

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 THE GOVERNMENT'S NOTICE OF
FILING DECLARATIONS REGARDING ORIGINAL STATEMENT**

Mr. Al-Marimi herein responds to the government's filings in ECF Nos. 540 and 556 regarding the original handwritten and alleged carbon copies of Jamal's reports:

- I. **It is important to first compare Suppression Hearing Exhibits 500 and 502, which the Libyan government provided to western authorities in 2017, to ECF No. 540 Ex. M, [REDACTED]**

As the defense understands the evidence, in 2017, Al-Siddiq Al-Sor, who was at that time the Head of the Investigative Section of the Libyan Attorney General's Office in Tripoli, sent a packet of materials to the Attorney General of Scotland. *See* Suppression Hr'g Exs. 502, 502-tr. That packet contained:

1. A cover letter Mr. Al-Sor wrote dated January 10, 2017; *see* Suppression Hr'g Exs. 502 at 1-2 (referring to PDF pagination) and 502-tr. at 3-4 (referring to PDF pagination);
2. A "Record of collection of Evidence" dated November 23, 2015; *see* Suppression Hr'g Exs. 502 at 3 and 502-tr. at 5;

3. A “Record of Proceedings”, seemingly sometime in 2015, but there is no month or day listed, that contains a witness interview of an individual other than Mr. Al-Marimi. *See* Suppression Hr’g Exs. 502 at 4-16 and 502-tr. at 6-19. This “Record of Proceedings” does not appear to be in Jamal’s handwriting, and Jamal did not identify any portion of Suppression Hr’g Ex. 502 during his testimony. Further, this “Record of Proceedings” indicates that an investigating officer and a clerk attended the first interview. *See* Suppression Hr’g Exs. 502 at 4, 15-16 and 502-tr. at 6, 17-18; and
4. Jamal’s report, which begins by indicating that a “Record of proceedings was opened today 1/1¹ Wednesday”. *See* Suppression Hr’g Exs. 502 at 17 and 502-tr. at 19. The only year between 2012 and 2017 in which January 1 was a Wednesday was 2014. *See, e.g.,* Timeanddate, *Calendar for Year 2014* (Libya), <https://www.timeanddate.com/calendar/?year=2014&country=124> (last visited July 29, 2026). The remainder of Jamal’s report is found at Suppression Hr’g Exs. 502 at 18-93 and 502-tr. at 20-95.

The items in ECF 540 Ex. M

¹ For the government’s awareness, when the defense Arabic expert originally reviewed the poor-quality copy of this page of from Suppression Hearing Ex. 502, he did not believe that “1/1” appeared in the first line of Arabic text. However, upon looking at the better copy of the first page of Jamal’s report in ECF No. 426 Exhibit G, the defense Arabic expert has confirmed that “1/1” appears in the first line of Arabic text.

II. Factual background

After Jamal testified in this case and because of grave concerns about Jamal's credibility, the defense moved for an order compelling the government to produce the originals of ECF No. 369 Exs. E and F. *See* ECF No. 393. Jamal had described the document depicted in ECF No. 369 Exs. E and F as a carbon copy of his report in this case, *see* ECF No. 369 at 1-2; ECF No. 434 at 10-11, despite the fact that it was patently a photocopy, *see* ECF No. 434. It was not until after the Court ordered the government on April 9, 2026, to "obtain Jamal's copy of the statement" depicted in ECF No. 369 Exs. E and F and submit a sworn declaration from Jamal explaining how he created the carbon copy and addressing issues raised by the defense that Jamal had some sudden epiphanies. *See* ECF No. 434; *see also* ECF No. 426 Ex. H. Those epiphanies included reversing course on who made underlines on the alleged confession—which Jamal had very clearly testified to at his deposition, *see* ECF No. 434, at 1–8—as well the issue of whether the document depicted in ECF No. 369 Exs. E and F was a photocopy or a carbon copy. Jamal had testified about those topics and made post-testimony statements to the FBI without hesitation. *See* ECF No. 434, at 8-13; *see also* 5/4/26 Tr. at 21–22, 25 (observing that Jamal "doubled down" on his earlier testimony once he got home and had the document in front of him and that "the record wasn't corrected until after [the Court] ordered the government to obtain the copy").

On May 4, 2026, after reviewing the parties' submissions about the government's post-trial contacts with Jamal, the Court stressed the importance of

obtaining the original alleged confession in order to decide Mr. Al-Marimi's motion to suppress the statements. "Everything hinges on Jamal's credibility." 5/4/26 Tr. at 64. To deny the motion to suppress, the Court observed, "I have to believe Jamal . . . I have to believe him." *Id.* at 56. "I can't understand why the government hasn't already started doing everything in its power it can to get the originals, because the originals would answer a lot of these questions that are going to be—regardless of what the Court does with the statement, are going to generate a lot of legitimate cross-examination." *Id.* at 55.

On [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The government has provided the defense and the Court [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

On [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

On [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

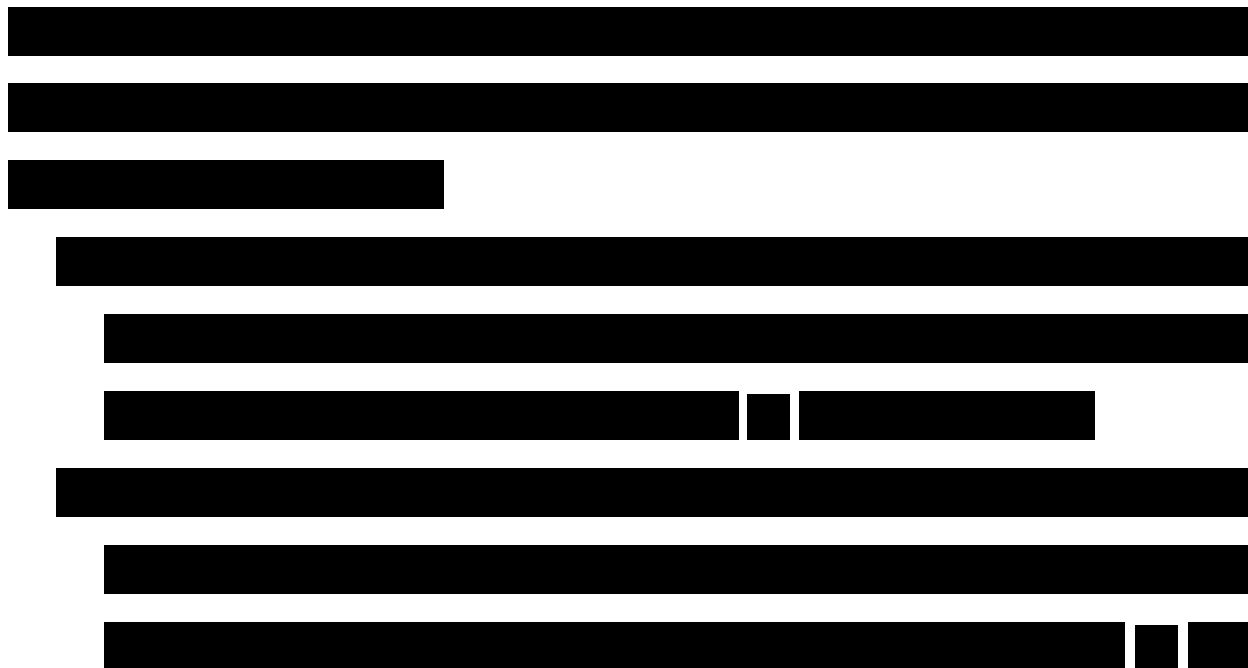
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

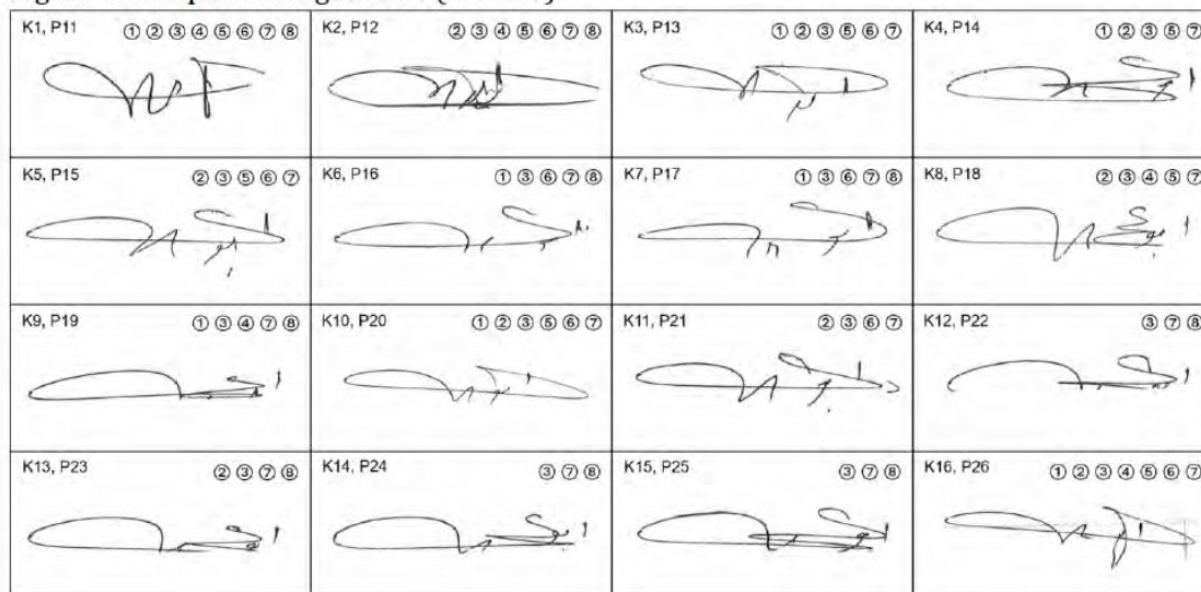
On [REDACTED]



² It is not clear to the defense who wrote pages 3–16 of Suppression Hr'g Ex. 502.

³ Further, as the defense pointed out at the July 21, 2026, hearing, the signatures from Mr. Al-Marimi's alleged confession do not match the signatures on this other alleged interview from Mr. Al-Marimi. Compare the following signatures taken from the portion of the alleged confession in Suppression Hr'g Ex. 500 (Jamal's handwritten report) that the government attributes to Mr. Al-Marimi (as depicted on page 14 of the defense handwriting expert's report):

Figure 1. Comparison Signatures (C1–C16)



(Cont'd on next page)

--	--

[illegible]

Handwritten signatures and stamps:

- Signature: *[Illegible]*
- Signature: *[Illegible]*
- Signature: *[Illegible]*
- Signature: *[Illegible]*

7

[REDACTED]

[REDACTED]

[REDACTED]

On [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The government has also provided [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

Then, in addition to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. The government’s assertion in ECF No. 540, at 5 n.5, that “the only changes from the handwritten copy to typed copy appear to be grammatical corrections not affecting substance” is misleading.

In the defense Arabic expert’s review of ECF No. 540 Ex. M compared to Suppression Hr’g Ex. 502, there are several differences worth noting:

1. [REDACTED]
2. In Jamal’s report, the word “Semtex” is spelled as “Sentex” (as phonetically spelled from Arabic) throughout the entire report.
3. Jamal’s report and pages 3–16 of Suppression Hr’g Ex. 502 have a number of signatures throughout. Above some of those signatures in Arabic are signature blocks that read in Arabic either “law enforcement officer”, “person writing the

statement”, or “person who gave the statement”. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

4. In Jamal’s report on page 92, there is a question, “Do you have any other statements?” The answer on page 93 is “No”. [REDACTED]
- [REDACTED]

5. On page 93, at the very end, Jamal’s original report has the Arabic letter signaling “Q” for question, while ECF No. 540 Ex. M [REDACTED]
- [REDACTED]

These alterations are not mere “grammatical corrections” or “the removal of terms Jamal testified were corrected”. *See* ECF No. 540 at 5 n.5. Rather, it appears that

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] raise significant questions about which document was drafted first—the typed copy or the handwritten copy.

IV. The government’s submission raises more questions than it answers and significantly increases the risk of impermissible limitations on Mr. Al-Marimi’s constitutional rights should the Court admit his alleged confession.

The government’s submissions in ECF Nos. 540 and 556 raise more questions than they answer. And those unanswered questions significantly increase the risk of impermissible limitations on Mr. Al-Marimi’s rights to confrontation and cross-

examination, to present a defense, and to effective assistance of counsel should the Court admit Mr. Al-Marimi's alleged confession. For example:

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Who wrote pages 3-16 of Suppression Hr'g Exhibit 502?
5. Did Al-Sor's office ever receive an original handwritten version of Jamal's reports in Suppression Hr'g Ex. 500? If yes, when?
6. Did Al-Sor's office (or any other office) ever receive a carbon copy of an original handwritten version of Jamal's reports in Suppression Hr'g Ex. 500? If yes, when?

■ [REDACTED]

8. What, if any, statements has Jamal made to Libyan officials about when he conducted his investigation in this case?

■ [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Rather than providing the documents that could answer the important questions that have been lingering for months, the government has provided different documents with significant issues of their own.

Additionally, the evidentiary implications of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Further, the government's delay in finally seeking the originals has prejudiced Mr. Al-Marimi. [REDACTED]

[REDACTED] But we are now years after the prosecution of Mr. Al-Marimi began, and nearly a decade after Mr. Al-Sor first produced a copy of the alleged confession. Had the government sought these documents sooner, [REDACTED]

[REDACTED]

It is now, however, seemingly too late. The originals, which are material and

potentially exculpatory, [REDACTED]

[REDACTED] The new documents are no substitute, as they raise more questions than answers and do not address the key issues raised by Mr. Al-Marimi and acknowledged by this Court. [REDACTED]

[REDACTED] And there is no good reason for the government's failure to do so, which seems to have been motivated by the erroneous belief that it would be pointless to even ask. The question, then, is the appropriate sanction for the [REDACTED] of this material and potentially exculpatory evidence.

Prior to a request for evidence, "the duty of disclosure is operative as a duty of preservation." *United States v. Joyner*, No. 23-cr-309 (RC), 2026 WL 2065559, at *3 (D.D.C. July 16, 2026). "When the Government has failed to preserve evidence, the Court has discretion to impose a wide range of sanctions" pursuant to Rule 16. *Id.* Suppression of evidence is an available sanction. *Id.*

Here, suppression of the statement would be an appropriate remedy given the significance of the government's violation, its lack of justification, and the prejudice to Mr. Al-Marimi's defense with respect to his ability to challenge and cross-examine the witnesses against him about this key piece of evidence. 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 has repeatedly provided untruthful information to this Court despite his oath to tell the truth, and

a (U.S.) government that has delayed the gathering of exculpatory information of the same. The Court should reject the government's assertion that ECF Nos. 540 and 556 and their attachments bolster Jamal's credibility and conclude 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)