

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

UNITED STATES OF AMERICA

v.

**ABU AGILA MOHAMMAD
MAS'UD KHEIR AL-MARIMI,**

Defendant.

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Case No. 22-cr-392 (DLF)

MOTION TO LIMIT THE TESTIMONY OF REBECCA MURRAY

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully moves this Court to limit the proposed expert testimony of Rebecca Murray at the hearing on the Motion to Suppress the Defendant's Statement to only those topics for which the defense can articulate relevance, and only those opinions that are adequately grounded in fact and developed through reliable methodology. On the present record, none of her proffered testimony satisfies that criteria.¹

BACKGROUND

On November 25, 2025, the defense noticed a potential expert as a witness for the hearing on the Motion to Suppress the Defendant's Statements. *See Ex. 1* (defense expert notice). They noticed a freelance journalist, Rebecca Murray, as an expert on both "Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015."

Regarding prison conditions, the expert notice provides descriptions of the following places:

¹ While limiting this argument for the motions hearing, the government reserves its right to move to limit and/or exclude the expert testimony at trial at the appropriate time.

- “National Security Center in Tripoli,” where the defendant was purportedly held from September 17, 2011, to January 20, 2012, and under which heading the notice describes four premises where, according to a letter from the defendant’s son, the defendant was housed. The notice does not describe the conditions at any of these places.
- “Al-Baraka prison, Tripoli,” where the defendant was purportedly held in January and February of 2012, and which Ms. Murray visited in September of 2015. During her visit she observed Al-Baraka to be housing in mates at roughly 50% of its capacity and having facilities like “a big kitchen, a mosque[,] and a football pitch.” The notice also describes information about Al-Baraka from a Human Rights Watch report.
- “Al-Huda prison, Misrata”; the defendant was purportedly held in a “building associated with” this facility from February 23, 2012, to April 15, 2014. _Ms. Murray visited Al Huda in September of 2015, and the notice also describes information about Al Huda from the Human Rights Watch report noted above.
- “Al-Jawiyah prison, Misrata,” where the defendant was purportedly held from April to October 2014, and which Ms. Murray visited in September of 2015; and
- “Al Habda prison, Tripoli,” where the defendant was purportedly held from October 2014 to May 2017, and which Ms. Murray visited in September of 2015.

The notice does not include a separate section on “Libyan political conditions,” but some descriptions of political events is included in the sections on the various prisons. For example, the section on Al Habda prison describes various armed groups that were operating in and around Tripoli, as well as operations in Libya by ISIS militants.

For the reasons outlined below, the Court should limit Ms. Murray’s testimony as (1) her testimony is not relevant; (2) her “opinions” (to the extent the defense has identified them) are not based on an adequate foundation; and (3) she lacks qualifications as an expert.

APPLICABLE LAW

At trial, expert witness testimony is governed by Federal Rule of Evidence 702 and by *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny. At a suppression hearing, the Rules of Evidence “do not operate with full force.” *United States v. Matlock*, 415 U.S. 164, 172 (1974); *see also* Fed. R. Evid. 104(a) (providing that, when “decid[ing] any preliminary question about whether... evidence is admissible,” the Court “is not bound by evidence rules, except those on privilege”).

Nonetheless, even in this context “[a] district judge has the discretion to place limits on a witness's testimony during a suppression hearing in order to facilitate the examination of the relevant evidence.” *United States v. Stepp*, 680 F.3d 651, 668 (6th Cir. 2012) (citing *United States v. Stanley*, 351 F. App'x 69, 74 (6th Cir. 2009)). In exercising discretion, the principles of Rule 702 are applicable; for example, even at a suppression hearing a court should not waste its time and distract from relevant issues by hearing purported expert testimony that is not “based on sufficient facts” or that is “the product of reliable principles and methods.” Fed. R. Evid. 702(b), (c). Moreover, once the Court has taken testimony, those same principles help inform how much weight the testimony should be given. *See United States v. Mickens*, 25-cr-48 (AHA), 2025 WL 3537838, at *5 n.5 (D.D.C. Nov. 25, 2025).

ARGUMENT

The Court Should Limit the Proposed Testimony of Rebecca Murray

Ms. Murray’s proffered testimony should be limited because it is largely irrelevant to any disputed issues at the suppression hearing. Based on the notice, her testimony will consist of a detailed recitation of events and circumstances that are remote in time and place from the facts at issue. To the extent Ms. Murray (or defense counsel in argument) will try to use her factual testimony to support inferences about the conditions of the defendant’s confinement at the time of

his confession, such inferences would be neither “based on sufficient facts” nor be “the product of reliable principles and methods,” given Ms. Murray’s lack of demonstrated qualifications to draw such inferential conclusions. The Court should therefore limit Ms. Murray’s testimony to only those facts with articulable relevance to the proceeding.

A. The Testimony is Not Relevant

The proposed testimony noticed in Ms. Murray’s expert disclosure is not relevant to the issues that will be addressed in the suppression hearing. Federal Rule of Evidence 401 defines evidence as relevant if “(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” *See* Fed. R. Evid. 401. Relevant evidence is admissible unless otherwise provided by the U.S. Constitution, a federal statute, the Federal Rules of Evidence, or other rules prescribed by the U.S. Supreme Court. *See* Fed. R. Evid. 402. “Irrelevant evidence is not admissible.” *Id.* Any piece of evidence that fails this test under Rule 401 is not relevant under Federal Rule of Evidence 402. *See, e.g., United States v. Doe*, 903 F.2d 16, 20 (D.C. Cir. 1990) (citing 22 C. Wright & K. Graham, *Federal Practice & Procedure* § 5202 at 237 (1978)).

Ms. Murray’s direct knowledge about prison conditions in Libya appears to be based entirely on a small number of site visits she made in September of 2015. Her observations at that time are not relevant (or, at best, of minimal probative value) because they occurred three years after the events at issue. As the government has proffered, the interviewing officer’s testimony will establish that the defendant gave his statement in around the fall of 2012. Unless and until the defense refutes that point, any testimony involving prison conditions after that time period is not relevant, especially because in several places the expert notice demonstrates that conditions at these facilities change over time. *See, e.g.,* Ex. 1 at 5 (“When Ms. Murray visited the Al-Baraka

prison in 2015, the prison directors had changed since 2011.”); *id.* at 9 (describing inmate population at Al-Huda going from 780 in 2012 to 460 in 2015).

Additionally, any testimony that relates to prison conditions in prisons in Libya other than where the defendant was held is also irrelevant. For example, the fact that other prisons were overcrowded at various times does not make it any more or less probable that the defendant’s will was overborne on the day he was interviewed by the Libyan police officer. In response to questions from the government, the defense has proffered that Ms. Murray will testify that “Al-Ribat,” where the defendant was held at the time the government alleges the confession took place, “was a building within the Al-Huda prison facility,” and that “[w]hat she says about Al-Huda thus encompasses Al-Ribat.” But that representation does not square with the expert notice, which appears to treat Al-Ribat as a singular building rather than a campus of multiple structures. *See, e.g.*, Ex. 1 at 7 (“The Al-Huda prison facility was established in a former intelligence building during the 2011 revolution.”). Moreover, it is not self-evident that any testimony about Al Huda would necessarily “encompass” Al-Ribat. Ms. Murray’s takeaways from her visit consist largely of observations of the physical layout and conditions of a building that is not purported to be Al-Ribat; these facts cannot automatically imputed to Al-Ribat, even if it is an “associated” building. It does not appear that Ms. Murray even actually visited Al-Ribat itself. Her firsthand observations of other Libyan facilities offer no insight on the conditions of where the defendant was held in this case. It is appropriate for the Court to limit the testimony of an expert who, like Ms. Murray, offer opinions that are irrelevant or unhelpful to the issues at hand. *See Meister v. Med. Eng’g Corp.*, 267 F.3d 1123 (DC Cir. 2001).

B. The Expert's Opinions Lack Adequate Foundation

Ms. Murray's lack of firsthand knowledge of the conditions of the facility where the defendant was held illustrate that her testimony is based on insufficient facts or data. Ms. Murray was in and around Libya in 2012, but not in the relevant locations of where the defendant was located. She has no basis on which to opine on the conditions of confinement that the defendant might have been subject to prior to his interview by the Libyan Police officer. Further, any testimony regarding the political conditions or prison conditions observed after 2012 are not relevant and should not be considered.

First, Ms. Murray's basis for her opinions seems to be based largely in part on the time she has spent in Libya from 2012-2020. However, it is unclear how much time she has actually spent in Libya (her CV indicates from 2012-2020 she was also based on Yemen, Afghanistan, Lebanon, Syria, Liberia, Greece, Netherlands and Ethiopia); her notice merely mentions "sustained periods." Nor does it explain why that makes her uniquely qualified to opine on the political conditions in that country. There is no explanation of how her experiences as it relates to the political conditions are different from anyone else who has spent time in Libya, or how her access to information is different from the ordinary tourist or citizen. She does not appear to have worked with or interviewed Libyan political officials.

C. The Expert's Qualifications are Deficient

It is appropriate for the court to assess the qualifications of the expert in advance of trial as part of its gatekeeping function. As noted in the advisory committee notes to Rule 702, "[i]f the witness is relying solely or primarily on experience, then the witness must explain how that experience leads to the conclusion reached, why that experience is a sufficient basis for the opinion, and how that experience is reliably applied to the facts. The trial court's gatekeeping

function requires more than simply ‘taking the expert’s word for it.’” Fed. R. Evid. 702 advisory committee's note (2000). In this case, Ms. Murray’s qualifications are insufficient to be rendered an expert in “Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015” and indeed, Ms. Murray has never been qualified as an expert in this area. *See* Ex. 1 at 2.

Ms. Murray’s CV is extremely vague; it says she is a “Guest Speaker on Libya” at various organizations, but there is no indication on what subjects she discussed, her role or what her level of participation was, whether she was compensated for those events, nor any materials associated with those speaking engagements. Similarly, the education section of her CV is limited. Ms. Murray has not studied Libyan political history at any higher level of education. Her degrees are in generally in Politics and International Affairs with a Media Focus. There is no correlation between those and the opinions the defense is trying to proffer.

Ms. Murry appears to have some experience in many diverse areas related to the collection of facts. As her CV establishes, between 2004 and 2024, she has intermittently worked as a freelance journalist, an analyst, a researcher, an advocate and a media and communications consultant. While Ms. Murray lists four publications as part of her qualifications, most of her published work focuses on the indigenous smuggling communities in Libya. While these are no doubt interesting topics, they are not related to the conditions of confinement that the defendant experienced. Her one related publication- where she co-authored the United States Institute of Peace (USIP) report about conditions in Libyan prisons titled “*Prisons and Detention in Libya*” (2016)- is not on point. The purpose of that 52-page report was to examine the prison system in Libya: “United States Institute of Peace (USIP) research teams conducted two assessments of the Libyan prison system, visiting detention facilities throughout the country in 2012 and again in

2015–16 to evaluate organizational function, security, infrastructure, and prisoner well-being.”² It also makes recommendations on how to improve individual facilities and the system overall. The report makes sweeping generalizations about conditions at various locations such as, “Accommodation standards and overcrowding continue to be a challenge throughout prisons in Libya.”³

Ms. Murray’s CV describes her a “freelance journalist,” and it appears the basis of her testimony is a collection of articles attached to her notice, of which she did not write, nor have any firsthand knowledge of the events recorded therein. She has no more basis for discussing these articles than anyone reading them on their own. This Court should find that Ms. Murray is not a subject matter expert in the field of Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015.

² Fiona Mangan and Rebecca Murray, *Prisons and Detention in Libya*, United States Institute of Peace (Aug. 2016), <https://www.usip.org/sites/default/files/PW119-Prisons-and-Detention-in-Libya.pdf>.

³ *Id.* at 30.

CONCLUSION

For the foregoing reasons, the Court should GRANT the government's motion to limit the testimony of Rebecca Murray.

Respectfully submitted,

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