

**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 EXCLUDE 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 exclude the proposed expert testimony of Rebecca Murray at trial. The Court should preclude Ms. Murray’s testimony because she is not qualified to testify as an expert.

BACKGROUND

On November 25, 2025, the defense noticed Rebecca Murray as an expert on Libyan political conditions and Libyan prison conditions, including temporary detention facilities, from the fall of 2011 through 2015, as a witness for trial. See Ex. 1. A copy of Ms. Murray’s CV is attached hereto as Ex. 2. On February 7, 2026, the defense submitted a revised expert notice for Murray, in the form of an expert report. See Ex. 3. On February 11-12, 2026, Murray testified at the hearing on the defendant’s motion to suppress.

APPLICABLE LAW

Federal Rule of Evidence 702 governs the admission of expert testimony:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or determine a fact in issue;

- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

Fed. R. Evid. 702 (2011). In construing Rule 702 of the Federal Rules of Evidence, the United States Supreme Court held in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), that federal courts have a special gate-keeping obligation to “ensure that scientific testimony is not only relevant but reliable.” This “gatekeeping” requirement is intended to ensure that the expert, whether basing his or her testimony on professional studies or personal experience, employs the same level of intellectual rigor as an expert practicing in that field. *Kumho Tire Co., Ltd. v. Carmichael*, 526 U. S. 137, 152, 119 S. Ct. 1167, 1176, 143 L.Ed. 2d 238 (1999). It is the role of the district court as a “gatekeeper” to determine if the expert opinion is reliable and relevant to the case at hand. *Kumho Tire Co., Inc.*, 526 U.S. at 141; *Daubert*, 509 U.S. at 597. If challenged, the district court should evaluate an expert’s qualifications and proposed testimony in advance. *Id.* The proponent of the expert testimony bears the burden of proving that it is based on reliable principles and methods. *United States v. Rodriguez-Felix*, 450 F.3d 1117, 1120 (10th Cir. 2006).

The trial court must conduct an exacting analysis of the foundations of an expert opinion to ensure they meet the requirements for admissibility under Rule 702. *McCorvey v. Baxter Healthcare Corp.*, 298 F. 3d 1253, 1257 (11th Cir. 2002); *Quiet Tech. DC-8, Inc. v. Hurel-Dubois U.K. Ltd.*, 326 F. 3d 1333, 1341 (11th Cir. 2003). In assessing whether testimony will assist the trier of fact, district courts consider several factors, including “(1) whether the testimony is relevant; (2) whether it is within the juror’s common knowledge and experience; and (3) whether it will usurp the juror’s role of evaluating a witness’s credibility. In essence, the question is

‘whether [the] reasoning or methodology properly can be applied to the facts in issue.’” *Rodriguez-Felix*, 450 F.3d at 123.

ARGUMENT

A. Murray’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).

Consistent with the Court's role as the “gatekeeper for expert testimony,” *Little v. Wash. Metro. Area Transit Auth.*, 249 F. Supp. 3d 394, 408 (D.D.C. 2017), the Court has “broad discretion in determining whether to admit or exclude expert testimony.” *Blake v. Securitas Sec. Servs., Inc.*, 292 F.R.D. 15, 17 (D.D.C. 2013) (quoting *U.S. ex rel. Miller v. Bill Harbert Int'l Constr., Inc.*, 608 F.3d 871, 895 (D.C. Cir. 2010)). As the D.C. Circuit has explained, the twin requirements for the admissibility of expert testimony are evidentiary reliability and relevance. See *Ambrosini v. Labarraque*, 101 F.3d 129, 133 (D.C. Cir. 1996); see also *United States v. Naegele*, 471 F. Supp. 2d 152, 156-57 (D.D.C. 2007); *McReynolds v. Sodexo*, 349 F. Supp. 2d 30, 34-35 (D.D.C. 2004). With respect to reliability, the court's focus must be on the methodology or reasoning employed by application of the factors in Rule 702 and the non-exhaustive lists of factors set forth in *Daubert* and *Kumho*. See *Daubert*, 509 U.S. at 595 (“The focus, of course, must be solely on principles and methodology, not on the conclusions that they generate.”); *Ambrosini v. Labarraque*, 101 F.3d at

140 (“[T]he admissibility inquiry focuses not on conclusions, but on approaches.”). With respect to relevance, the court must determine whether the proffered testimony is sufficiently tied to the facts of the case and whether it will aid the jury in resolving a factual dispute. *Daubert*, 509 U.S. at 592-93. For an expert to be “qualified” under Rule 702, “it is not necessary that the witness be recognized as a leading authority in the field in question or even a member of a recognized professional community.” 29 Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 6264.1 (2d ed. 2022). “[A]n expert may be qualified on the basis of his or her practical experience.” *Khairkhwa v. Obama*, 793 F. Supp. 2d 1, 11 (D.D.C. 2011). As the “gatekeeper” to shield the jury from unreliable or irrelevant expert testimony, the trial judge “is to make certain that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field,” but “reasonable measures of reliability in a particular case is a matter that the law grants the trial judge broad latitude to determine.” *Kumho Tire Co.*, 526 U.S. at 152-53.

Murray lacks the necessary qualifications and bases to offer any opinion relevant to an issue before the jury. She is a freelance writer, who in 2005 earned a Master’s degree in International Affairs with Media focus. *See Ex. 2* at 2. She has no specific expertise in the analysis of the political conditions in Libya from 2011-2015. In Murray’s fourteen page expert notice, she does not cite to any article, treatise, book or study on the political conditions in Libya between 2011-2015 that she personally contributed to or authored. *See Exhibits 1 and 3*. In fact, Murray’s opinions on the political conditions in Libya were offered to substantiate the research of other

experts, whose reports she cited in her expert report.¹ At the suppression hearing, Murray testified that in preparation for her work in a foreign country, she felt it was important to develop a deeper understanding of the political conditions in the country because politics is absolutely intertwined with the security situation. *See* 2/11/26 PM Hr’g Tr. at 46-47. Murray offered broad conclusions about the political conditions in Libya after the revolution in 2011, and the resulting effects on the prison system. Murray offered no explanation or analysis on how the political conditions affected the case at bar. For example, during her direct examination, Murray testified that “with the increasing chaos of the environment, there was an increasing threat for people on the street. . . . the window of opportunity for people to express themselves was rapidly closing, where armed groups started picking people up, kidnapping them.” *See* 2/11/26 PM Hr’g Tr. at 87. However, when asked if she had firsthand knowledge of whether the defendant was ever abducted she replied, “No.” *See* 2/12/26 AM Hr’g Tr. at 30 lines 7-9. The prisons she did visit in 2012 were mostly related to sub-Saharan migrants, Libyan citizens, let alone former Qaddafi regime officials. *See* 2/11/26 PM Hr’g Tr. at 54. When she has published, most of Murray’s publications were on “migrants and their detention centers and not Libyan detention.” *Id.* at 60. In short, Murray does not possess the requisite knowledge to testify as an expert on the political conditions in Libya from 2011-2015 and the Court should preclude her from testifying as such.

B. Murray’s Testimony is Not Relevant

Murray’s proposed testimony is not relevant to the facts at issue in this case. 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

¹ These reports are hearsay and admissible for the purposes of the suppression hearing. These reports would not otherwise be admissible at trial absent an exception to the rule against hearsay.

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)). And expert testimony must have more than bare relevance; it must be “more likely than not” to “help the trier of fact to understand the evidence or to determine a fact in issue.” Fed. R. Evid 703(a).

The Court has had the opportunity to preview Murray’s testimony. At the suppression hearing, Murray testified about the prison conditions in Libya from 2011 to 2013. Specifically, she testified that the conditions at each facility varied greatly and therefore there was no way to make a reliable prediction of prison conditions in Prison B based on visiting Prison A. *See* 2/12/26 AM Hr’g Tr. at 36 lines 13-19. Further, Murray testified that she had no actual knowledge of the prison conditions at any of the locations where the defendant was allegedly held during the relevant time. *See* 2/12/26 AM Hr’g Tr. at 38-46. There is no basis upon which to make a reliable inference about the prison conditions where the defendant was housed based on Murray’s testimony.

Specifically, as to the Al-Ribat prison, she testified that to her knowledge, she had never visited Al-Ribat in 2012, she had no knowledge of the conditions at Al-Ribat at the time the defendant was held there, and she had no information that people were actually prohibited from visiting Al-Ribat in 2011-2012. *See* 2/12/26 AM Hr’g Tr. at 44-48, 53. Furthermore, Murray had been prepared to testify that in her expert opinion, Al-Ribat was an entirely different facility. She assumed that Al-Ribat was adjacent to the Al-Huda prison, an entirely separate facility, because she had been told that Al-Huda was next to a former intelligence complex in downtown Misrata.

Question: And so you assumed that that, in fact was Al-Ribat prison?

Answer: That made the most sense, but I had not heard the name Al-Ribat.

See 2/12/26 AM Hr'g Tr. at 47, lines 19-22. Murray's proposed testimony is not reliable, nor is it relevant, and therefore the Court should exclude her testimony.

C. Murray's Testimony Would Violate Rule 403.

Murray's testimony should also be precluded because any probative value is substantially outweighed by a danger of unfair prejudice and misleading the jury. *See* Fed. R. Evid. 403. Even if testimony complies with *Daubert*, it can still be precluded under Federal Rule of Evidence 403 "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." *Daubert*, 509 U.S. at 594. "[B]ecause '[e]xpert evidence can be both powerful and quite misleading,' a court has greater leeway in excluding expert testimony under Rule 403 than it does lay witness testimony." *Parsi v. Daiouleslam*, 852 F. Supp. 2d 82, 86 (D.D.C. 2012) (quoting *Daubert*, 509 U.S. at 595 (second alteration in original)); *United States v. Bikundi*, No. 14-CR-030 (BAH), 2015 WL 5915481, at *3 (D.D.C. Oct. 7, 2015); *Daniels v. District of Columbia*, 15 F. Supp. 3d 62, 67 (D.D.C. 2014). The rule governs all evidence, but applies with greater force to proposed expert testimony because of weight jurors may be inclined to give testimony offered in the capacity of an expert. *See Allison v. McGhan Medical Corp*, 184 F.3d 1300, 1309 (11th Cir. 1999); *see also Daubert*, 509 U.S. at 595 ("Expert evidence can be both powerful and quite misleading because of the difficulty in evaluating it. Because of this risk, the judge in weighing possible prejudice against probative force under Rule 403 ... exercises more control over experts than over lay witnesses." (citation and internal quotation marks omitted)). *See, e.g., United States v. Frazier*, 387 F.3d 1244, 1262-1263 (11th Cir. 2004) ("Simply put, expert

testimony maybe assigned talismanic significance in the eyes of lay jurors, and therefore the district courts must take care to weigh the value of such evidence against its potential to mislead or confuse.”); *United States v. Paul*, 175 F.3d 906, 912 (11th Cir. 1999) (affirming exclusion of defendant’s proposed expert as unqualified, despite argument that expert’s testimony was essential to rebut prior testimony by a government expert on the same topic). This Court should exclude Murray’s testimony because her proposed testimony is marginally probative and there is a substantial risk that her testimony would mislead the jury.

CONCLUSION

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

Respectfully submitted,

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