15 Q. Right. But it also indicates, it also says his FBI  
16 supervisors had interviewed him about the asset in the past.  
17 Isn't that right?

18 A. Yes.

19 Q. Okay. And what he had told his supervisors in the past was  
20 that the informant did tell him that there were two Saudi  
21 nationals that were renting rooms off of him; isn't that right?

22 A. May I take a minute to read?

23 Q. Sure. Take your time.

24 THE COURT: While that is being done, Mr. Troccoli,  
25 Exhibit 950A, is that the same as 952A? I think my clerk tells me

1 it was 950A to which the objection was made.

2 MR. TROCCOLI: That's correct. 950A was the last slide  
3 of Mr. Rigler's PowerPoint --

4 THE COURT: All right.

5 MR. TROCCOLI: -- which we will, we will show the jury  
6 on redirect.

7 THE COURT: What is 952A?

8 MR. TROCCOLI: 952A is chapter 5 of the Inspector  
9 General's report, which the Court, I believe, has admitted  
10 already. 952B is the name key for chapter 5.

11 THE COURT: What was 952 by itself?

12 MR. TROCCOLI: There is no 952. It is 952A.

13 THE COURT: Sorry, it is A and B that are in, okay. And  
14 950A would also be in then.

15 MR. TROCCOLI: Thank you, Your Honor.

16 THE WITNESS: Mr. Novak, I have read the paragraph at  
17 the top of page 254. What was the question again?

18 BY MR. NOVAK:

19 Q. Well, essentially the handling FBI agent who was, who they  
20 refer to as "Stan" in this report, he reports to his supervisors  
21 the same information that the asset had earlier said, what you  
22 summarize in that last paragraph that I had you read, that they  
23 were good Muslims, that they prayed a lot, their names were Nawaf  
24 and Khalid, that they were here on a valid visitor's visa, and  
25 that there was nothing suspicious or otherwise worthy of further

1 scrutiny. Isn't that right?

2 A. Well, I have to point out again to clarify here, he was -- he  
3 refused to be interviewed by the Inspector General, and he retired  
4 on the spot and has not been interviewed subsequent to this.

5 Q. Well, I understand that. I think my question to you,  
6 Mr. Rigler, though, what it was that he had told his FBI  
7 supervisors in the past about the asset.

8 A. Yes. And he also told them that he never conducted any  
9 investigation regarding these two individuals.

10 Q. He said that he had -- why don't you read that paragraph.

11 Actually, you know, I will strike that, Judge. Since we  
12 have entered in the report, I think I am going to exhaust your  
13 patience if I do that.

14 I think I will move on to slide 32. Now, in slide 32,  
15 this talks about Opportunity No. 3, and you indicate that there is  
16 a source that identified Khallad as being present in one of the  
17 Malaysia photographs. Is that right?

18 A. That's correct, yes.

19 Q. I want to direct your attention to page 255, footnote 195,  
20 please. Do you have that, sir?

21 A. Yes.

22 Q. And in that footnote, it actually indicates that what the IG  
23 found was that it later turned out that the informant who, the  
24 source who identified the photograph of Khallad actually did a  
25 misidentification, that the person that was identified in the

1 photograph was actually Nawaf al-Hazmi. Isn't that right?

2 A. Again, I am going to need a minute to review this, Mr. Novak.

3 Q. Sure, take your time. It is actually three different  
4 footnotes. We will start with that one.

5 Judge, actually, this is one sentence. May I ask the  
6 witness just to read that one sentence?

7 THE COURT: Go ahead.

8 BY MR. NOVAK:

9 Q. Do you just want to read the first sentence there in footnote  
10 195?

11 A. "Information developed after September 11th, 2001 revealed  
12 this was a misidentification and the person identified as Khallad  
13 was actually al-Hazmi."

14 Q. And on page 263, footnote 204, the Inspector General again  
15 said that that was a misidentification. Isn't that correct?

16 A. Well, this is the part in the report where they were  
17 identifying photos as photo No. 1, photo No. 2, and so on, and  
18 they are referring, the corresponding note 3 -- correction, 204,  
19 refers to the individual found in photograph No. 1. There was  
20 initially some confusion, but Khallad was subsequently identified  
21 in the photographs by sources shared by CIA and FBI.

22 Q. Well, Mr. Rigler, isn't it true that the Inspector General in  
23 three different footnotes indicates that this January the 4th  
24 identification was wrong? It was an identification, the person  
25 that the source said was Khallad was actually Nawaf al-Hazmi?

1 A. In the January initially, yes, there was confusion, and I  
2 think it hinged on the first names, "Khallad" being similar to  
3 "Khalid."

4 Q. Okay. But it was actually a misidentification -- it wasn't  
5 confusion; it was a misidentification; isn't that right?

6 A. Which was later corrected to be Khallad actually being at  
7 that meeting.

8 Q. Well, that's not what my question is. My question to you was  
9 whether, in fact, the identification of Khallad was a  
10 misidentification.

11 A. There is some indication of a misidentification early in the  
12 January 2000 time frame related to that meeting.

13 Q. And at no point did you reference that in your summary; is  
14 that correct?

15 A. No, sir.

16 Q. All right. Now, if we could go to page -- or slide 51,  
17 please.

18 THE COURT: We can't fast-forward this any better than  
19 this, without going through the whole thing technologically? No?  
20 All right.

21 THE WITNESS: I will go faster.

22 MR. NOVAK: I will ask the question, Judge. I think we  
23 can achieve the same thing just as fast.

24 BY MR. NOVAK:

25 Q. On slide 51, you indicate that there were watchlist versions

1 for the State Department, Immigration, and Customs. You indicate  
2 for the State Department VISA/VIPER and TIPOFF, for Immigration  
3 you indicate LOOKOUT, and you also indicate for Customs TECS. Is  
4 that correct?

5 A. That's correct.

6 Q. And there was no mention of any FAA no-fly list; is that  
7 correct?

8 A. Not at this point in August 22 on the slide that I prepared.

9 Q. Sure. And the reason for that, of course, is that there is  
10 no indication in the IG report of any information about any  
11 connection of these gentlemen to an aviation plot. Is that right?

12 A. Well, chapter 5 dealt largely with the information transfer  
13 from CIA to FBI, and then the development of sufficient  
14 information to place names on a watch list. The OIG found that  
15 they had the information all along but didn't put them on the  
16 watch list until the August 22nd-23rd time frame, 2001.

17 Q. So your answer is that there is no information about a  
18 connection between the two of them with a civil aviation threat,  
19 is that right, which is what my question was?

20 A. I'm not sure exactly what you mean, as far as placing them on  
21 a watch list to prohibit their travel or to track these  
22 individuals, is that your question, or was there information --

23 Q. Simple question: There is no information within that chapter  
24 5 connecting Khalid al-Midhar and Nawaf al-Hazmi to a civil  
25 aviation threat; is that correct?

1 A. No, I don't agree with that. Chapter 5 deals heavily with  
2 why they were here. They came to this country to hijack planes  
3 and murder people. They didn't come for Disney.

4 Q. Where does that say that, sir?

5 A. That's what the chapter 5 is about.

6 Q. Where does that say that in chapter 5, that they were here  
7 for doing that?

8 A. Well, they came to San Diego, they took flying lessons, one  
9 of them went on to Phoenix and lived with Hani Hanjour. I don't  
10 know what else to, how to explain the chapter 5.

11 Q. Mr. Rigler, Mr. Rigler, could you tell me on what page in the  
12 IG report is there any information that connected those gentlemen  
13 to a hijacking mission? Where in chapter 5 does it say that, sir?

14 A. The OIG's report is to examine the handling by the FBI and  
15 the CIA of these two individuals. These men were both killed in  
16 the crash at the Pentagon, so the thrust of the investigation was  
17 no longer on investigating them. The chapter 51 is investigating  
18 CIA and FBI.

19 MR. NOVAK: Judge, I move to strike his answer. He is  
20 not being responsive to the question, which was he said that there  
21 is, there is information --

22 THE COURT: All right. Mr. Rigler, the question that  
23 you are being asked is a specific question, and that is whether or  
24 not you found in reading chapter 5 any specific reference, not an  
25 inference, but a specific reference that linked those two

1 individuals with an aviation plot. That is the question.

2 THE WITNESS: Yes, ma'am.

3 And you're correct, Mr. Novak, no, I don't recall seeing  
4 that in there.

5 BY MR. NOVAK:

6 Q. Thank you.

7 Now, if we can go to -- on slide 54, I don't know if  
8 we're able to bring that up or not, but you indicate on there that  
9 the woman indicated as "Donna" had marked her lead as being  
10 routine, isn't that correct, her electronic communication?

11 A. Yes, that's correct.

12 Q. At the same time, however, you know from reading page 295  
13 that she also called the fellow "Chad" in the UBL Unit to indicate  
14 that he should deal with it with a sense of urgency. Isn't that  
15 right?

16 A. May I take a minute for that?

17 Q. Sure, page 295. I will actually read the page to you if you  
18 don't mind, Mr. Rigler. Halfway -- the last full paragraph near  
19 the end, it says, "Donna told the IG that she did not normally  
20 telephonically contact the field on these types of issues, but  
21 there was some urgency to her request because the FBI did not want  
22 to lose the opportunity to locate Midhar before he left the United  
23 States."

24 Isn't that what it says?

25 A. That's what it says, yes.



1 Q. All right. Now, also, by the way, you indicated that you  
2 reviewed the underlying documents in this case; isn't that right?

3 A. In sum. There are a lot of documents here.

4 Q. So you didn't review all the documents; is that right?

5 A. No.

6 Q. All right. Did you review Defense Exhibit 469, which I would  
7 ask -- do we have 469?

8 May we show this to the witness, please, Your Honor?

9 THE COURT: Yes.

10 THE WITNESS: Thank you, Mr. Wood.

11 BY MR. NOVAK:

12 Q. Did you review that document, Mr. Rigler?

13 A. I'll take just a minute, sir.

14 Q. Oh, I'm sorry. Excuse me.

15 A. I believe I have seen this before, Mr. Novak.

16 Q. Okay. If we could go to the bottom of page 3, please. And  
17 that's the document that's already been introduced into evidence,  
18 that being an August 28 electronic communication by Dina Corsi.  
19 Isn't that right?

20 A. Yes, the routine one that was sent August 28th.

21 Q. Sure. And on the bottom of page 3, Ms. Corsi indicates that  
22 the goal of the investigation is to locate al-Midhar, determine  
23 his contacts and the reasons for his being in the United States,  
24 and potentially conducting an interview of him; is that right?

25 A. Yes, an interview.

1 Q. That's the reason they were looking for him, just to  
2 interview him; isn't that right?

3 A. That's what this communication says.

4 Q. Okay. And above that it indicates that the reason that they  
5 are pursuing him is his association with individuals related to  
6 the attack on the USS Cole. Isn't that right?

7 A. That's correct.

8 MR. NOVAK: Thank you.

9 Judge, I have no further questions of the witness.

10 THE COURT: All right. Any redirect?

11 MR. TROCCOLI: Just very briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. TROCCOLI:

14 Q. Good morning, Mr. Rigler.

15 A. Good morning, sir.

16 Q. Let me just ask you this, first: Were you hired to read this  
17 report to the jury or summarize it?

18 A. To summarize it, sir.

19 Q. Were you hired to do an independent investigation, or had the  
20 Inspector General already done that?

21 A. No, I was not hired to do the investigation.

22 Q. Mr. Novak asked you about Khalid al-Midhar's valid  
23 multi-entry U.S. visa in January of 1999. Was the point that the  
24 Inspector General was making that they just weren't watch listed,  
25 not that the valid -- the visa itself was valid?

1 MR. NOVAK: Objection. Leading.

2 THE COURT: You are leading the witness. Objection  
3 sustained.

4 MR. TROCCOLI: Thank you, I will move on.

5 BY MR. TROCCOLI:

6 Q. Mr. Novak also asked you about "Donna" and the urgency of her  
7 request to the New York field office. Could you please turn to  
8 page 297 of the Inspector General's report, please.

9 A. I have 297, sir.

10 Q. Can you please read the second full paragraph on 297 to the  
11 jury, in which the Inspector General speaks about that.

12 A. "While 'Donna' had relayed urgency to opening the  
13 investigation in her telephone conversation with 'Chad' and in her  
14 cover e-mail, she designated the EC precedent as routine, the  
15 lowest precedence level. She explained this by saying this case  
16 was no bigger than any other intelligence case. She also told us,  
17 however, that there was a time consideration because Midhar could  
18 be leaving the United States at any time, and that is why she had  
19 personally contacted 'Chad.'"

20 MR. TROCCOLI: Your Honor, may I have a moment?

21 THE COURT: Yes, sir.

22 MR. TROCCOLI: Your Honor, I'd ask Mr. Rigler now to  
23 publish his final exhibit, and I have a question before he does  
24 so.

25 THE COURT: 250A?

1 MR. TROCCOLI: It would be 250A, correct.

2 THE COURT: All right.

3 THE WITNESS: May I ask that you cover the screen until  
4 I get to that slide, please?

5 BY MR. TROCCOLI:

6 Q. When you are at that slide, Mr. Rigler, let me ask you a  
7 question before you display it to the jury, please.

8 A. Yes, sir, I'm there now.

9 Q. Did there come a point when the Inspector General provided  
10 the FBI with a review or a draft or a final, some product of its,  
11 of its Inspector General report?

12 A. Yes. The FBI participated in the report preparation and had  
13 input throughout the stage, and, in fact, agents who --

14 Q. Well, my question, Mr. Rigler, not to cut you off, but did  
15 the FBI have an opportunity to review the findings of the  
16 Inspector General?

17 A. It did, yes, sir.

18 Q. All right. Can you please display the final slide and tell  
19 us what the FBI itself said.

20 A. In a letter to the Inspector General from the FBI dated June  
21 2004, "On behalf of the director, I want to thank you and your  
22 staff for this report. The FBI values the Office of the Inspector  
23 General's input as a comprehensive independent assessment of our  
24 operations and as a means of identifying weaknesses that require  
25 corrective actions to strengthen our operations.

6 THE COURT: All right. Any recross?

8 THE COURT: All right. Is anyone going to call  
9 Mr. Rigler again during the course of this phase of the  
10 proceedings?

12 MR. TROCCOLI: No, Your Honor.

16 THE WITNESS: Thank you, Your Honor.

18 | \* \* \* \*

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

25

/s/  
Anneliese J. Thomson