

**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)

**GOVERNMENT'S SUPPLEMENTAL FILING IN SUPPORT OF THE SWORN
DECLARATION OF THE LIBYAN POLICE OFFICER**

Fourteen years ago, during the chaotic period that followed the violent overthrow of the Muammar Gaddafi regime, the Libyan police officer known as “Jamal” was assigned to interview members of Libya’s External Services Organization who were detained at a facility in Misrata. Jamal’s orders, given to him by then-Minister of the Interior Fawzi Abdel Ali in September 2012,¹ were to question the ESO operatives about (1) their role in the revolution within Libya and (2) their role, if any, in a 1992 Libyan Arab Airlines crash within Libya. Unexpectedly, several of the men confessed to significant acts of violence committed outside of Libya — including the defendant, who confessed his role in the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland, and the 1986 bombing of the La Belle Discotheque in Berlin, Germany. Recognizing both the significance of these confessions and the chaotic situation within Libya at the time, Jamal kept the reports of these interviews in a safe in his home. Sometime in 2014-15, he hand-delivered the 2012 interview reports to the Libyan Official. At the time, the Libyan Official was the lead

¹ Shortly thereafter, Fawzi Abdel Ali departed his position to become the Libyan Ambassador to Bahrain. *See* ECF 355 at ¶ 2.b-2; ECF 360 at 7 & Ex.D. *See also* Libyan Police Officer Depo. Tr. Vol. VI at 5-6 (Jamal testified that the Minister was “transferred” to the Libyan Embassy in Bahrain within “months” of the statements being taken).

prosecutor in the trial of 37 former members of the Gaddafi regime, which resulted in the 2015 convictions of the defendant and at least two other individuals (Jamal Al-Shahid and Mohsen Al-Hadi Muhammad Al-Logi) who had been interviewed by Jamal in 2012, for their role in suppressing the February 2011 revolution that culminated in the fall of Gaddafi.²

More recently, Jamal appeared in a United States courtroom and testified over two days in response to questions from the parties and the Court. The proceeding was conducted with the assistance of interpreters who translated between Arabic and English.³ During his testimony, he was asked for the first time while on the witness stand detailed questions about the provenance of the copy of the report of the 2012 interviews that he had kept at his home in Libya. And, for the first time, Jamal explained that he had made a carbon copy of the report of his 2012 interviews. At the time of his testimony, Jamal earnestly believed that the copy in his safe at home was a carbon copy; subsequent events called the accuracy of his memory on this discrete point into question. After returning to Libya, and upon closer examination, Jamal realized that the copy he had kept in his safe for well over a decade was a photocopy, not a carbon copy.

² See UNSMIL & OHCHR, *Report on the Trial of 37 Former Members of the Gadhafi Regime (Case 630/212)* (2017) (identifying the Libyan Official as the main prosecutor of the case (at 5-6); “Jamal Ali Hmeida al-Shahed,” “Mohsen al-Hadi Muhammad al-Lamuji,” and “Abuajila Muhammad Kheir Mas’ud” were convicted at trial (at 59)), *available at* https://www.ohchr.org/sites/default/files/Documents/Countries/LY/Trial37FormerMembersQadhafiRegime_EN.pdf. Notably, the defendant's statement to Jamal included denials of domestic crimes against the revolution, so there can be no suggestion that the confession was fabricated to assist the prosecution the Libyan Official handled.

³ As the Court noted, there was occasionally a lack of precise alignment between the Arabic testimony and the corresponding English translation: “[T]his is an example of one of these misses that I witnessed here in the Courtroom that can’t be true. There’s no reason for Jamal to misstate that. So it’s apparent to me that it’s difficult to, in every instance, take the translation literally. I don’t know why that is between English and Arabic, but this is an obvious miss in my mind.” Motion to Suppress Tr. 2/12/26 p.m. at 85.

On April 9, 2026, the Court issued a Minute Order directing the government to act expeditiously to obtain Jamal's copy of the statement depicted in Exhibits E and F, stating that "the credibility of Jamal is critical to the admissibility of the defendant's statement." The government agrees and respectfully submits this additional proffer of evidence in support of its position that the Court should credit Jamal's testimony and deny defendant's motion to suppress statements. Attached hereto as Exhibit G is a complete copy of Jamal's report of the 2012 statements he took from the ESO operatives.⁴ Exhibit H is a sworn declaration from Jamal that "(1) explains how he created the carbon copy of the defendant's statement and (2) addresses the issues raised in the defense filings." Exhibits I and J are videos of the process Jamal used to create the original and carbon copy versions of interview statements; Exhibit K-1 (blue ink) is the original exemplar depicted in Exhibits I and J; Exhibit K-2 (black ink) is the carbon copy exemplar depicted in Exhibits I and J.⁵

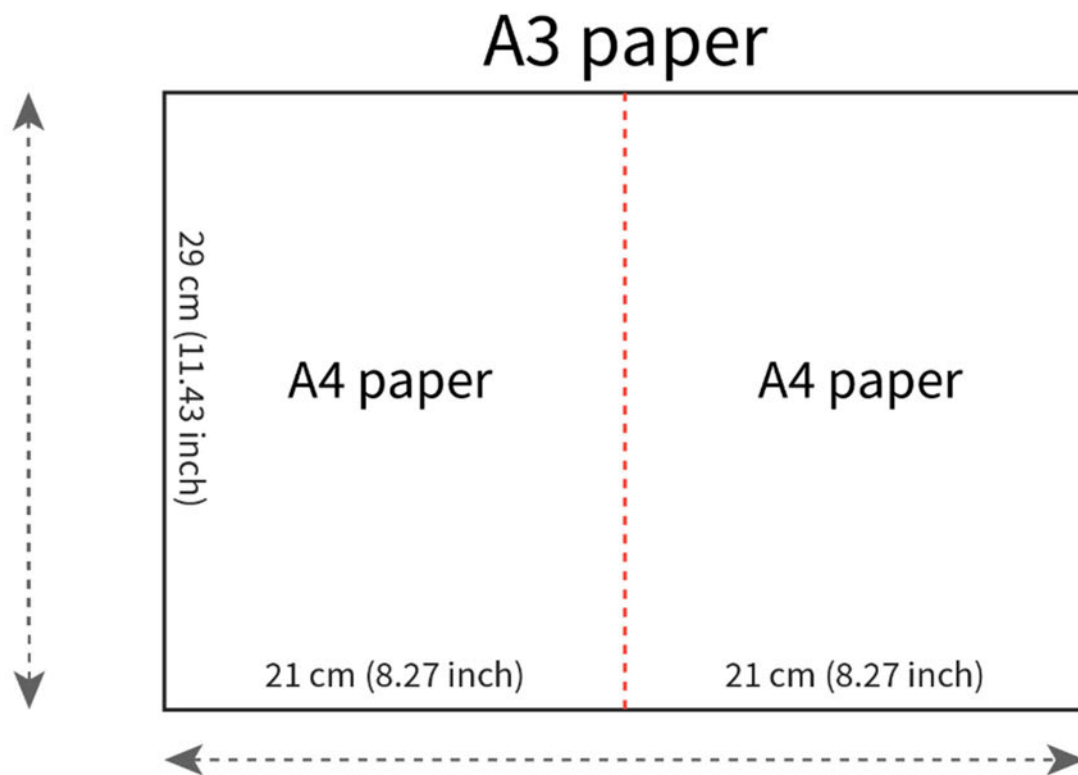
STATEMENT OF FACTS

Members of the prosecution team met with Jamal in person in response to the Court's Minute Order dated April 9, 2026. In that meeting, Jamal brought and provided to the FBI his copy of the report of the 2012 interviews reflected in Government's Exhibit 500 from the suppression hearing. As described more fully below and in Exhibit H, Jamal provided a description of the process by which he made the carbon copy of his reports of the 2012 statements of the ESO operatives.

⁴ Exhibit G-1 is a copy of the notes that Jamal took on the back of pages 1 and 2 in preparation for his deposition testimony; Exhibit G-2 is a copy of the manilla envelope in which he kept the 2012 statements. These exhibits will be submitted to chambers and counsel via USAfx. The original version of Jamal's copy of the 2012 statements is now in the government's possession, and we will make it available for review by defense counsel and the Court upon request.

⁵ These exhibits will be submitted to chambers and counsel via USAfx.

Jamal produced to the government exemplars of the materials he used in his duties as a police officer to conduct written interviews. Unlike any process previously known to either the prosecutors or agents in attendance, Jamal explained that in the course of his duties as a Libyan police officer, when taking statements, he would use multiple pieces of size “A3” lined paper, which was standard Libyan police procedure. Exhibit H at 1. Each sheet of “A3” paper came pre-folded along its long edge, resulting in two adjoining “A4”-sized sheets of paper. Counting front and back, each of these booklets of lined paper thus contained four “A4”-sized lined writing surfaces. An illustration is below:



Id. Jamal further explained that when taking a statement, he would insert a sheet of carbon paper in the center of the folded “A3” sheet. *Id.* The fold would be to the right (in Arabic, text is written from right to left). Carbon paper was available in versions that transferred in both black and blue.

Id. When taking the group of statements that included the defendant's statement, he used carbon paper that transferred in black. *Id.* When he wrote on the front of the folded sheet of lined paper, the carbon paper transferred what he wrote onto the sheet below it. *Id.* In the diagram above, if the "A3" paper were folded on the red dotted line, the carbon copy would appear on the sheet of "A4" paper to the left. *Id.* at 2. The folded sheet of paper would then contain both an "original" and a "carbon copy" of the same page of text. *Id.* If a second page was needed, he would take a second folded sheet of lined paper, insert a sheet of carbon paper, and repeat the process. He would continue repeating this process until the statement was finished. *Id.*

At the end of the statement, when the interviewee had an opportunity to review and sign the statement, Jamal explained that he would re-insert the carbon copy into the center of each piece of folded sheet of paper, and the interviewee would sign each page on the lower right-hand side. *Id.* Jamal would then sign the last page of the statement on the lower left-hand side. *Id.* Jamal confirmed that he followed this process to memorialize the statements of the ESO operatives, which included the defendant's statement, as reflected in Exhibit 500. *Id.*

Jamal next explained how the resulting reports were treated. Generally, at some time following the completion of a report, each "A3" sheet of paper would be torn by hand into two "A4" sheets, and the resulting copies would be assembled into two separate versions of the report. *Id.* In typical Libyan procedure, this hand tearing would be carried out by administrative staff of the law enforcement agency. *Id.* The original (the "original report") would be provided to the prosecutor's office and the carbon copy (the "carbon copy report") would be kept by the law enforcement agency. *Id.*

Jamal further explained that, with respect to the 2012 statements from the ESO operatives, the conditions in Libya did not allow all procedures to be followed. *Id.* In this case, he kept both

the original and carbon copies at his home until he provided them to the Libyan Official in 2014-15. *Id.* Given the passage of time, Jamal cannot now recall when the booklets containing the statements of the ESO operatives were hand-torn. *Id.*

Jamal's declaration also establishes that the photocopy he produced (Exhibit G) was kept in his safe for over a decade. *Id.* He would review it from time to time, but those reviews were not in-depth. *Id.* Beginning in 2023, when he began meeting with the prosecution team, he was often provided a copy of what was admitted as Government's Exhibit 500 to review during meetings if necessary. *Id.* At the time of Jamal's deposition testimony, he believed that the copy in his safe – which he had kept there for years, and about which no one had previously asked him the provenance – was a carbon copy. *See id.* Since returning home, Jamal has more carefully reviewed the copy of the report that he kept in his safe, and he has determined that he was mistaken in his belief – the copy he kept in his safe is in fact a photocopy. *Id.* at 3. He came to this conclusion from a review of the black marks along the edges, as well as the fact that the copy in his possession is not lined on the back, as the booklets from which he created his report would be. *Id.* Jamal cannot identify by reviewing Exhibit G whether the copy that he has kept in his safe is a photocopy of the original report or of the carbon copy report. *Id.*

Jamal also reviewed the underlines referenced by the defense in its filings, about which he also testified. At the time of his testimony, he believed he had not made the underlines, but after the review that led him to conclude that the copy he kept in his safe was a photocopy, Jamal now believes it is possible that he made those underlines. *Id.* Indeed, and as discussed further below, Jamal's copy of the statement (Exhibit G) contains additional underlines that do not appear on Government's Exhibit 500 (at pages 4, 20, 21, 36, 44, 53, 54, 55, 58, and 63). *Id.* at 3-4.

In addition to providing the government with the original version of Jamal's copy of the 2012 statements, Jamal agreed to allow the government to record his process of creating the original and a carbon copy of a hypothetical statement. Exhibits I and J are videos of the process Jamal used to create the original and carbon copy versions of this mock statement; Exhibit K-1 (blue ink) is the original exemplar depicted in Exhibits I and J; Exhibit K-2 (black ink) is the carbon copy exemplar depicted in Exhibits I and J.

Jamal's good-faith agreement to meet with the government on short notice following a family emergency, and (1) to provide the original version of his copy of the 2012 statements, (2) to provide a sworn declaration, and (3) to permit himself to be filmed demonstrating the process by which he memorializes a mock statement, underscore the government's arguments about Jamal's credibility. *See* ECF 403 at 2-3. Separately, the substance of Jamal's declaration and his description of the process by which he created carbon copies support a finding that he testified sincerely (albeit mistakenly) on a topic about which no one had previously asked him regarding the specific provenance of a copy of a document that had been sitting in his safe for over a decade.

ARGUMENT

A. Jamal's description of his process of creating the carbon copy underscores his credibility

At the deposition, Jamal volunteered that he had created a carbon copy of the 2012 statements. The question and answer that first elicited discussion of a carbon copy was as follows:

Q: When you wrote out these reports that are in Government's Exhibit 500, did you write on both sides of the sheets of paper or only one?"

A: If I understand correctly, the way I did it was that I would write on a page with a carbon copier that would print what I was writing on the first page to a second page.

Q: All right. So you wrote on report paper that had carbon copies?

A: Yes, underneath the original sheet, yes, which is two pieces of paper with a carbon copier between them.

Depo. Tr. Vol. V at 48-49. He could have limited his response to the narrow question asked – “I wrote on only one side” – but he instead supplied an additional explanatory detail that he would have no reason to offer if he did not believe it to be true. Jamal’s brief, unrehearsed description of the process by which he created a carbon copy was borne out not only by his description of it as reflected in his declaration, but by the exemplar booklets he provided, and the video demonstration as reflected in Exhibits I, J, and K.

A related exchange with defense counsel on this topic further demonstrates how cultural and translation differences can render testimony unintentionally confusing, while also underscoring Jamal’s credibility. Counsel asked, “What color is the carbon copy,” and Jamal answered, “Black.” Depo. Tr. Vol. V. at 49. Seemingly confused, counsel followed up by asking whether the paper was black, and Jamal responded, “[t]he sheet is white. The writing is black because the carbon copy was of the black color.” *Id.* Jamal’s declaration establishes that carbon paper was available in versions that transferred in both black and blue, but that he used paper that transferred in black to take the statements reflected in Exhibit 500. *See* Ex. H at 1. Ultimately, in this case, the confusion was clarified through one follow-up question, but in light of the use of blue-transferring carbon paper in Libya, Jamal’s answer to the question posed makes sense. Similarly, for a U.S. lawyer in 2026 (where carbon copies have not been the standard for quite some time, and their most common use was the creation of triplicate-like forms where different versions were on differently colored sheets of paper), it was reasonable to think that the question posed referred to the color of paper, rather than the color of ink. Jamal answered the question posed to the best of his ability, and his answer has been borne out by subsequent follow-up.

Jamal's description in his declaration of how he created the carbon copy of his report is also borne out by an examination of the copy he kept in his safe for years. Evidence that Jamal used booklets to create the report, which were then separated by hand, is replete in the version he provided to the FBI on April 17, 2026, *e.g.*, on the right-hand edge of pages 1 and 2.

B. Jamal's mistaken belief that he possessed the carbon copy was reasonable.

Jamal testified that he gave the reports of the interviews he conducted to the Libyan Official in approximately 2014 or 2015. Depo. Vol. II at 79. Under any calculation, that was over a decade ago. He has kept a copy of those reports in his safe in the years that followed, generally only taking it out for brief reviews prior to meetings with law enforcement. *See* Ex. H at 2. When Jamal did review his copy in greater depth, it was the *substance* of the report that he reviewed, not his copy's physical characteristics. *See id.* As of the time of Jamal's testimony, he had never previously been asked what type of copy he possessed. *See, e.g.*, Depo. Tr. Vol. VI at 25-26. As he testified, believing that the version in his safe was a carbon copy, he answered defense counsel's question earnestly and to the best of his memory at the time:

Q: So each page of your report has a carbon copy as well?

A: Yes.

Q: Where are the carbon copies?

A: I have them.

Depo. Tr. Vol. V at 49. That memory was reasonable – Jamal had clear memory of creating the carbon copy and of keeping both copies in his safe at home prior to providing them to the Libyan Official. Typical Libyan procedure would have dictated that the police keep the carbon copy, while the original was provided to the prosecutor. Ex. H at 2. Although Jamal knew that the no copy was left at the police station in this matter, owing to the chaotic situation in Libya from 2012-15, it would have been typical for the police to have kept the carbon copy. After a decade had passed,

during which he had no cause to refresh his memory with a close review of the physical characteristics of the document in his possession, Jamal believed that he had kept the carbon copy he so clearly remembered creating, and he answered accordingly. Whether a copy possessed for over a decade is a photocopy or carbon copy is not the type of fact – like the conditions of a detention facility for intelligence operatives or how one routinely creates a written record of interviews – that Jamal would have been expected to carefully review in preparation for his deposition testimony.

Following his testimony, still believing that he possessed the carbon copy, Jamal in good faith provided photos and videos of what he possessed to law enforcement. It was only once he undertook a more careful review that Jamal realized he had been mistaken. *Id.* at 2-3.⁶ The same is true of the underlines highlighted by defense counsel. But once he realized his mistake, Jamal came forward and provided his copy to the FBI and signed a declaration admitting to his mistake. It is not uncommon for a witness to have a failure of memory; Jamal's actions to account for his mistake on a discrete point are consistent with credibility, and the Court should so conclude. Indeed, his willingness to admit a mistake – rather than doubling down, creating an elaborate explanation, or simply declining to answer any further question on the matter – is an affirmative point in favor of his candor.

Jamal volunteered the existence of a carbon copy, and he volunteered that he believed that the carbon copy was stored at his home. He would have no reason to do so had he not truly believed

⁶ The defense claims that if Jamal can speak to the government on the phone and take a “two-minute” video while a family emergency is ongoing, that emergency must permit him to take any number of other time-consuming steps. *See* ECF 410 at 1-2. Jamal carved out time to speak to the government during the course of a family emergency; he should not be discredited simply because he could not do more, such as undertaking an in-depth analysis and searching his memory bank over ten years. Indeed, once the emergency had subsided, Jamal did precisely that, and it resulted in his providing his copy to the FBI and swearing to the declaration attached hereto.

that to be the case at the time he said it. The only plausible explanation, in light of the materials submitted herewith and the entirety of Jamal's testimony, is that Jamal was earnestly mistaken about the provenance of the copy he had kept in his safe for over a decade.

C. Jamal's copy was not provided to him after the hearing

The defense claims that the most logical conclusion is that when "Jamal returned home, he contacted [the Libyan Official's] office, arranged to obtain an unstamped photocopy, and then fabricated the description of Government's Exhibit E and F above to relay to the government." ECF 410 at 2. This baseless accusation is unsupported by any evidence, essentially accusing the attorney general of a Libya of fabricating evidence without proof, and the Court should disregard it. In any event, Jamal unequivocally denied the defense's assertion, *see* Ex. H at 4, and the documents he provided only serve to refute it. Jamal's copy contains his notes on the back of pages one and two, taken during his preparation for his deposition testimony. *See* Ex. G-1. The existence of these notes squarely undermines the defense contention that this copy was provided after Jamal's testimony.⁷ Separately, Jamal's copy also contains other underlines which are not present in Government's Exhibit 500, and a physical review of the original version establishes that those underlines were made directly with pen on that copy. *See* Ex. H at 4. The presence of those pen marks, made directly by Jamal on the paper, *see id.*, also undermines the defense assertion of how Jamal came into possession of his copy.

⁷ The defense may claim that Jamal could have added the notes in a ploy to make it seem like his copy predates his statement. It is implausible that Jamal is involved in note forgery in an attempt to make a photocopy seem to be a few months older given the overall candor he has displayed. Additionally, if he were engaged in an elaborate scheme, he would have simply offered a more convincing forged "carbon copy" in the first place and a better explanation when he was initially asked about it.

A physical review of the copy provided by Jamal to the FBI supports Jamal's credibility in other ways as well. For one, it has characteristics consistent with a document that has been kept in a safe for years: it is musty, which is inconsistent with it being a recent photocopy, and it contains small stains. It also shows smudges consistent with being in contact with carbon paper, which corroborates Jamal's declaration and testimony regarding how he created the carbon copy.⁸ The defendant's signatures as reflected at the bottom right of pp. 11-26 of Exhibit 500 (and Jamal's copy) also corroborate Jamal's testimony that the defendant signed each page: there are minor variations in the signatures; if the statement were a later fabrication, as the defense has claimed, the Court would expect to see an identically forged signature on each of those pages.

Jamal has answered this Court's questions and counsel's questions without any evasiveness, and he has acted in good faith to provide the documents the Court requested, first electronically and then in person, as well as to provide a declaration, while dealing with a family emergency. His mistaken belief that the copy in his safe was a carbon copy is reasonable under the circumstances – he possessed a document that he had not reviewed closely over the course of a decade, he created a carbon copy, and the police usually maintain a carbon copy. Once he realized his mistake, Jamal did precisely what the Court would expect from a credible witness: he acknowledged his mistake and corrected the record. As the Court noted in discussing the carbon copy during argument, "It didn't strike [the Court] as a -- an effort on his part to hide [the carbon copy]. If so, why did he share it here in court?" Motion to Suppress Tr. 2/12/26 p.m. at 29. That conclusion is only strengthened by the materials submitted in connection with this pleading.

⁸ See also Ex. K-1 and K-2 (exemplars of an original and a carbon copy statement created recently by Jamal which also show smudges).

D. Jamal's testimony is unrefuted on every issue relevant to voluntariness

Finally, it bears remembering that whether Jamal kept a carbon copy of the statement has no direct relevance to the voluntariness of the defendant's statement. On the points that ultimately matter – such as the conditions of the defendant's confinement and the methods of the interview – Jamal's testimony is completely unrefuted. Despite ample opportunity, the defense has identified no material inconsistencies nor put forth any contrary evidence. They have not even offered a competing theory for how the statement came into being, other than the one they appear to have abandoned (in which the defendant was forced to sign a fabricated confession). Accordingly, for the carbon copy issue to affect the outcome of the suppression motion, it would have to so totally destroy Jamal's credibility that the Court could not put any weight on his testimony about the interview itself. But for the reasons set forth above, and those already argued, that testimony should be credited and the motion denied.

CONCLUSION

For the above reasons, along with the entire hearing record, including Jamal's uncontradicted testimony regarding the conditions of confinement and the manner in which the statement was taken, the contents of the statement itself, and the testimony of Supervisory Special Agent Todd Tunstall, which demonstrates a level of corroboration unlikely to be found in a fabricated statement, the Court should deny the defendant's Motion to Suppress Statements.

Respectfully submitted,

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