

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

UNITED STATES OF AMERICA,

V.

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

No. 1:22-cr-392 (DLF)

**MR. AL-MARIMI'S RESPONSE TO THE GOVERNMENT'S
SUPPLEMENTAL FILING IN SUPPORT OF THE SWORN DECLARATION
OF THE LIBYAN POLICE OFFICER**

Jamal’s declaration flatly contradicts his own deposition testimony, FBI agent notes and 302 reports generated after Jamal returned home, and the physical evidence the government itself produced. His sudden inability to recall whether he made underlines in Government Exhibit 500—and his belated acknowledgment that what he repeatedly called a “carbon copy” is in fact a photocopy—are not the product of faulty memory. They are the product of falsehoods. The Court should reject the government’s efforts to rehabilitate a witness whose credibility has been thoroughly and irreparably undermined by the record.

I. The Court should reject as incredible Jamal’s sudden forgetfulness about whether he made the underlines in Gov’t Ex. 500.

In his declaration, Jamal claims his false deposition testimony about the underlines in Exhibit 500 was the result of poor memory and not having “given much thought” to how his copy was created. But as laid out more fully below, the evidence belies that assertion because 1) Jamal testified extensively about how he prepared his report and was asked repeatedly about the underlines; 2) Jamal answered those

questions without hesitation or equivocation; 3) the deposition exchange indicates that the government had prepared Jamal for questions about those same underlines; 4) as late as March 10, 2026, Jamal told FBI agents that he had ***not*** made those underlines; and 5) it was only after the defense exposed the impossibility of his testimony that Jamal suddenly claimed uncertainty about the underlines. The Court should reject this as a post-hoc attempt to walk back deliberately false testimony.

In his declaration, Jamal, in trying to explain how his false testimony was not intentional but rather the result of memory lapses, stated: “At the time of my deposition testimony, I had not given much thought to how my copy of the report was created”. ECF No. 426, Ex. H at 3. He then declared, “At the time of my deposition testimony, I believed that I had not made the underlines in the copy of my report that was admitted as Exhibit 500. After my review described above, . . . I believe that it is possible that I made the underlines on the report” before blaming his lack of certainty on his poor memory. ECF No. 426, Ex. H at 3. But, as the government’s questions to Jamal at his deposition about Jamal’s creation of his report make clear, that cannot possibly be true.

For example, at the deposition:

1. The government asked Jamal, “When conducting the formal written interview, do you write word for word what the witness says?” First Day PM Tr. at 10. Jamal answered in the affirmative and then went on to explain that he would read aloud what he was writing so that the person he’s interrogating could know “that that is what I’m writing”. *Id.*

2. The government asked Jamal, “If one of the people you interviewed had a correction, how would that be noted in your official report?” First Day PM Tr. at 20. Jamal answered that “the investigator would underline the part of the sentence which was problematic. And above the mistake he would write in Arabic, ‘corrected.’ And the correction would be written right away after the sentence at issue, without scratching or darkening the wrong answer. So you still can read it.” *Id.*
3. The government then asked if Jamal had “had a chance to look at [Exhibits 500 and 500J] before coming to court here today?” First Day PM Tr. at 21. Jamal answered, “Yes”. *Id.* The prosecution had Jamal look through each exhibit and confirm: “These are the pages of the reports I prepared.” *Id.*
4. The government asked again, “Did you have a chance to review that before coming to court here today?” First Day PM Tr. at 21. Jamal answered, again, in the affirmative. *Id.*
5. The government next asked Jamal to identify his handwriting in Exhibits 500 and 500J. First Day PM Tr. at 22.
6. The government then asked Jamal about the red stamp that appears on each page of Exhibit 500. First Day PM Tr. at 22. The government asked Jamal, “What does that stamp signify?” Jamal responded, “What’s written inside the rectangular shape is ‘copy of original.’ What it signifies is that this copy in front of me is the exact identical copy to the original.” *Id.* at 22.

7. Just a few questions later, the government asked again, “Now, have you had a chance to flip through all of these pages before coming to court here today?” First Day PM Tr. at 24. Jamal answered, again, in the affirmative. *Id.*
8. The government then asked, “Other than being a copy, did you see any differences between the original report you created and the version you are looking at right now?” First Day PM Tr. at 24. Jamal then answered, “No.” *Id.*
9. Jamal had apparently missed the cue the government was trying to give him for that question because the government then asked, “Let me ask you one question on that. Did you see some underlining on this version?” First Day PM Tr. at 24. Jamal answered in the affirmative. *Id.*
10. The government then asked, “Did you make all of the underlining in this document?” First Day PM Tr. at 25. Jamal answered, “Not all of them.” *Id.*
11. The government immediately followed up with, “Did you see any changes to the text that you wrote or to the signatures the men affixed between the original and now?” First Day PM Tr. at 25. Jamal answered, “I did not notice anything different from the original copies, other than the underlining that I saw”. *Id.*
12. The defense then objected to speculation that Jamal was trying to give about where he thought the underlining he had not done came from. *Id.*

13. In asking “some clarifying questions”, the government asked, “From your previous work as a police officer, had you given copies of statements you took to the DA’s office?” First Day PM Tr. at 25. Jamal then answered that the final report is given to the prosecutor’s office while a copy is kept at the local precinct. *Id.* at 25-26.

14. The government then asked, “In any of those previous cases where you had given copies of your statements to the prosecutor’s office, had you seen them become underlined while at the prosecutor’s office?” First Day PM Tr. at 26. Jamal answered, “Usually the original copy, which is transferred over to the prosecutor’s office, there is no reason in the future for us to be able to see that copy again.” *Id.* The government then said, “Okay. Thank you. We may come back to this; we may not.” *Id.*

This dialogue is important for two reasons here: One, this back and forth indicates that not only did Jamal have plenty of time to review his report, but he obviously spent time with the prosecution team before his deposition preparing this exact line of questions. The government never would have pursued that line of questioning about the underlines had the prosecution not prepared Jamal for that exact line of questioning.

Two, any question left open on this line of direct questioning was closed firmly on cross-examination and redirect. On cross-examination undersigned counsel asked, “Yesterday when you were talking about Government’s Exhibit 500, you mentioned that there were underlines on Government’s Exhibit 500 that you did not make,

right?” Second Day PM1 Tr. at 40. Jamal answered in the affirmative. *Id.* The defense then spent a number of minutes and six pages of transcript going through each line in the portion of Jamal’s statement involving his alleged interrogation of Mr. Al-Marimi to identify which lines Jamal did not make. *Id.* at 40-46. Contrary to the usual method of cross-examination, undersigned counsel did not ask close-ended or leading questions during this line of questioning. *Id.* Rather, undersigned counsel repeatedly asked, “Are there any lines on page [insert page number] that you did not make?” *Id.*

Had there been any doubt that the government and Jamal had spent time preparing for this exact line of questioning, the government on redirect nailed the lid on that coffin shut tight.

Q. Now, Ms. Koenig asked you a number of questions about underlining in the statement that you took from Abu Agila.

A. Yes.

Q. Do you remember those questions?

A. Yes.

Q. And if you can open Exhibit 500, which I think is still in front of you, to Page 14. You identified a number of items in this version that are underlined, correct?

A. Yes.

Q. And in the course of your career as a law enforcement officer, had you seen statements underlined in red?

A. The prosecutor, while reviewing the police reports of the

interviews -- or investigations, if they want to point to something specific or something important in the written document, he will underline the part of the sentence or the word, they will use -- they will use a pencil -- red, ink pencil.

Q. Now, Ms. Koenig had you identify a number of items that were underlined in this report that you did of what Abu Agila told you, correct?

A. Yes.

Q. So you see the ones on Page 14, correct?

A. Yes.

Q. Can you turn to Page 20 and take a look at those?

A. Yes.

Q. You see the underlinings on Page 14 that you had talked about with -- or, excuse me, on Page 20 that you talked about with Ms. Koenig?

A. Yes.

Q. And, again, on 21?

A. Yes.

Q. The types of things that are underlined in Abu Agila's statements, how does -- how do those compare to the types of things that you see in the DA's office underlined?

A. So based on the signs that I see on the important information or name of people, I believe that they were done by a Siddique Al-Sour or members who work in his DA's office.

Second Day PM2 Tr. at 14-16¹. Nowhere on direct, cross-examination, or redirect did Jamal equivocate about Exhibit 500 containing underlines that he did not make. Not once did he say, "You know, I just am not sure about whether I made those lines or not." Further, when questioned about the underlines by federal law enforcement agents on March 10, 2026, Jamal again reiterated: "His assumption is that when the original document was brought to Al-Sor then Al-Sor made those markings." 3/10/26 FBI Agent Notes.

It was only after the defense pointed out that his testimony could not possibly be true, *see* ECF Nos. 392 and 410, that Jamal developed amnesia about whether or not he made those underlines, *see* ECF No. 426, Ex. H at 3. The Court should reject the government's attempt to rehabilitate Jamal's lies about the underlines.

II. The Court should also reject as incredible Jamal's sudden epiphany about the contents of Exhibit E being a photocopy rather than a carbon copy.

Likewise, Jamal's sudden forgetfulness about the alleged carbon copy make a mockery of his oath to tell the truth. To recap, at his deposition, Jamal testified that he had retained a "carbon copy" of his original report of Mr. Al-Marimi's alleged

¹ While the Court sustained Mr. Al-Marimi's speculation objection on this point, the Court can consider that testimony in evaluating Jamal's credibility for purposes of deciding the suppression motion. For trial purposes, the defense can also, if it so chooses, should the Court deny Mr. Al-Marimi's suppression motion, waive that objection to that portion of Jamal's testimony.

confession at home. *See* Second Day PM1 Tr. at 48-49. He described making the carbon copy by having two sheets of paper with the carbon copy sheet between those two sheets of paper. *Id.* When asked, Jamal testified that the copy he has at home is not a photocopy. *Id.* at 49 (“Q; Okay. So the copy that you have at home is not a photocopy; it is a carbon copy? A: Yes.”).

Jamal further testified on cross-examination:

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.

Q. So you have the copy that you made and a carbon copy or only the carbon copy?

A. The carbon copy only. The original copy is with Al-Siddique Al-Sor.

Second Day PM1 Tr. at 49. Jamal had no equivocation. No hesitation. No indication of possible forgetfulness. No indication of any misunderstanding.

Then, when the Court ordered Jamal to produce this alleged carbon copy, Jamal sent pictures of what the government marked as Exhibit E. *See* ECF No. 369. In submitting Exhibit E, the government stated, “the Libyan Police Officer (the “Officer”) sent photographs of the version of the statement that he retained, which he has referred to as a carbon copy”. ECF No. 369 at 1.

The government then 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.

On April 24, 2026, at 8:06 a.m. after reviewing the government’s submissions the night before in detail, the defense requested “the immediate production of all reports, records, and notes of all communications and interactions you have had with Jamal since his deposition through now”. It was apparent on its face that Exhibit E was not a carbon copy, but rather a photocopy. The defense made this request on April 24, 2026, to confirm the exact *date* Jamal made the statements proffered in ECF No. 369, where Jamal continued to refer to Exhibit E as his “carbon copy” when he sent it to the government after his deposition.

Responsive discovery the government provided to the defense at the close of business today (4/29/2026) reports that this information in ECF No. 369 came directly from Jamal. Even after getting a chance to review the copy he had at his house in person, on March 6, 2026, Jamal continued to tell federal law enforcement agents, **“The pages that Jamal photographed were a carbon copy and not photocopies of a carbon copy.”** 3/6/26 FBI 302 (emphasis added). FBI agent notes

from March 6, 2026, indicate “Jamal has carbon copy pages at his house and these are the pages he took pictures of and sent using WhatsApp”. 3/6/26 FBI Agent Notes.

This FBI 302 and these agent notes from March 6, 2026, that the government provided to the defense at the close of business today clearly contradict Jamal’s declaration in ECF No. 426, Exhibit H. Yet rather than provide the defense with these material and exculpatory materials, *see Brady v. Maryland*, 373 U.S. 83 (1963), from March 6, 2026, in a timely fashion for the defense to use in its briefings in ECF Nos. 392 (filed March 25, 2026) and 410 (filed April 2, 2026), the government held onto these documents, leaving the defense to continue to have to ask the Court for opportunities to challenge the filings that patently did not match the assertions the government was making about them.

And on March 30, 2026—fourteen days after having this explicit conversation with Jamal about the contents of Exhibits E and F, the government argued to the Court:

The officer had no conceivable reason to lie about possessing a carbon copy, and this fact (like his attempt to record the interview) is one that never would have come to light if he had not volunteered it. 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. **The far more plausible explanation is that the officer genuinely believed that the document in his possession was the carbon copy.**

ECF No. 401-1 at 2 (emphasis added). The government further argued that “this issue does not cast substantial doubt on the officer’s credibility”. *Id.*

On April 27, 2026, undersigned counsel and a defense investigator reviewed in

person the government's physical copy of Exhibit G. The defense investigator took photographs of each of the pages. *See* Ex. G-Defense². There can be no doubt by anyone looking at Exhibit G that it is a photocopy. There are no lines on the reverse side as there would be if this was part of the carbon copy. *Compare* Ex. K-1 *and* Ex. K-2. The edges of both sides of every page are smooth and not torn. *See* Ex. G-Defense. Each page has a white border around the edge. *Id.*³ Jamal's assertion to the FBI agents on March 6, 2026, that Exhibit E and F are of carbon copies is so farcical it demeans the integrity of this proceeding.

Yet now, the government asks the Court to believe that all of a sudden, after the Court ordered the government to physically acquire what Jamal produced in Exhibits E and F (which the government has produced as Exhibit G), Jamal had a sudden insight that Exhibit G is in fact a photocopy and not a carbon copy. *See* Ex. H at 3. Jamal's declaration states, "After I returned home, I more carefully reviewed the copy of the report that I kept in my safe, and I have determined that my belief that this was a carbon copy **was mistaken**". *Id.* (emphasis added). Jamal has time and again shown his willingness to provide false information to this Court, which the Court must not abide.

² When the defense investigator went to download these pictures on April 28, 2026, he discovered that the pictures of the front sides of the first two pages of Exhibit G either did not take properly or did not store properly to the camera's memory card. Because of the deadline to file this brief today and other obligations since noticing this issue, the defense has not been able to arrange to retake photographs of the front sides of the first two pages of Exhibit G. The defense will arrange to digitally provide Exhibit G-Defense (the defense photographs of Exhibit G) to the Court on April 30, 2026.

³ The copy of Exhibit G that the government provided to the Court and defense counsel was scanned in such a way that it omits these signs that Exhibit G is unquestionably a photocopy.

The Court must reject the government's attempts to rehabilitate Jamal's lies about the carbon copy.

III. Furthermore, we now have four missing pieces of purported evidence: two videos, an original copy, and a carbon copy.

According to Jamal's declaration, original and carbon copies of Exhibit 500 existed. But like the two videos of his alleged interrogation of Mr. Al-Marimi, these original and carbon copies have also seemingly disappeared. Jamal declared with certainty that he had made and described in painstaking detail how he had made a carbon copy of his alleged interrogation of Mr. Al-Marimi and the other men imprisoned with Mr. Al-Marimi. *See* Ex. H. He appeared in videos showing how he would have made such a carbon copy. *See* Exs. I and J. The government provided copies of the exemplar carbon copy and original that Jamal created. *See* Exs. K-1 and K-2.

And Jamal declared, "I kept both the original and carbon copies at my home until I provided my report to the Libyan official I do not recall how the original report was separated from the carbon copy report in this matter". Ex. H at 3. But, no one appears to know where the original and carbon copy of Jamal's report are. Jamal declared, "I do not recall at this point specifically whether I gave the carbon copy report to the Libyan Official at the same time I gave him the original report, but it seems likely to me that I did so". Ex. H at 3.

So, like the two videos Jamal says he made but has now lost, there are two additional pieces of evidence that Jamal says he created that appear to either be lost, missing, or otherwise unobtainable. Or perhaps, the carbon copy has been a

fabrication from the moment it first came out of Jamal's mouth at the deposition.

Consider the following points. If Jamal had made a copy of the original report, or of the carbon copy (and he declares he does not remember which part he made a copy of), we would not see smooth sides on both sides of the contents of Exhibit G. But, Exhibit G-Defense shows us that many of the pages show smooth dark lines on both sides of the paper. *See* Ex. G-Defense at 13, 19, 20, 21, 22, 23, 25, 26, 27, 36, 41, 56, 57, 58, 59, 60 (both⁴), 61. There are next to no smudge, or transfer, marks anywhere in Exhibit G-Defense where some pressure was inadvertently applied to the carbon paper leaving marks on the carbon copy. *Compare* Ex. K-2 at 1 (transfer marks at lines 25-29) *with* Ex. G-Defense⁵. To have next to no such marks throughout 77 pages of alleged carbon copies is mystifying if indeed a carbon copy had been created.

This continuing loss of critical pieces of evidence and the steady flow of mistruths from Jamal, and delaying presenting evidence of the same, cannot continue. The exclusionary rule of the Fourth Amendment was designed as a “prudential doctrine” created to “compel respect for the constitutional guaranty”. *Davis v. United States*, 564 U.S. 229, 236 (2011) (citing cases). The rule's purpose is to deter illegal police conduct. *Id.* at 237. What we have here is a police officer, albeit a foreign one, who continues to provide untruthful information to this Court despite

⁴ There are two pages marked “60” in Exhibit 500 and Exhibit G. But, both pages marked “60” have different content.

⁵ At the bottom of page 71 of Exhibit G-Defense, there are some marks that could possibly be consistent with transfer marks, but not having the original of Exhibit 500 or the original contents of Exhibit G make it difficult to tell.

his oath to tell the truth. The Court should reject the government's assertion that Government Exhibits G through K bolster Jamal's credibility and further find that Jamal is not a credible witness.

Respectfully submitted,

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