

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<p>UNITED STATES OF AMERICA,</p> <p>v.</p> <p>ABU AGILA MOHAMMAD</p> <p>MAS'UD KHEIR AL-MARIMI,</p> <p>Defendant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>)</p> <p>No. 1:22-cr-392 (DLF)</p>
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**MR. AL-MARIMI'S RESPONSE IN OPPOSITION TO THE GOVERNMENT'S  
MOTION TO LIMIT THE TESTIMONY OF REBECCA MURRAY**

Mr. Al-Marimi has provided notice of his intent to present Rebecca Murray as an expert on Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015. Ms. Murray's anticipated expert testimony is directly relevant to the pending Motion to Suppress Statements in ECF No. 159, and her expert testimony is well-grounded in years of work as a Libyan analyst and field researcher. She co-authored a comprehensive report on Libyan prison conditions during the applicable timeframe for an internationally recognized, non-partisan organization within the United States. Her experience and her specialized knowledge render her anticipated testimony admissible under Federal Rule of Evidence 702.

**I. Rebecca Murray is qualified as an expert on Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015.**

The government argues Ms. Murray is not qualified to opine on Libyan political or prison conditions during the period in question. ECF No. 244 at 2, 6-8. After briefly downplaying Ms. Murray's experience and education—including degrees in politics

and international affairs that the government inexplicably asserts have “no correlation” with opinions about the political conditions in a foreign country—the government acknowledges that she co-authored a major report on prisons and detention in Libya over the relevant period. *Id.* at 7. While the government asserts this report is “not on point,” the government does not explain why. To the contrary, Ms. Murray’s experience investigating and reporting on Libyan prison conditions after the 2011 revolution and the specialized knowledge she acquired qualify her to opine as an expert on those conditions and the other proffered topics.

Federal Rule of Evidence 702 allows for expert testimony based on “***knowledge***, skill, ***experience***, training, or education” where “it is more likely than not that [] the expert’s scientific, technical, ***or other specialized knowledge*** will help the trier of fact to understand the evidence or to determine a fact in issue”. Fed. R. Evid. 702(a) (emphasis added). The Advisory Committee Note to Rule 702 reports:

Nothing in this amendment is intended to suggest that experience alone—or experience in conjunction with other knowledge, skill, training or education—may not provide a sufficient foundation for expert testimony. To the contrary, the text of Rule 702 expressly contemplates that an expert may be qualified on the basis of experience. In certain fields, experience is the predominant, if not sole, basis for a great deal of reliable expert testimony.

Fed. R. Evid. 702 advisory committee’s note to 2000 amendment; *see also United States v. Wilson*, 605 F.3d 985, 1026 (D.C. Cir. 2010) (stating “if a witness lacks firsthand knowledge[], he may testify only if qualified as an expert. To hold otherwise would conflate the ‘particularized’ knowledge necessary to testify as a lay witness with the ‘specialized’ personal knowledge gained from previous experience”).

Ms. Murray's experience—in combination with her knowledge gained through her work as an analyst and a field researcher—qualifies her as an expert on Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015. From 2012 to 2015, Ms. Murray lived and worked in Libya for sustained periods of time<sup>1</sup>. During this time, Ms. Murray met with and/or investigated a number of relevant figures, including militia leaders and members responsible for running prisons and temporary detention facilities in Tripoli and Misrata, foreign observers and relief workers with access to detention facilities in Tripoli and Misrata (for example, United States Institute of Peace, Human Rights Watch, and Medicins Sans Frontiers staff), and political figures throughout Libya. As part of her work, Ms. Murray also reviewed and relied on the reports of other qualified researchers and analysts, both inside and outside of Libya, whom she often communicated with. To that end, Ms. Murray is able to testify as both a fact witness to how the political conditions affected the prison conditions in Libya as well as an expert witness. *See, e.g., United States v. Smith*, 640 F.3d 358, 365 n.3 (D.C. Cir. 2011) (observing that there is no bar in the D.C. Circuit against an expert serving as both a fact witness and an expert witness); *see also* Fed. R. Evid. 702 advisory committee's note (“Since much of the criticism of expert testimony has

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<sup>1</sup> To the extent that this information is necessary at this stage, Ms. Murray lived and worked in Libya from February to October 2012 (observing, researching, and analyzing the aftermath of the Libyan revolution), April 2013 (observing, researching, and analyzing the unwinding of the country's security system), and November 2014 to December 2015 (observing, researching, and analyzing the fighting in Tripoli and the conflict with ISIS in Sirte) as well as return trips in 2016, 2019, 2020, and 2021.

centered upon the hypothetical question, it seems wise to recognize that opinions are not indispensable and to encourage the use of expert testimony in non-opinion form when counsel believes the trier can itself draw the requisite inference.”).

Critically, Ms. Murray participated in the investigation of and co-authored a lengthy report—*see Exhibit A*<sup>2</sup>—published in August 2016 that evaluated the “organizational function, security, infrastructure, and prisoner well-being” of the Libyan prison system, which included on-site investigations at Libyan prisons and temporary detention facilities in 2012 and from 2015 to 2016. *Id.* at 2<sup>3</sup>. The investigation and subsequent report were conducted by the United States Institute of Peace (“USIP”)<sup>4</sup>, which Congress created in 1984 as an independent, non-partisan organization that would work “on the ground in the world’s most dangerous regions” to provide “analysis, education, and resources to those working for peace”. *See Ex. B.* The USIP report in Exhibit A includes details about the political conditions in Libya (which directly impacted the imprisonment and treatment of Libyan detainees from 2011 to 2015), USIP’s methodology and approach in evaluating Libya’s prison system, comprehensive descriptions of concerns within Libya’s prison system, and 66 source

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<sup>2</sup> Mr. Al-Marimi included the report in Exhibit A as well as 26 other articles and reports as attachments to Ms. Murray’s expert notice. These attachments are examples of the types of reports and information that support Ms. Murray’s knowledge base beyond her personal experience.

<sup>3</sup> Page citations to Exhibit A refer to the ECF page designation numbers, not the report’s internal pagination.

<sup>4</sup> As of December 2025, the Institute has been renamed the “Donald J. Trump Institute of Peace”. *See, e.g.*, Brendan Rascius, *Trump renames the US Institute of Peace after himself while his administration wrestles for control of the agency*, Independent (Dec. 4, 2025), <https://www.independent.co.uk/news/world/americas/us-politics/trump-renames-institute-of-peace-state-department-b2877745.html>.

citations. The USIP report and Ms. Murray's work for USIP incorporated the information gained not only from the onsite visits in 2012 and 2015-2016, but also interviews "carried out with government officials, Judicial Police leadership, prison staff members, international actors, the United Nations Security Mission in Libya (UNSMIL), local human rights activists, journalists, and local and international NGOs working on prison and detention issues". *See* Ex. A at 11.

Ms. Murray's work in 2015 necessarily entailed comparisons with the 2012 onsite investigations USIP conducted, as well as the reports of other individuals and organizations working on prison and detention issues in Libya. These comparisons required Ms. Murray to thoroughly understand the context of what had been discovered and reported on about Libyan prisons before her personal visits in 2015.

While the government is correct that the Court has the discretion to place limits on expert testimony at a suppression hearing where warranted, *see* ECF No. 244 at 3, the government's citation to *United States v. Stepp*, 680 F.3d 651, 668 (6th Cir. 2012), omits a critical observation on this point in *Stepp*. Right after the sentence about a trial court's discretion in potentially limiting expert testimony at a suppression hearing, the *Stepp* court noted:

However, the very reason for suspending the Rules of Evidence in such hearings in the first place is to allow the impartial judge, who is less prone to persuasion by misleading expert testimony than a jury, to weigh the competing evidence offered by the parties. *Cf. Deal v. Hamilton Cnty. Bd. of Educ.*, 392 F.3d 840, 852 (6th Cir.2004) ("The 'gatekeeper' doctrine was designed to protect juries and is largely irrelevant in the context of a bench trial."). Whether a proffered expert should be permitted to testify at all at a suppression hearing is therefore distinct from the ultimate question of whether the testimony is sufficiently credible to serve as a basis for the district court's

conclusions.

*Stepp*, 680 F.3d at 669. The distinction between admissibility and credibility is particularly poignant here where Ms. Murray's evidence is “properly grounded, well-reasoned, and not speculative”. Fed. R. Evid. 702 advisory committee's notes to 2000 amendment.

The defense expects the government to cross-examine Ms. Murray about questions it may have about her qualifications, but such questions do not render Ms. Murray unqualified as an expert on Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015. *See, e.g., Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 595 (1993) (“Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible evidence.”); Fed. R. Evid. 702 advisory committee's note to 2000 amendment (“A review of the caselaw after *Daubert* shows that the rejection of expert testimony is the exception rather than the rule. *Daubert* did not work a ‘sea change over federal evidence law,’ and ‘the trial court’s role as gatekeeper is not intended to serve as a replacement for the adversary system.’” (quoting *United States v. 14.38 Acres of Land Situated in Leflore County, Mississippi*, 80 F.3d 1074, 1078 (5th Cir. 1996)).

To the contrary, as one of the few independent observers allowed within Libyan prisons in 2015 and permitted access to those with detailed information about Libyan prisons in the preceding years, Ms. Murray is exceptionally qualified to present

expert testimony at the suppression hearing in this case on Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015.

**II. Ms. Murray's anticipated expert testimony is highly relevant to the pending suppression motion.**

The government next argues Ms. Murray's opinions are not relevant because she cannot offer firsthand knowledge about the facilities Mr. Al-Marimi was held at when he supposedly made inculpatory statements, at the time he was there. ECF No. 244 at 4-5. But the bar for relevance is not so high—not even close. *See* Fed. R. Evid. 401 (stating evidence is relevant if it has *any tendency* to make a factor more or less probable); *Daubert*, 509 U.S. at 587 (quoting Rule 401, and describing Rule 401's standard for relevance as “a liberal one”).

Mr. Al-Marimi has challenged the voluntariness of his alleged confession. *See* ECF No. 159. Courts consider many factors in determining whether an alleged confession was voluntary, including:

- actual violence against the suspect;
- credible threats of violence against the suspect, or against the suspect's family members, loved ones, or friends;
- other threats, such as economic or reputational threats;
- deprivation of food, water, medicine, sleep, clothing, or protection from the elements;
- the length of the interrogation(s), and the length of confinement generally;

- being moved from place to place and being questioned by different persons, thus causing disorientation;
- being held incommunicado; and
- broken promises, such as specific promises of nonprosecution.

*United States v. O'Neal*, No. 15-CR-353-WJM, 2018 WL 3145523, at \*13 (D. Colo. June 27, 2018) (citing 2 Wayne R. LaFave et al., Criminal Procedure § 6.2(c) (4th ed., Dec. 2017 update)), *aff'd*, 796 F. App'x 513 (10th Cir. 2019).

The government's timing arguments are premised on a cramped view of what is relevant. As an initial matter, as the defense has articulated before, there are many reasons to doubt the accuracy of the Libyan police officer's assertions about the alleged confession. *See, e.g.*, ECF No. 175 at 8-11. While the government has proffered that the alleged confession was taken "in around the fall 2012"<sup>5</sup>, ECF No. 244 at 4, counsel for Mr. Al-Marimi have an obligation to account for the full time between the government's proffered time and the alleged confession's mysterious surfacing more than three years later in late 2015 (just within Libya at that point, according to discovery; no copies of the alleged statement were produced to western authorities until even later than that).

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<sup>5</sup> The government's certainty of the proffered time of when the alleged confession was taken appears to shift from time to time. *Compare* ECF No. 1 at ¶ 9 (alleging with precision that the alleged confession was taken on September 12, 2012) *with* ECF No. 163 at 2, 18 (using phrase "fall of 2012"). The alleged confession itself does not contain a date it was purportedly taken. *See* ECF No. 163 Ex. A. These shifts further justify the defense's need to prepare to present evidence about the context in which Mr. Al-Marimi was detained up until the time that the alleged confession surfaced. There is no reason at all that the defense should or would accept at face value the timing of the alleged confession that the government has proffered.

Moreover, an expert's opinions that there were problems at numerous prisons and detention centers close in time after the months in question, and that there were historic problems preceding those months that have been widely reported on, make it more likely that there were problems during those months. An expert can opine about the prevalence of a phenomenon without direct knowledge about whether it occurred at a particular time. But to the extent she needs such knowledge, Ms. Murray's experiences with on-site visits at Libyan prisons and temporary detention facilities are necessarily intertwined—and, in fact, predicated on—the 2012 site visits that USIP conducted, as well as the breadth of the investigation that USIP and other reliable sources conducted from 2011 through 2015 (and beyond).

The government's remaining argument about the relevance of Ms. Murray's testimony is about the evidence indicating that Mr. Al-Marimi was held at a building known as Al-Ribat. *See* ECF No. 244 at 5. As the defense has represented to the government in email communications, the defense understands<sup>6</sup> that Al-Ribat was a building adjacent to the former intelligence building that is within the Al-Huda prison facility in Misrata, Libya. In the YouTube video that Ms. Murray's notice cites at page 7, note 11 with a specific timestamp for the government's reference, *see* ECF No. 244-1 at 7 n.11, the viewer will see a taller building encompassed within a wall topped by a fence.

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<sup>6</sup> Should ongoing defense investigation pinpoint any other location for Al-Ribat, the defense will, of course, promptly notify the government.



Al Jazeera English, *Libya justice system stagnant despite funding*, <https://www.youtube.com/watch?v=zR5zFRjSnPI> (displayed at 1:00 minute into film). The viewer can make out pieces of other buildings within that walled complex known as Al-Huda. After the revolution in Libya in 2011, a number of buildings were converted into temporary detention centers—*see Ex. A at 32* (specifically referencing Al-Huda in this context). There is no evidence that the defense is aware of that these temporary detention centers were comprehensively mapped out by either Libyan authorities or foreign investigators, which is likely because they were, as the description implies, temporary.

It is hard to understand how Ms. Murray's testimony about her visit to that same walled complex would not be relevant to the suppression hearing. *See, e.g., United States ex. Rel. Miller v. Bill Harbert Intern. Const., Inc.*, 608 F.3d 871, 895 (D.C. Cir. 2010) (approving of admission of expert testimony that “while not derived

from the facts in the case, was sufficiently connected to the facts to be relevant and helpful to the” factfinder). The requirement that expert testimony be relevant does not demand that Ms. Murray have personally observed Mr. Al-Marimi in his state of confinement. Rather, her evidence has—as Rule 401 requires—*any tendency* to make a fact more or less probable.

In short, Ms. Murray’s testimony will provide necessary, objective expert information about the conditions of confinement at the Libyan prisons and temporary detention facilities that Mr. Al-Marimi was imprisoned at in Libya from 2011 to 2015. Such testimony is clearly relevant.

**III. Ms. Murray’s expert evidence is based on an adequate foundation.**

Lastly, the government argues that Ms. Murray’s expert evidence is not based on an adequate foundation. *See* ECF No. 244 at 6. The government first takes issue with the phrasing in the expert notice that Ms. Murray lived in Libya “for sustained periods from 2012 to 2015”. *See* ECF No. 244-1 at 1. This phrase is not markedly different than the one the government used in its own notice of Alison Pargeter as an expert on the history of Libya in the 20th and 21st centuries; the expert notice provided in part as a basis for Ms. Pargeter’s knowledge and opinions that she had conducted “research visits during the 2000s”. But, again, Ms. Murray’s personal time in Libya is necessarily intertwined with her ongoing work from 2012 to 2020 as an author, analyst, and field researcher about Libya.

The government next argues that Ms. Murray’s experience does not “uniquely” qualify her to provide expert evidence about the political conditions in Libya. ECF

No. 244 at 6. As an initial matter, there is nothing in Rule 702 or its related case law that requires an expert to be “uniquely qualified”. *Compare* Fed. R. Evid. 702 (“A witness who is qualified as an expert . . .”). Furthermore, Ms. Murray has lived and worked in Libya, interviewed those in power, reported on the transitional period after the 2011 revolution, been formally educated in political and international affairs, and worked as a Libyan analyst and field researcher for eight years; she therefore has a well-grounded basis to provide the noticed expert evidence to the Court. *See, e.g.*, Fed. R. Evid. 702 advisory committee’s note to 2000 amendment (“The trial judge in all cases of proffered expert testimony must find that it is properly grounded, well-reasoned, and not speculative before it can be admitted.”).

### **CONCLUSION**

For the foregoing reasons, the Court should deny the government’s motion to limit the testimony of Rebecca Murray. Ms. Murray is well-qualified to testify as an expert on Libyan political conditions and prison conditions from 2011 through 2015 based on her extensive field research, her work as a Libyan analyst and field researcher, and her co-authorship of a comprehensive USIP report on Libya’s detention facilities. Her testimony is directly relevant to the critical question of whether Mr. Al-Marimi’s alleged confession was voluntary, as it will provide the Court with necessary context about the conditions of confinement in Libyan prisons and temporary detention facilities during the period in question. Finally, Ms. Murray’s opinions are well-grounded in her personal observations, interviews with key figures, and thorough review of reliable source materials. The government’s

objections go to the weight of her testimony, not its admissibility, and are properly addressed through cross-examination rather than exclusion. The Court should permit Ms. Murray to testify as noticed.

Respectfully submitted,  
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