

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF KENTUCKY
3 PADUCAH DIVISION

3 UNITED STATES OF AMERICA,) Case No. 5:06-CR-19
4)
4 Plaintiff,)
5)
5 VS.)
6)
6 STEVEN D. GREEN,)
7) April 27, 2009
7 Defendant.) Paducah, Kentucky

8 *****
9 TRANSCRIPT OF TESTIMONY OF MOHAMMED AL-JANABI
10 FROM JURY TRIAL
11 BEFORE THOMAS B. RUSSELL
12 UNITED STATES DISTRICT CHIEF JUDGE
13 *****

11 APPEARANCES:

12 For United States: Marisa J. Ford
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21 [Defendant present.]

22
23 Terri L. Turner, RPR
24 Official Court Reporter
25 133 U.S. Courthouse
501 Broadway
Paducah, KY 42001

25 Proceedings recorded by mechanical stenography,
transcript produced by computer.

1 (Begin proceedings in open court at 1:05 p.m.)

2 (The interpreter, sworn before the proceedings
3 commenced, interpreted the following testimony from
4 Arabic into English.)

5 MOHAMMED AL-JANABI, GOVERNMENT WITNESS, SWORN

6 DIRECT EXAMINATION

7 BY MR. SKARET:

8 Q. Good morning, young man. Can you please tell the
9 Court your name?

10 A. My name is Mohammed.

11 Q. And where are you from, Mohammed?

12 A. From Iraq.

13 Q. And what city are you from?

14 A. From Iskandariya.

15 Q. Have you lived there for your entire life?

16 A. Yes.

17 Q. Is this your first time to come to the United
18 States?

19 A. Yes.

20 Q. And why have you come?

21 A. For my father's case.

22 Q. I'd like to talk to you a little about your
23 father's case. Can you please tell us the name of your
24 father?

25 A. Yes.

1 Q. And what is his name?

2 A. Kassem.

3 Q. And his last name?

4 A. The last name?

5 Q. Yes, his last name.

6 A. His name is Kassem.

7 Q. All right. Can you tell me the name of your
8 mother?

9 A. Fakhriya.

10 Q. And did you have any sisters?

11 A. No.

12 Q. Did you ever have any sisters in the past?

13 A. Yes.

14 Q. And what were their names?

15 A. Abeer and Hadeel.

16 Q. And are your mother and your father and your two
17 sisters still alive?

18 A. No.

19 Q. Do you have any brothers?

20 A. Yes.

21 Q. And what is his name?

22 A. Ahmed.

23 Q. Is he older or younger than you?

24 A. Younger.

25 Q. And is he also in the United States?

1 A. Yes.

2 Q. Mohammed, I'd like to talk to you about what
3 happened on March 12th, 2006. Can we do that?

4 A. Yes, it's possible.

5 Q. All right. When was the last time that you saw
6 your mom and your dad and your two sisters?

7 A. Before the incident.

8 Q. And what happened at the incident?

9 A. Happened?

10 Q. Let me ask you, on March 12th, 2006, where were
11 you on that morning?

12 A. I was at the house.

13 Q. Did you ever leave the house to go to school on
14 that day?

15 A. Yes.

16 Q. When school was over, where did you go?

17 A. I went back home.

18 Q. And was anyone with you?

19 A. Yes.

20 Q. Who was with you?

21 A. My brother.

22 Q. And about time were you -- about what time were
23 you leaving school to go home that day?

24 A. 3:30 or 4:00.

25 Q. And is that what time you always went home every

1 day from school?

2 A. Yes.

3 Q. Did you and your brother finally make it home
4 that day?

5 A. Yes.

6 Q. Mohammed, please tell us what you saw when you
7 arrived at your house on that day.

8 A. Yes.

9 Q. Can you tell us what you saw?

10 A. When I went back from school, I saw smoke at the
11 house. I went to Abu Firas. Me and Abu Firas came
12 back, and we saw the smoke around the house, and it was
13 burning. Abu Firas entered the house, and he saw the
14 house burning.

15 Q. Mohammed, at that time, did you go into the
16 house?

17 A. No.

18 Q. Mohammed, please tell the Court about shesmalla.
19 What is shesmalla?

20 A. Shesmalla is a plant.

21 Q. And does the plant grow around your house?

22 A. Yes.

23 Q. And what is special about shesmalla?

24 THE INTERPRETER: Your Honor, the
25 interpreter wants to hear the reply of the witness

1 again.

2 THE COURT: Ask him to repeat it.

3 Q. Can you please repeat what is shesmalla?

4 A. It's a plant in the floor, on the ground.

5 Q. And can you eat this plant?

6 A. Yes.

7 Q. And what does it taste like?

8 A. It's sweet.

9 Q. Mohammed, could you please describe your house
10 for us? First, what color is the outside of your house?

11 A. It's a yellow-ish color.

12 Q. In the inside, what color are the inside walls?

13 A. White.

14 Q. And can you please describe the rooms in your
15 house?

16 A. A room and a living room, kitchen,
17 restroom/bathroom.

18 Q. Was there also a bedroom in your house?

19 A. Yes.

20 Q. How long had you lived in that house?

21 A. Two or three years.

22 Q. And was this during the middle of a war?

23 A. Yes.

24 Q. And did American soldiers ever search your house?

25 A. Yes.

1 Q. What would you do when they came in to search
2 your house?

3 A. We stayed at the house.

4 Q. And what would the American soldiers do?

5 A. They come search the house.

6 Q. Were you ever afraid when they would search your
7 house?

8 A. Yes.

9 Q. When was the last time that you remember American
10 soldiers searching your house?

11 A. They came and harassed my sister Abeer.

12 Q. What did they do?

13 MR. WENDELSDORF: Can we approach, Your
14 Honor.

15 THE COURT: Yes.

16 (Bench conference on the record outside the hearing
17 of the jury.)

18 MR. WENDELSDORF: Do you anticipate that
19 he'll identify the defendant was among the soldiers who
20 harassed his sister?

21 MR. SKARET: We do not.

22 MR. WENDELSDORF: Your Honor, I object to
23 this line of questioning and ask the Court admonish the
24 jury to disregard it. Just because some other soldiers
25 at one time may have harassed his sister has nothing to

1 do with this case.

2 MR. SKARET: Your Honor, it has everything
3 to do with the case. The testimony of our corroborating
4 witness in this case, James Barker, will be that he knew
5 the girl that he wanted to rape, he proposed the plan,
6 he knew where she lived. This provides corroborating
7 evidence that he didn't know her.

8 He will identify the fact that U.S. soldiers
9 came in shortly before the crime occurred, touched his
10 sister's face, and left.

11 MR. WENDELSDORF: Was it Barker?

12 MR. SKARET: He will not identify who it
13 was.

14 MR. WENDELSDORF: Judge.

15 THE COURT: Explain the relevance. I'm
16 having a hard time. How is it -- I mean, the fact that
17 some U.S. soldier came beforehand -- that's the only
18 time that I've got now -- came beforehand and entered
19 the house, apparently they conducted a search of the
20 house at some other time and either -- I don't know
21 whether it was that time or another time. I'm not sure
22 from what he said. He's going to say some United States
23 soldier came in and harassed his sister by touching her?

24 MR. SKARET: Yes.

25 MS. FORD: Touching her face.

1 THE COURT: Touching her face.

2 MR. SKARET: And that this occurred
3 approximately one week before the crime occurred.

4 MS. FORD: And the soldiers at TCP 2 were in
5 closest proximity to this house.

6 MR. LESOUSKY: And they did patrols.

7 MS. FORD: And they did patrols. There will
8 be evidence they did patrols from the TCP.

9 MR. WENDELSDORF: It's like saying --

10 THE COURT: I agree with the defendant. I
11 don't -- I think that if you can't identify the -- I
12 understand you may have some argument.

13 MS. FORD: I think it goes to weight,
14 though, doesn't it? I mean, it goes to the weight.

15 THE COURT: Well, I think the prejudicial
16 aspect greater outweighs the --

17 MS. FORD: They can argue that it wasn't
18 Green.

19 MR. LESOUSKY: (Inaudible.)

20 THE REPORTER: I'm sorry. I can't hear.

21 THE COURT: I'm sorry. Say it again. I'm
22 sorry. At least one of you two.

23 MS. FORD: Oh, I'm sorry. I mean, we're not
24 going to say it was Green.

25 THE COURT: You're going to say some

1 soldier -- some soldier came by a week ahead of time --

2 MS. FORD: A reasonable inference can be
3 drawn that it was one of the soldiers at TCP 2.

4 MR. WENDELSDORF: I disagree. How is that a
5 reasonable inference?

6 MS. FORD: Because it was one week before
7 March the 12th, and you spent two hours talking about
8 how they were out there at the TCP for 21 days without
9 anybody ever coming to see them, without any leadership.
10 It's got to be one of the guys that was at the TCP.

11 MR. WENDELSDORF: I don't think so, Judge.
12 There's no probative value to that. It's highly
13 prejudicial. Now, if Barker is going to testify that he
14 had been to the house, let him testify to that.

15 MS. FORD: He will.

16 MR. WENDELSDORF: There's nothing wrong with
17 that. That's fine.

18 THE COURT: Been there ahead of time?

19 MS. FORD: Yes.

20 MR. WENDELSDORF: Yeah, that's fine.

21 THE COURT: He can corroborate that, can't
22 he?

23 MR. WENDELSDORF: Well, then you call him
24 after Barker testifies, not before. Make Barker say
25 that.

1 THE COURT: That's the one thing that
2 bothers me about it. I'm not for sure what the -- maybe
3 you are, but I have a feeling that maybe --

4 MS. FORD: Well, they've talked to Barker,
5 and they know. I mean, they've told me half a dozen
6 times that Barker was the one who suggested the house --

7 THE COURT: I understand that.

8 MS. FORD: -- and suggested the girl.

9 MR. WENDELSDORF: And you said that.

10 THE COURT: If Barker says that he was -- he
11 did come by earlier, I'll allow you to put this witness
12 on to corroborate it. What we can do is -- I don't know
13 if the witness is going to be gone by then, but we could
14 do it by avowal later on, and then you can read it to
15 the jury at a later time or call him back.

16 But until Barker says, "I went there," I
17 don't think I'm going to allow him to say that people
18 came a week earlier. I think he can certainly
19 corroborate what Barker says to give some credibility to
20 Barker's testimony, but right now the government -- I
21 mean, the defendant is not willing to concede to whether
22 or not --

23 MR. WENDELSDORF: I don't want to burden
24 these witnesses. If I can just have a moment here.

25 Judge, to allow this witness to return in a

1 timely fashion, if the government is willing to
2 stipulate that it was not Green who came to the house
3 and harassed his sister, that it was soldiers other than
4 Green, we will allow him to -- we will withdraw our
5 objection. If they know for certain that he's talking
6 about Barker, that's fine, too, but I just don't want
7 this inference lying around that it was Green.

8 Now, if you'll enter into that stipulation,
9 I'll withdraw my objection.

10 MR. LESOUSKY: Let's consult for a moment.

11 THE COURT: Where are we?

12 MS. FORD: I want to make sure I understand.

13 So we're going to stipulate that it wasn't Green?

14 MR. WENDELSDORF: Yes.

15 MR. LESOUSKY: However you-all want to play
16 it, you know, right this minute or later in the trial.
17 Barker's going to testify Green wasn't there.

18 MR. WENDELSDORF: I know he is.

19 MR. LESOUSKY: And so whether you call it
20 stipulation, whatever, that's our evidence. We don't
21 have any evidence it was Green that was down there.

22 MS. FORD: Right.

23 MR. WENDELSDORF: As long as it's made clear
24 and stipulated, not just ask the witness do you see him
25 in the courtroom.

1 MR. LESOUSKY: I understand.

2 MR. WENDELSDORF: We can just stipulate it
3 wasn't Green.

4 THE COURT: If the -- why don't we ask the
5 witness -- if he says -- why don't the government say
6 the parties have stipulated and agree that the soldier
7 who came on this occasion was not Steven Green?

8 MR. WENDELSDORF: And he was not there, you
9 have no evidence that he was there in the house before
10 that night or that day.

11 MR. LESOUSKY: That's our evidence. There's
12 no question.

13 MS. FORD: Right.

14 THE COURT: Are you going to put all that in
15 there?

16 MR. WENDELSDORF: Yes, that he was never
17 there before March 12th and that this soldier he's
18 talking about was not Steven Green. And that fits into
19 what Barker is going to say.

20 THE COURT: You-all have an agreement -- you
21 can't make it halfway there.

22 MR. LESOUSKY: Two or three sentences --

23 MS. FORD: Yeah. I don't know that he was
24 never there.

25 THE COURT: I don't think -- it seems -- I'm

1 going to stay out of it. I don't know what you-all are
2 going to stipulate to, but I think you can sweeten the
3 pot.

4 MS. FORD: We will stipulate that it wasn't
5 him that touched her face.

6 MR. WENDELSDORF: But you're going to allege
7 that he was there?

8 MS. FORD: No. You're wanting me to
9 stipulate he was never there, and I don't know that.

10 MR. WENDELSDORF: I want you to stipulate
11 that on this occasion when his sister was harassed,
12 Green was not there. That's what I want you to
13 stipulate to.

14 THE COURT: That's what I understood that
15 you-all agreed to.

16 MS. FORD: Yes, that's fine.

17 THE COURT: Okay. One of you-all -- you
18 want to say it?

19 MR. SKARET: Yeah, I can say it. At the end
20 of direct?

21 THE COURT: Why don't you do it right after
22 he testifies? Just say that the parties have agreed to
23 stipulate that on this occasion that Mr. Green was not
24 the soldier who was present.

25 MR. LESOUSKY: Or there.

1 THE COURT: Was not --

2 MS. FORD: Was not the soldier who touched
3 her face or was present.

4 THE COURT: Okay. Okay.

5 (End of bench conference.)

6 BY MR. SKARET:

7 Q. Mohammed, you mentioned that the soldiers
8 harassed your sister. Can you please explain what the
9 soldiers did?

10 A. They touched her face like this (indicating).

11 Q. And you made a motion. You put your palm onto
12 your chin as if they cradled her chin in their palm; is
13 that right?

14 A. Yes.

15 Q. And how many soldiers did this?

16 A. One.

17 Q. What was the reaction of your sister?

18 A. She started crying.

19 Q. And why?

20 A. Because he touched her like this.

21 THE COURT: Parties reached a stipulation, I
22 believe; is that correct?

23 MR. SKARET: Yes, Your Honor.

24 THE COURT: Would you tell us what that
25 stipulation is?

1 MR. SKARET: Of course. Ladies and
2 gentlemen, the parties have reached a stipulation in
3 this case, and both parties agree that the individual
4 that Mohammed is referring to that touched the face of
5 Abeer in her home was not the defendant, Steven Green,
6 and that he wasn't in the house at that time.

7 BY MR. SKARET:

8 Q. Mohammed, did your father own a weapon?

9 A. Yes.

10 Q. And what kind of a weapon did he own?

11 A. Kalashnikov.

12 Q. And do you know where he kept his gun?

13 A. Yes.

14 Q. And where did he keep it?

15 A. At the curtain.

16 Q. And did he always keep it in the same place?

17 A. Yes.

18 Q. You mentioned he kept it in the curtain. Can you
19 describe where in the curtain that he kept it?

20 THE INTERPRETER: Your Honor, can he repeat
21 the answer?

22 THE COURT: Sure. Repeat your -- repeat
23 your answer, please.

24 A. He usually puts it behind the curtains.

25 Q. All right. And in which room did he keep his

1 weapon?

2 A. At the bedroom.

3 Q. When the American soldiers would search your
4 house, would your father show him his weapon?

5 A. Yes.

6 Q. And did they let him keep it?

7 A. Yes.

8 Q. And did your father ever give him his weapon in
9 the bedroom and take it from the curtains?

10 A. Yes.

11 Q. And you saw him do that?

12 A. Yes.

13 Q. When was the last time that you saw your dad's
14 Kalashnikov rifle?

15 A. The last day.

16 Q. And to clarify, that was the last day before he
17 died?

18 A. Yes.

19 Q. After you saw your house burning on March 12th,
20 2006, did you ever go in your house again?

21 A. Yes.

22 Q. And when did you go?

23 A. Approximately two or three days later.

24 Q. And why did you go to the house?

25 A. To take our stuff from there.

1 Q. And when you went, did you see any of the bodies
2 of your family?

3 A. No.

4 Q. Did you see anything on the white walls of the
5 living room?

6 A. Yes.

7 Q. What did you see?

8 A. Blood.

9 Q. And did you see anything on the white walls in
10 your bedroom?

11 A. Yes.

12 Q. And what did you see there?

13 A. I saw flesh, and my father's brain was scattered
14 there.

15 MR. SKARET: Thank you, Mohammed. I have no
16 more questions. The defense might have some questions
17 for you.

18 MR. WENDELSDORF: No questions, Judge.
19 Thank you.

20 THE COURT: Thank you, sir. You may step
21 down.

22 (Proceedings concluded at 1:26 p.m.)

23

24 C E R T I F I C A T E

25 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT

1 FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED
2 MATTER.

3

4 s/Terri L. Turner
5 Registered Professional Reporter
6 Official Court Reporter

May 19, 2009
Date

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I N D E X

WITNESSES:

MOHAMMED AL-JANABI

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