

**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 RESPONSE TO
GOVERNMENT'S SUPPLEMENTAL CHARTS OF EVIDENCE REGARDING
COCONSPIRATOR HEARSAY**

Pursuant to the Court's July 9, 2026 Minute Order, Mr. Al-Marimi responds to the government's charts about the participation of alleged coconspirators in various ventures and the independent evidence (or lack thereof) supporting their participation. *See* ECF No. 526.

Before turning to the alleged coconspirators, Mr. Al-Marimi briefly addresses the alleged joint ventures identified by the government. Whereas the La Belle attack and Pan Am 103 might each qualify as a “specific criminal goal” as discussed in *United States v. Gigante*, 166 F.3d 75, 82–83 (2d Cir. 1999), the external security apparatus and an amorphous scheme to harm U.S. and Western civilians are “general overriding” conspiracies that sprawl too large. The agency logic of the coconspirator exemption, whether it has any persuasive force, falls apart when applied to situations where the principal party need not know anything about the objectives or roles of other members in schemes that do not involve the party. Otherwise, the logic impermissibly “would allow the admission of any statement by any member of the [venture] regarding any criminal behavior by any other member” *Id.*

And again, the government does not get to define the scope of any joint venture. The scope necessarily is determined by the nature of the agreement between those involved, which must be proved by a preponderance through independent evidence.

I. Said Rashid

- Rashid telling Mr. Al-Marimi about travel to East Germany to meet with Ali Kashlaf for a “work assignment” does not indicate Rashid’s knowing participation in the attack that allegedly followed; nothing in the alleged confession states Rashid ordered or knew about the attack
- Rashid’s alleged involvement in a group that allegedly ordered MST-13 timers does not necessitate his knowing participation in how any timer was used
- Rashid’s alleged role as the head of a company that purchased Toshiba radio cassette recorders does not necessitate his knowledge of the order or his knowing participation in how any radio was used; testimony at prior trial indicated the model of radio was not specified for the order
- Rashid’s statement about the possibility of placing an unaccompanied bag on a flight to England in 1986 does not support his participation in the La Belle conspiracy; timing of statement (1986) and speculative nature do not necessitate the present existence of a Pan Am 103 conspiracy or Rashid’s participation; statement does not expressly link to American targets
- The fact that the La Belle attack occurred does not implicate Rashid, or any individual, in a joint venture involving the attack

II. Ali Kashlaf

- The alleged potential to transport explosives to embassies in diplomatic bags does not require the knowing participation of any embassy staff in any joint venture, including Kashlaf
- Kashlaf’s location in East Germany does not support his participation in any joint venture; travel to East Germany would have been necessary in any event because the alleged target was in the area, rendering this “corroboration” of little probative force
- Kashlaf’s alleged provision of the bomb materials is only corroborated by the alleged confession

- The fact that the attack occurred does not implicate Kashlaf, or any individual, in a joint venture involving the attack

III. Abdullah Senusi

- Senusi's alleged closeness to Qaddafi and ability to engage in foreign operations do not support his participation in Pan Am 103 in particular
- Senusi's alleged oversight of or presence at explosive testing is supported by purported Libyan documents that are unreliable for reasons previously briefed and thus have little probative force; *see* ECF 358-2
- The placement of the alleged explosive device in the airline system in Malta is not conclusively established
- Mr. Al-Marimi's alleged return travel to Tripoli with Megrahi shows only proximity between the two and does not connect Senusi to Pan Am 103 by proxy
- Reporting on Senusi's alleged involvement in another attack, particularly through unreliable purported Libyan documents, *see* ECF 358-2, does not necessitate or support his participation in a separate alleged conspiracy of Pan Am 103

IV. Abdelbaset al-Megrahi and Lamin Khalifah Fhimah

- Megrahi
 - Previously convicted by Scottish court, but guilt and validity of the conviction have been credibly questioned by diverse groups and remain contested
 - Travel to Prague and Zurich not necessarily related to any joint venture and only speculatively supports knowing participation in Pan Am 103
 - Proximity to others does not necessitate knowing participation in any joint venture
- Fhimah
 - Previously acquitted of involvement in Pan Am 103 by Scottish court; regardless of how the Camp Zeist trial is handled with respect to the jury, the Court may consider this information at this stage
 - Proximity to others does not necessitate knowing participation in any

joint venture

- Ability or opportunity at the Maltese airport does not support the use of such access in a particular way or knowing participation in any joint venture
- Alleged placement of suitcase on conveyor does not alone support present knowing participation in Pan Am 103
- Fhimah's diary entry is itself an out-of-court statement that is relevant here only if true

V. Muammar Qaddafi

- Qaddafi's public expression of hostility towards the U.S. does not necessitate his participation in any joint venture to harm the U.S. or its people; alleged attacks did not occur "inside America"
- No support for participation in La Belle; temporal proximity of non-specific public remarks is insufficient
- Nature of Qaddafi's government writ large does not establish any organizational or operational structure and only speculatively connects him to particular events

VI. Muftah Abdulkarim

- Only support comes from Mr. Al-Marimi's alleged confession
- No support for Abdulkarim's involvement in any joint venture other than the external security apparatus
- Argument about statement's context relies on speculation; assumes facts about Abdulkarim's role and knowledge of the meeting's purpose without support

VII. Unidentified declarants

Even assuming the identification of the declarant by name is not required for the admission of a statement under Rule 801(d)(2)(E), an issue the D.C. Circuit has not addressed, Mr. Al-Marimi maintains that the government's showing regarding these declarants falls well short of what other courts have found sufficient.

- Statement 13
 - No basis to conclude that only external security apparatus members knew this information, so no support that the declarant was an external security apparatus member
 - No support that declarant had agreed to any joint venture; declarant may have been expressing why he or she declined to participate
- Statement 16
 - Assuming statements by someone other than al-Megrahi and Fhimah, there's no reason why this information about their jobs had to come from an external security apparatus member
- Statement 20
 - Statement presumably flowed from Qaddafi but may have been relayed by intermediary; no context provided
 - Assuming statement by someone other than Qaddafi, no basis to conclude that only external security apparatus members or joint venture participants would make the statement; uninvolved government employees or aides could have done so

Respectfully submitted,

**ABU AGILA MOHAMMAD
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