

United States District Court

NORTHERN

DISTRICT OF

TEXAS

UNITED STATES OF AMERICA

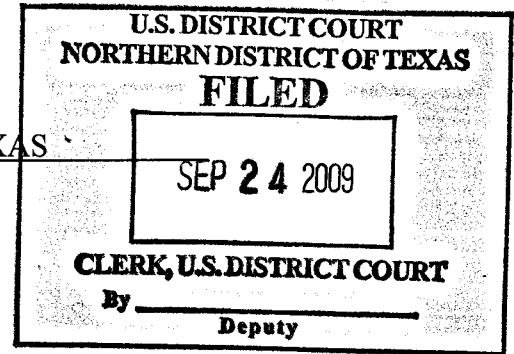
V.

HOSAM MAHER HUSEIN SMADI

CRIMINAL COMPLAINT

CASE NUMBER: ~~M-~~

3:09-MJ-286



I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 24, 2009, in Dallas County, Dallas, Texas, in the Northern District of Texas, defendant(s) did,

knowingly, and without lawful authority, attempted to use a weapon of mass destruction against any person and property within the United States, and a facility of interstate or foreign commerce was used in furtherance of the offense

in violation of Title 18, United States Code, Section(s) 2332a(a)(2)(A).

I further state that I am a(n) Supervisory Special Agent of the Federal Bureau of Investigation and that this complaint is based on the following facts:

See attached Affidavit of Supervisory Special Agent Thomas D. Petrowski, Federal Bureau of Investigation, which is incorporated and made a part hereof by reference.

Continued on the attached sheet and made a part hereof: X Yes No

Thomas D. Petrowski
Signature of Complainant
THOMAS D. PETROWSKI
Supervisory Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence, on this 24th day of September, 2009, at Dallas, Texas.

HONORABLE IRMA C. RAMIREZ
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Irma C. Ramirez
Signature of Judicial Officer

AFFIDAVIT

I, Thomas D. Petrowski, a Supervisory Special Agent with the Federal Bureau of Investigation (FBI), being duly sworn, deposes and states:

INTRODUCTION

1. I am a federal law enforcement officer within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is a government agent engaged in enforcing criminal laws. I have been a Special Agent with the Federal Bureau of Investigation (FBI) since 1995. I currently supervise the Counterterrorism - 2 (CT-2) squad of the Dallas FBI office. Your affiant currently investigates and supervises terrorism matters, among other violations of Federal law, and participates on the Joint Terrorism Task Force. I have experience in and utilized various methods of investigation, including, but not limited to, electronic and visual surveillance, general questioning of witnesses and subjects, the use of search warrants, the use of confidential human sources, and the use of undercover employees.

2. I submit this affidavit in support of an application for a federal arrest warrant for HOSAM MAHER HUSEIN SMADI, date of birth June 5, 1990, Alien Registration Number A097683198. For reasons set forth below, I believe there is probable cause that SMADI, knowingly and intentionally committed the following offense against the United States, to wit: 18 U.S.C. § 2332a(a)(2)(A), attempting to use a weapon of mass destruction.

3. I have personally participated in the investigation set forth below. I am familiar with facts and circumstances of the investigation through my personal participation, from discussions with other Special Agents of the FBI, language analysts, and other law enforcement officers, and from my review of records and reports relating to the investigation. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by another FBI agent, law enforcement officer or language analyst who may have had either direct or hearsay knowledge of that statement and to whom I or others have spoken or whose reports/records I have read and reviewed. Such statements are among many statements made by others and are stated in substance and in part unless otherwise indicated.

INVESTIGATION TO DATE

4. SMADI was discovered by the FBI within an online group of extremists; an FBI undercover employee (hereafter "FBI UCE1") was part of that group. Among many others in the group who espoused and endorsed violence, SMADI stood out based on his vehement intention to actually conduct terror attacks in the United States. After SMADI

repeated these comments, FBI UCE1 made contact with him. FBI UCE1 had more than 10 communications with SMADI over approximately two months. During those interactions, SMADI made clear his intention to serve as a soldier for Usama Bin Laden and al-Qa'ida, and to conduct violent Jihad (acts of terrorism in the name of Islam). After assessing SMADI to likely be a legitimate threat, FBI UCE1 introduced SMADI to a second FBI undercover employee (hereafter "FBI UCE2") who was acting in the undercover role of a senior member of an al-Qa'ida "sleeper" cell. From early March to the present, FBI UCE2 has communicated with SMADI more than 40 times. In those communications, SMADI has continued to indicate his intention to commit an act of terrorism in the United States. To further support this undercover operation, a third FBI undercover employee (hereafter "FBI UCE3") was introduced to SMADI in the undercover role of a lower level operational soldier in the "sleeper" cell. FBI UCE3 has communicated with SMADI more than 15 times.

5. During communications with all three FBI UCEs, SMADI has repeated common themes. Your affiant believes that SMADI's statements indicate SMADI's wish to commit violent jihad within the United States. All conversations or other communications with SMADI have been in Arabic; SMADI's native language. All three FBI undercover employees are native Arabic speakers.¹ Examples of translated statements made by SMADI include the following:

- SMADI stating his desire and intention to commit Jihad, to FBI UCE2 in March 19, 2009:

"I truly say it that my dream is to be among God's soldiers, first for the support of Islam and my beloved Sheik Usama, may God give him long life. I don't know what is in me, but I love him as I love my father. I don't want to add to this.

Now my brother, the point is that thousands of Muslims have been killed in Gaza at the hand of Jews-the dogs-and the silent disloyal backsliders. Those are the Arab kings and, God willing, their end will be the hanging rope and hell.

Their silence and fight against the Sheik mean that they are backsliders along with the enemy in a world plan to destroy Islam, Muslims and to seize their lands for the benefit of the Jews and for the love of infidelity.

¹ Information in brackets, within quote, are translator comments added for informational purposes.

By God who created me, there will not be a retreat at all, even if they take me to Guantanamo for the rest of my life. I will never forget Iraq, Palestine, Afghanistan, or any land where the call of, 'there is no God but God, Muhammad is God's Messenger' is raised.

Who will assist the brothers, the infants, the women who became widows and their orphan children? Who would return these lands before religion and blessing disappear? Who would cause these tyrants to fall?

In the name of God, the Gracious and Merciful, this is my vow to you, my brother, that I am ready. And if you were a lover of Jihad as I am, then, by God, I am ready for the Jihadi life. What you will see of me will please you and your Commander.

The reign is only for the living and powerful God. I ask Him that he would be our Caliph and ruler."

- SMADI stating his desire to attack Romans [Christians] and Jews, to FBI UCE2 in March 29, 2009:

"My brother in God, God and His angels are with us. With the permission of the Almighty Lord of the Worlds, we will have victory and allies from God Almighty. He is the powerful and helpful. Victory is coming, is coming to defeat the Romans and for the destruction of the Jews. God is Most Great. We shall attack them in their very own homes. Brother, by God, we shall attack them in a manner that hurts, an attack that shakes the world. Oh Brother, let the backsliders know that the time for their destruction has come."

6. SMADI has repeatedly indicated to both FBI UCE2 and FBI UCE3 that he came to the United States with the purpose of committing "Jihad for the sake of God." For example, on April 22, 2009, after telling FBI UCE3 of his purpose in coming to the United States, SMADI clarified to FBI UCE3 that "to sacrifice in person is the best type of Jihad." Based on your affiant's experience and training, your affiant believes that SMADI is interested in violent jihad against those he deems to be enemies of Islam; SMADI views the United States as an enemy of Islam.

7. FBI UCE2 and FBI UCE3 each have repeatedly encouraged SMADI to reevaluate his interpretation of Jihad, counseling him that the obligations a Moslem has to perform Jihad can be satisfied in many ways. Every time this interaction occurred, SMADI aggressively responded that he was going to commit significant, conspicuous violence as his Jihad. The following is a specific exchange between UCE2 and SMADI detailing this interaction.

- UCE2 counseling SMADI on Jihad in April 4, 2009:

"You know that your desire for Jihad is a serious and top secret matter. It requires great effort and preparation. The operation that we are planning will be, with God's help, a big and painful attack that requires the participation of many brothers like you that God placed in a unique and wonderful place, that is, their presence in the very home of the enemy and behind the ranks of infidels. Brother, do you have any doubt, hesitation, or fear of what you are doing? I beg you and I make God Almighty your witness and I ask you to swear by the Almighty and by your respected mother who is with God, may God forgive her, that you tell me frankly. Tell me now before we entrust you with what is important, secret, dangerous, and may lead to harming other brothers....

Therefore, tell me if you have any hesitation, doubt, or fear. If that is the case, we would depart now as friends and brothers in Islam without any anger at all. In this case, you may perform Jihad in a less dangerous way, such as Jihad using your money or in training yourself to avoid sins, indignities, and desires. If that is your choice, we would have known you enough, and we trust that you are a true Muslim and would not reveal our secrets and what you have discovered about us and our methods of communication. Then, my question to you is, what Jihad do you seek? Is it the Jihad using your person in the battle against the infidels and the enemies of Islam or the Jihad of giving money and assistance, or the Jihad of a soul that seeks perfection?"

- SMADI's response to UCE2's counseling in April 7, 2009:

"Just as I said in the beginning, my way is with you to paradise, the way of the righteous people. Oh my brothers! O how I love, my brothers, to perform Jihad with you in the same rank, in the same field, against the same enemy. I have chosen to be a Mujahid with my self, blood, soul, and body. [That is] more precious to me than this world and its money, women, and amusements. By God, I shall support Osama, Abu Mus'ab al-Zarqawi [the leader of al-Qa'ida in Iraq from late 2004 until his death in June, 2006], al-Rantisi [the founder of HAMAS], and all who performed Jihad in this world. I shall expel the Jews from the land of holy Jerusalem, land of the two tributaries [Iraq], and Iraq. We shall destroy all the Romans and all the religion's enemies. I shall kill and behead the backslider operatives in the Levant and land of Muslims. Do you know what my reward is? It is the reward from God the King, God Almighty. Woe and misery to him who would not run for it. His mother would have cursed him the day she carried him in her womb."

8. On May 12, 2009, while meeting with FBI UCE3 in a hotel in Dallas, SMADI was asked what he would do if he had never met the al-Qa'ida "sleeper" cell that FBI UCE3 supposedly represented. SMADI replied that he would keep looking for such an entity to be part of, even if it meant him having to leave the United States and go to Palestine and join Hamas or go back to Pakistan and join the Taliban. SMADI specified that he prayed when he came to the United States that he would "join the Mujahidin...and they struck it, ['it' refers to the United States]...Osama's group...because I feel that all Osama's group and everyone around them are a righteous group..." SMADI told UCE3: "I want to destroy...targets...everything that helps America on its war on Arabs will be targeted..."

9. On June 24, 2009, while meeting with FBI UCE3 in a hotel in Dallas, Texas, SMADI stated he had a new idea to target the buildings belonging to the biggest credit card companies such as American Express or Visa. SMADI stated the credit card is what drives America and he desired to attack one of the main locations where the building accommodates the management and the administration. When asked by UCE3 how he would do the attack, SMADI responded "timed explosives ... or remote detonation." SMADI further stated "we will take it inside the building...and with God's permission...it will be a strike to the economy." SMADI addressed the topic of physical security at the buildings by giving the example: "we will have a clever idea...I have a car...this car will be the bomb...but there will be a routine before this car...I would have entered the building prior...to see how the security is, how they search ...what type of security...so if a bomb is planted, for instance, in the car, timed or to detonate remotely...a very fast operation, smart, and decisive."

10. During the same meeting on June 24, 2009, SMADI utilized his newly purchased Dell laptop computer to identify and map possible targets, including military recruitment centers. The targeting of recruitment centers was based upon discussion of the recently reported Little Rock, Arkansas attack. As such, SMADI identified the address of a National Guard Armory, located in Dallas, Texas. SMADI and UCE3 traveled by car to conduct a visual surveillance of the Armory, which was deemed an unacceptable target. Subsequently, while continuing to drive and discuss potential targets, SMADI asked UCE3: "what do you think of the airports?" UCE3 asked SMADI what he wanted to do, to which SMADI stated, "The Dallas airport, for example...I expect it to be very easy...the restroom is always the best thing...if I go up on...and put a case in the ventilation place...it will not be visible until the explosion time." SMADI further stated, "...if we have two timed bombs...we took the first one...to the bank...and the timing between the two bombs...you can say 15 minutes." While traveling to the airport to conduct visual surveillance, UCE3 and SMADI discussed several financial institutions they saw along the way. After seeing a bank near the airport, SMADI stated, "we'll go to the airport...it will be two operations...they will be devastated over there, then they will be devastated over here, after the second explosion...there will be 10-15 minutes difference between them." When specifically discussing the bank, SMADI

stated, "...it's a big bank...it's very successful...if we bring it to the ground, it will be a powerful hit...it will be a perfect strike...." SMADI detailed his idea for the bombing attacks at the airport and the bank by stating, "...there will be a tactic to have one explode before the other, and the second one to explode after it so that we create chaos...and it is better that the bomb in the bank explodes [second]...the bomb at the airport, to explode first."

11. On July 4, 2009, UCE2 again counseled SMADI to reevaluate his interpretation of Jihad, offering to SMADI that the obligations a Moslem has to perform Jihad can be satisfied in many ways. SMADI, again, communicated his continuing commitment for violent Jihad to UCE2. The following is a specific exchange between UCE2 and SMADI detailing this interaction.

- UCE2 again counseling SMADI on Jihad on July 4, 2009:

"...it is my duty to emphasize to you what I clarified earlier. If you have any hesitation in this path, now is the time to change your mind. If you went forward, there would not be going back afterwards. And as I discussed with you previously, there are different types of Jihad that are accepted by the Almighty and supported by Muslim scholars, other than the Jihad by soul and person. You know that I love you as a brother in God and I need to make it clear to you, just like a father and a leader does. There are many Muslims who, God willing, will be granted paradise by performing Jihad through good deeds or by purifying their souls. I would like to learn from you one more and final time if you are truly and definitely determined on Jihad with your person. If your response is positive, the necessary supplies will definitely reach you. Otherwise, our relationship would change to brotherhood in Islam. And then, we would always love you as a brother in Islam and you will be able to help us and the cause in many different ways. Please clarify your final decision to us."

- SMADI's response to UCE2's counseling on July 8, 2009:

"Thank you for your advice and your reiteration the question one more time about my desire in going forward towards this path. Thanks to God, I have relied on Him in going through this path sooner or later. Thanks to God that he facilitated this to me through you. Thanks to God, I am happy and proud to be one of your hands. This is my decision. I hope you accept me as a brother amongst you as our path is one."

12. On July 16, 2009, SMADI contacted UCE2 and made it known that he had changed his mind regarding the targets he previously discussed with UCE3. SMADI remarked that the security at the airport was too strong and he decided it was not a viable target. SMADI directed UCE2 to a larger building containing a bank. SMADI stated:

"... I have decided to change the target. Let us make it the big fish instead of the smaller fish; they are all fish in one sea - the main bank for the city and not the branch that we had identified. God willing, the strike will be certain and strong. It will shake the currently weak economy in the State and the American nation because this bank is one of the largest banks in this city.

Name of the city: DALLAS

Name of the state: TEXAS

Name of the bank: Wells Fargo

...The bank's exterior is made of glass. The bank has billions of dollars. Let's say that the bank has collapsed and they took the money out. The losses will be excessive in credit card information. Millions of people would incur losses: unemployment, poverty, hunger, and a strike to the head of the government. Don't forget the psychological impacts for the loss of this beautiful building ...Of course, our joy will be in the success of this operation."

13. During the same July 16, 2009 communication to UCE2, SMADI advised that he (SMADI) has been doing research from his home and also expressed the necessity for research prior to the attack:

"But now, it is your decision. I present to you a small research for the location and place from my own home. The big research, such as examining the interior of the building, the security systems, and the entry ways to execute and plant has not started."

14. On July 21, 2009, UCE3 traveled to Italy, Texas and picked up SMADI. SMADI directed UCE3 to drive to a Wells Fargo bank located in downtown Dallas, Texas. SMADI and UCE3 then drove to 1445 Ross Avenue, Dallas, Texas, where the Fountain Place office building is located. The Wells Fargo bank is co-mingled within the large office building at Fountain Place. While at this location, SMADI was dropped off by UCE3 and SMADI then conducted his own reconnaissance of the building. SMADI subsequently communicated to UCE3 that he had located a bathroom on the basement level which would be a good location to "plant a bomb." SMADI specified the bathroom had a locking door and a drop-ceiling he accessed by standing on the toilet seat.

15. Subsequent to the July 21, 2009 meeting with UCE3, SMADI communicated multiple times with UCE2 regarding the Fountain Place target as well as a potential second target he researched. SMADI identified the second target as another bank located in downtown Dallas, Texas. In an August 22, 2009 communication to UCE2, SMADI specified his final decision for selecting a target to attack:

"The second target consists of a large bank but the first target [Fountain Place building] is a commercial center and contains bank branches. I like both targets but the first target is more suitable for the operation even though I would have preferred that the attack be accomplished on both targets. However, God helped us to choose the first target that contains five banks and is made of glass according to the international standards. Let us rely on God. Lord, give us success and overshadow our enemy. Amen.

As for both targets, the casualty figures will be high because both targets have about the same size but different shapes. And since I examined the first target and identified the suitable location for the planting [of the bomb] in that building, we shall not waste this opportunity, God willing. Lord, give us success and achievement of our aim from yours. Amen."

16. On August 26, 2009, while meeting with FBI UCE3 in a hotel in Dallas, Texas, SMADI discussed the logistics and timing of the bombing of the Fountain Place building. SMADI stated he would have preferred to do the attack on "11 September", but decided to wait until after the month of Ramadan. SMADI confirmed with UCE3 that Ramadan ended on September 20, 2009 and he would "go ahead" with the attack after Eid.² SMADI showed UCE3 what he described as a building plans and stated "...What I discovered was that this building, my dear sir, is the same building as September 11 in New York...That it is a trade building." SMADI further informed UCE3 that the building was approximately 60 stories and contained about five banks. SMADI and UCE3 discussed the size of the bomb to be utilized and SMADI's expectations of the explosion. When the subject of using a vehicle to deliver the bomb was discussed SMADI stated "...a wonderful thing...like you say, I thought of it...I want to enter to plant the bomb...I will plant it in the...foundations...exactly under the building...when it explodes, it will shake the foundations so that the building, if it is heavy in weight, tons, all that will come down." SMADI further confirmed his intentions by stating "I want to bring down the building, God willing. I mean, like you say, we are strivers and mujahidin." By the conclusion of this meeting, it was decided that a vehicle born improvised explosive device would be used.

17. The vehicle born improvised explosive device (VBIED) will function as designed when a person turns a clock timer and then disengages the safe-arm switch. When the timer expires, those actions close the electrical circuit allowing current to travel from the power source to the blasting caps. The blasting caps have been placed within C-4 explosive blocks. The blasting caps will initiate the C-4 explosive which will in turn act as a booster charge to initiate bulk ammonium nitrate fertilizer. All of the

²Eid is a Muslim holiday that marks the end of Ramadan, the Islamic holy month of fasting.

components of the VBIED are contained within a 2001 Ford Explorer Sport Trac. The VBIED has been designed to be readily adaptable, but is inert for public safety purposes.

18. In response to Smadi's question about when to execute his plan, FBI UCE2 responded on September 18, 2009 as follows: "This holiday celebration [the planned attack] that you prepared for along with Brother Hussain shall occur on Thursday, the 24th of this current month. Brother Hussain will bring to you the gift [VBIED] that you requested him to prepare for you...."

19. On September 20, 2009, Smadi indicated to FBI UCE2 that he (Smadi) is ready:

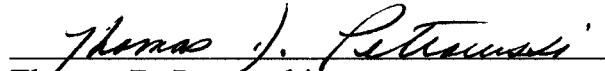
"Let the drums of victory be struck in our holiday. We know that Allah is with us. We ask Him to bless our gift with His angels protecting protecting and assisting us. On this day, I tell you that I am ready to receive the gift. I thank you. May Allah bless you all for what you have offered until the victory time. I send holiday wishes to the Commander and prince, may Allah give him a long life and success in his path, and to the successful heros who are in our ranks. May this be only the beginning, and what is coming will be greater...."

20. On September 24, 2009, Smadi drove to Dallas, Texas, where he met FBI UCE3. Smadi and FBI UCE3 then drove to the location where the VBIED had been left for Smadi to use in his Jihad operation. Smadi inspected the VBIED with the FBI UCE3, and conducted surveillance of the target location again.

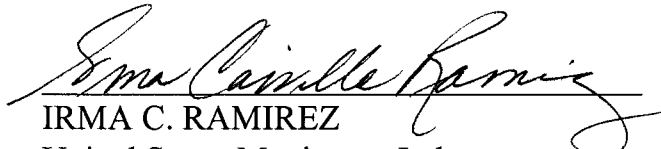
21. SMADI, alone and believing himself to be in possession of a weapon of mass destruction, did drive a vehicle containing the VBIED through the streets of downtown Dallas toward his planned target location. He entered the parking garage directly beneath the Fountain Place building and parked the vehicle. Smadi then attempted to ignite and detonate the explosive device by setting the device's timer and flipping the power switch on the explosive device. Smadi then exited and locked the vehicle, and left the parking garage on foot. Smadi walked to where FBI UCE3 was parked and got into the vehicle. UCE3 drove several blocks away, so they could watch as Smadi remotely detonated the VBIED via cell phone. FBI UCE3 offered Smadi ear plugs, but Smadi declined indicating that he wanted to hear the blast. Smadi then dialed the cell phone which he believed would detonate the explosive device parked under his selected target. The phone number Smadi dialed rang to a phone in the possession of law enforcement. Smadi was then placed under arrest by agents of the FBI, Joint Terrorism Task Force, and other assisting law enforcement officers.

22. Interstate commerce was used to further this offense. An interstate carrier was used to facilitate communications between FBI UCE2 and SMADI, namely MSN Hotmail, a commercial electronic communication service company located in California.

23. Based on the facts of this investigation as outlined in this affidavit, your affiant believes that there is probable cause to believe that HOSAM MAHER HUSEIN SMADI knowingly and intentionally committed the following offense against the United States, to wit: 18 U.S.C. § 2332a(a)(2)(A), attempting to use a weapon of mass destruction.


Thomas D. Petrowski
Supervisory Special Agent
Federal Bureau of Investigation
Dallas, Texas

Sworn to and subscribed before me this 24 th day of September, 2009.


IRMA C. RAMIREZ
United States Magistrate Judge