

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

UNITED STATES OF AMERICA

v.

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

Defendant.

:
:
:
:
:
:
:

Case No. 22-cr-392 (DLF)

GOVERNMENT'S SUPPLEMENTAL CERTIFICATIONS OF FOREIGN RECORDS

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits the attached additional certifications and declarations corresponding with exhibits that the government proposes to offer as foreign records of regularly conducted activity. The government has submitted the following items via USAFx:

Exs. 901, 902¹ (and corresponding -c and -c2 exhibits) – Czech visa materials and corresponding certificates. The certifying witness as referenced in 901 and 902 -c did not provide the year that his employment in the passport control section ended. According to information provided by the Czech authorities, the reason is because the witness did not remember when he stopped working there. Regardless, the certificate sufficiently establishes that the witness (who began working at the passport control section during the 1990s) is qualified to certify the records and that they meet the requirements of 18 U.S.C. § 3505. Moreover, the same documents have been certified by a different individual as reflected in Exs. 901 and 902 -c2.

¹ In its initial motion, the government stated that it intended to admit these exhibits through a live witness. *See* ECF 148 at 15-16. Since that original filing, the government learned that the witness was no longer willing to travel to the United States, so it sought and obtained certifications for them. The government now asks the Court to provisionally admit these exhibits based on the certificates. Additionally, because a visa application does not “assert” any “fact,” it is not hearsay to begin with. *See* generally ECF 445 at 32-34.

Exs. 1549, 1550, 1551, 1552, 1558, 1559 (and corresponding -c2 exhibits) – Swiss visa applications and corresponding certificate.² The Court previously declined to admit these exhibits as public records. *See* 1/12/26 Tr. at 47-50. The certificate submitted today complies with the requirements of 18 U.S.C. § 3505 for admission of the exhibits as foreign records of a regularly conducted activity. The certificate establishes that each of the visa applications was made at or near the time of the occurrence of the matters set forth therein (i.e., at or near the time that the visa request was submitted) by a person with knowledge of the matters (i.e., the person who completed and submitted the request), and that each was kept in the course of the Ministry of Foreign Affairs’ regularly conducted business. Moreover, because a visa application does not “assert” any “fact,” it is not hearsay to begin with. *See generally* ECF 445 at 32-34.

Exs. 905, 908 (and corresponding -c2 exhibits) – The Court previously declined to admit Ex. 908 as a certified business record, *see* 1/12/26 Tr. at 40, and the government provided additional facts and argument in support of its admission, *see* ECF 326 at 4-5. Exhibit 905 is a similar document (a letter addressed to the Hotel Intercontinental), to which the same arguments would apply, although the Court did not specifically identify this as an exhibit for which additional explanation was required. The government has obtained a declaration from a former employee of the hotel, submitted here as Exhibits 905-c2 and 908-c2, which provides further information about the hotels’ recordkeeping practices and further support for the government’s position that the document was kept in the regular course of the hotel’s business and otherwise qualifies for admission under § 3505.

² The certificate also covers additional documents (identified by “CP__,” or “Crown production” numbers) that the government does not presently intend to offer.

Senegal document (Ex. 1403) – The government believes that its need for this exhibit has been obviated and is accordingly no longer requesting a pretrial ruling on its admissibility.

Swiss documents (Exs. 1513, 1519, 1525, 1526, 1529, 1533, 1534, 1537, 1539, 1541) – The government does not expect to obtain § 3505 certifications for these documents. Some of the documents (Exs. 1513, 1519, 1525, 1529, 1534, 1537, 1539, 1546) were offered through live witness testimony during a Rule 15 deposition. *See generally* ECF 398-1, ECF 417-2, ECF 419-1 (briefing on defense’s objections). As an alternative basis for admission, each of these exhibits qualifies as an ancient document admissible under Fed. R. Evid. 803(16). The government is no longer seeking a pretrial ruling on the admissibility of the remaining documents (Exs. 1526, 1533, 1541).

The government appreciates the Court’s consideration of the exhibits.

Respectfully submitted,

JEANINE FERRIS PIRRO
UNITED STATES ATTORNEY

By: /s/ *Conor Mulroe*
CONOR MULROE (NY Bar No. 5289640)
ERIK M. KENERSON (OH Bar No. 82960)
BRITTANY KEIL (D.C. Bar No. 500054)
Assistant United States Attorneys
JEROME J. TERESINSKI (PA Bar No. 66235)
Special Assistant United States Attorney
601 D Street NW, Washington, D.C. 20530
(202) 740-4595 // Conor.Mulroe@usdoj.gov

KATHLEEN CAMPBELL (MD Bar No. 9812170031)
JENNIFER BURKE (MD Bar No. 9706250061)
Trial Attorneys, Counter Terrorism Section
National Security Division
950 Pennsylvania Avenue NW, Washington, D.C. 20530