

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
v.	)	No. 1:22-cr-392 (DLF)
	)	
ABU AGILA MOHAMMAD	)	
MAS'UD KHEIR AL-MARIMI,	)	
Defendant.	)	

MR. AL-MARIMI'S REPLY TO THE GOVERNMENT'S RESPONSE TO HIS
RESPONSE TO THE GOVERNMENT'S SECOND NOTICE OF
SUPPLEMENTAL EVIDENCE FOR MOTION TO SUPPRESS HEARING

The government's response, ECF No. 401-1, to Mr. Al-Marimi's points, ECF No. 392, generates more questions than it answers. The government obfuscates Jamal's deceptiveness by implying that Jamal could not have provided more accurate information because of a family emergency. But again, that assertion belies the evidence and common sense.

The government's proffer on March 12, 2026, stated:

The Officer also described the process by which he created the carbon copies: He began with a set of sheets of lined paper. He then took a black piece of "carbon" paper, inserted it between two of those sheets, and wrote as he described in his testimony. For the first page, this process resulted in two copies of page "1," one original and one carbon copy. He then moved the carbon paper to the next sheet and repeated the process, resulting in two copies of page "2," and so on. When the statement was finished, he brought both the original and the carbon copy of the page back to the interviewee for review and signature, again using the black carbon paper to replicate the signature from the original onto the carbon copy.

ECF No. 369 at 2. This detailed, step-by-step description flatly contradicts any inference that Jamal was **unable** to accurately describe the copy at his home because of a family emergency. If Jamal was unable to provide more accurate information

because of a family emergency, he readily could have said, “Here is a photocopy that I have at home, and I will send the carbon copy when I can.” Or, “I just cannot get it to you right now because of a family emergency.” If Jamal was so pressed for time, he could have chosen not to create a nearly two-minute video paging through what by all appearances is a photocopy.

The question of where the photocopy came from also contradicts any inference that Jamal was unable to accurately describe the copy at his home because of a family emergency. If Jamal was truthful in his testimony to this Court that after handing the original report to Al-Siddique Al-Sor in the end of 2014 or the beginning of 2015, Jamal never saw the original copy again, Jamal’s copy would not have the underlines on it that Jamal said he did not make. *See* ECF No. 392 at 2-3; Second Day 2:00 PM Tr. at 40¹. So, one must wonder where the unstamped copy with the underlines in Government’s Exhibits E and F came from.

The most obvious and logical conclusion is that the photocopy came from Al-Sor’s office. If so, that means that when Jamal returned home, he contacted Al-Sor’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. If Jamal was so pressed for time because of a family emergency, why go to all the trouble to get an unstamped photocopy from Al-Sor’s office that is by all appearances not a “carbon copy” as Jamal has described?

¹ “Q: After you gave the original of the report that you wrote of your interrogations to Mr. Al-Siddique Al-Sor, did Al-Siddique Al-Sor ever give you back the original? A: No. Q: Did you ever touch the original report again after you gave it to Al-Siddique Al-Sor? A: I never saw them again.” Second Day 2:00 PM Tr. at 40.

Further, the government makes no effort to explain how the lines on the document that Jamal testified he did not make appear on the “officer’s copy”. The government seems unwilling to recognize just how fatal these continued lies are for Jamal’s credibility. Perhaps it is because Mr. Al-Marimi’s alleged confession was central to the government’s decision to charge Mr. Al-Marimi and its prosecution of him that the government does not want to accept that its star witness is spinning yarns.

The government attempts to shift the Court’s attention away from these straightforward flaws in its position by arguing that the “defense has offered no theory for why the officer would convey what he knew was a falsehood when he stood to gain nothing by doing so – especially because he would have known he would be asked to provide the document”. ECF No. 401-1 at 2. The Court should not be distracted by this sideshow.

First, the defense bears no burden now or at trial to explain why a witness has lied. Pattern jury instructions routinely observe that the trier of fact “may accept all of what a witness says, or part of it, or none of it” for any reason. *See, e.g., The William J. Bauer Pattern Criminal Jury Instructions of the Seventh Circuit* at 36 (2023 ed.), available at https://www.ca7.uscourts.gov/pattern-jury-instructions/Criminal_Jury_Instructions.pdf; Pattern Criminal Jury Instructions of the Sixth Circuit, Instruction 1.07A (“It is up to you to decide if a witness’s testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or none of it at all.”); *see also United*

States v. Jones, 459 F.2d 1225, 1226-27 (D.C. Cir. 1972) (approving similar language). At bottom, it matters not why a witness might lie so easily about critical matters; what matters is that he has lied about material matters under oath. *See, e.g., United States v. Cuffie*, 80 F.3d 514, 518 (D.C. Cir. 1996) (observing in *Brady* violation challenge that “undisclosed evidence that Moore had lied under oath in a previous court proceeding involving the same drug conspiracy identified an infirmity in Moore’s testimony that is almost unique in its detrimental effect on a witness’ credibility”).

Second, there are a number of possible reasons that Jamal has lied—none of which provides any respite to the government about its witness’s lack of credibility. Maybe Jamal is acting at the behest of more powerful figures; his apparent coordination with Al-Sor’s office to obtain the unstamped photocopy in Government’s Exhibits E and F appears suspicious all around. Or perhaps Jamal thinks he can continue getting away with spinning tales in order to build rapport with a government that has worked to provide him significant personal benefits. Or maybe Jamal is just a liar. Whatever the reason, Jamal has lied and continues to lie about material matters. The Court itself directly questioned Jamal about the alleged “carbon copy”. *See* Second Day 3:50 PM Tr. at 22-23. Never once did Jamal tell the Court that what he had at home was a photocopy or that he had gotten that photocopy back from Al-Sor’s office at some earlier point. To the contrary, Jamal affirmed that what he had in his home in his safe was “a carbon copy of the **original** statement”. *Id.* at 23 (emphasis added). Those lies provide the Court a solid foundation to discredit

Jamal's entire testimony.

Further, the government continues to befuddle evidence as corroborative of Jamal's testimony. The supplemental evidence that the parties provided does ***not*** support the timeline of when Jamal testified he allegedly interrogated Mr. Al-Marimi and the other men. *Compare* Second Day 2:00 PM Tr. at 18-19 (Jamal testified he conducted the interrogations within a few days of September 12, 2012) *with* First Day PM Tr. at 17 (Jamal testified that during the first days of his interrogations with the men imprisoned at Hisham Msimir's militia headquarters, a television program aired about Flight 1103 that included "confessions" from the military pilots and the female air traffic controller involved in the crash of Flight 1103) *and* ECF Nos. 355 and 360 (reporting that the only television broadcast of the interviews Jamal described that the parties are aware of became publicly available at the end of June 2013). Moreover, evidence from Ms. Murray and FBI Agent Tunstall about the widely and internationally reported utter chaos that has enveloped Libya since the demise of Qaddafi and his government is hardly meaningfully corroborative of Jamal's general statements of the same.

The conclusion that this information demands is clear: Jamal continues to provide untruthful information to this Court despite his oath to tell the truth. The Court should reject the government's assertion that Government Exhibits E and F bolster Jamal's credibility and further find that Jamal is not a credible witness.

Respectfully submitted,

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

By: /s/

Whitney E.C. Minter
Va. Bar # 47193
Brooke Sealy Rupert
Va. Bar #79729
Assistant Federal Public Defender
Attorney for Mr. Al-Marimi
1650 King Street, Suite 500
Alexandria, Virginia 22314
(703) 600-0855 (telephone)
(703) 600-0880 (facsimile)
Whitney_Minter@fd.org (email)

Laura Koenig
Va. Bar #86840
Assistant Federal Public Defender
Attorney for Mr. Al-Marimi
701 E. Broad Street, Suite 3600
Richmond, Virginia 23219
(804) 343-0800 (telephone)
(804) 648-5033 (facsimile)
Laura_Koenig@fd.org (email)