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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 UNITED STATES OF AMERICA

4 v. S(7) 98 Cr. 1023

5 USAMA BIN LADEN, et al.,  
6 Defendants.

7 -----x

8  
9 New York, N.Y.  
10 January 8, 2001  
11 9:55 a.m.

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Before:

HON. LEONARD B. SAND,  
District Judge

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Gaudin - direct

1 A F T E R N O O N S E S S I O N

2 2:15 p.m.

3 (In open court; jury not present)

4 THE COURT: All right. Let's be seated. All right.

5 The witness may come in and the jury may come in.

6 (Jury present)

7 THE COURT: The government may call its next witness.

8 MR. BUTLER: Government calls Stephen Gaudin, your

9 Honor.

10 STEPHEN GAUDIN,

11 called as a witness by the government,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BUTLER:

15 Q. How are you employed?

16 A. I'm employed by the FBI.

17 Q. And how long have you been an agent with the FBI?

18 A. I've been with the FBI a little over nine years.

19 Q. And where are you currently assigned?

20 A. I'm currently assigned to the New York office of the FBI.

21 Q. How long have you been with the New York office of the

22 FBI?

23 A. I've been with the New York office of the FBI for a little

24 over three years.

25 Q. Where were you assigned before the New York office?

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1 A. Prior to coming to New York I was assigned with the FBI in  
2 upstate New York in Albany, New York.

3 Q. In any unit or section while you were in Albany?

4 A. While in Albany I worked on general crimes.

5 Q. Concerning your time in Albany, did you conduct facility  
6 interviews of suspects in criminal investigations?

7 A. Yes, I did.

8 Q. And about how many times?

9 A. Dozens of times.

10 Q. Now, were you one of the FBI agents sent to Nairobi Kenya  
11 after the bombing of the American embassy on August 7, 1998?

12 A. Yes, I was.

13 Q. When did you arrive in Nairobi?

14 A. I arrived in Nairobi on early Sunday morning, August 9,  
15 1998.

16 Q. Prior to your arrival what was your understanding of your  
17 assignment while you were in Kenya?

18 A. Prior to arriving in Kenya I wasn't given a specific  
19 assignment but just general instructions that we were going to  
20 Kenya to help out with the investigation of the bombing in any  
21 way we could.

22 Q. I'm talking specifically about what you did after arriving  
23 in Kenya. Did you receive an assignment on August 12, 1998?

24 A. Yes, I did.

25 Q. And what was that assignment?

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1 A. On August 12th I was instructed to go with my Kenyan law  
2 enforcement counterpart there is the CID, the investigators  
3 from their Criminal Investigation Division. I was to go with  
4 them to a hotel.

5 Q. And were you working with the Kenyan CID in this  
6 investigation?

7 A. Yes, I was.

8 Q. Where was this hotel you were going to located?

9 A. It was in Eastleigh Nairobi.

10 Q. And where is Eastleigh located?

11 A. It was about a twenty or thirty minute drive outside of  
12 Nairobi.

13 Q. And who was with you?

14 A. I was with another FBI agent and a New York City Police  
15 detective who was working with us, also.

16 Q. And who else was with you?

17 A. There were two Kenyan CID officers and their driver.

18 Q. And how did you get to Eastleigh that day?

19 A. We drove. We were in the back of a truck.

20 Q. And who drove the truck?

21 A. The Kenyan CID driver drove the truck.

22 Q. Where were you located?

23 A. I was in the back of the truck. It was a covered truck  
24 sort of like a pickup truck with a big cab on the back.

25 Q. Did there come a time when you arrived at the Iftin Lodge

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1 in Eastleigh?

2 A. Yes, there was.

3 Q. About what time was that?

4 A. It was around 10 o'clock in the morning that day.

5 Q. And what happened when you arrived at the Iftin Lodge?

6 A. The CID investigators went into the hotel and they came  
7 out with a man.

8 Q. And at the time that you were in the truck could you see  
9 the man that the CID officers were with?

10 A. Yes, I could. I was in the back of the truck, but it was  
11 pretty hot, so we had the door open and I could see the CID  
12 officers talking to this man. I was very close.

13 Q. At the time could you see if this person had any documents  
14 on him?

15 A. Yes. This man was, had presented a white slip of paper of  
16 some kind to the Kenyan CID officers.

17 Q. And did you see that white slip of paper?

18 A. Yes, I did.

19 Q. What was it?

20 A. It was a hospital, what appeared to me to be a hospital  
21 admissions card showing that someone was treated at the MP Sha  
22 Hospital on August 7, 1998. It had a patient number written  
23 on the top, printed on the top and a person's name Khalid  
24 Saleh written in the handwritten form.

25 MR. BUTLER: Your Honor, may I approach?

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1 THE COURT: Yes.

2 Q. I'd like to show you what has been marked as Government  
3 Exhibit 550 for identification. If we could just show that  
4 just for identification purposes. Agent Gaudin, is this the  
5 document that the individual who you saw in Eastleigh that day  
6 had on him?

7 A. This is it right here in my hand.

8 MR. BUTLER: I move Government Exhibit 50350 into  
9 evidence your Honor.

10 THE COURT: Received.

11 (Government's Exhibit 550 received in evidence)

12 Q. Now, was this person taken into custody?

13 A. Yes, he was.

14 Q. What was your understanding as to why this person was  
15 arrested?

16 A. He was arrested by the Kenyan CID officers for not having  
17 any official identification on him.

18 Q. And to be clear, who made that arrest?

19 A. The Kenyan CID officers made that arrest.

20 Q. And after the arrest where was he placed?

21 A. He was put into the back of the truck with me.

22 Q. And once inside the truck did this person confirm that he  
23 was Khalid Saleh?

24 A. Yes, he did.

25 Q. And did he tell you where he was from?

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1 A. He said he was Yemen.

2 Q. Looking around the courtroom do you recognize the  
3 individual who identified himself as Khalid Saleh from Yemen  
4 that day?

5 A. Yes, I can.

6 Q. Could you tell us where he is?

7 A. He's sitting right there in between the two ladies in the  
8 corner. I can get up and point whatever is easier.

9 MR. COHN: We concede the identification.

10 THE COURT: The witness identifies the defendant  
11 Al-'Owhali.

12 Q. Did you observe whether he had any injuries that day?

13 A. Yes, I could see that he did have injuries.

14 Q. What type of injuries did he have?

15 A. He had stitches on his forehead. They weren't covered  
16 with a bandage or bandaid. I could see the stitches and both  
17 of his hands had bandages on them.

18 Q. And did you take any pictures of him after his arrest?

19 A. Yes, we did.

20 MR. BUTLER: May I approach, your Honor?

21 THE COURT: Yes.

22 Q. Agent Gaudin, I just handed you what has been marked as  
23 Government Exhibits 551 A through I for identification.

24 If we could just show those for identification  
25 purposes. Are those copies of the photographs that you took

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1 that day?

2 A. Yes, these are.

3 MR. BUTLER: Your Honor, I would move Government  
4 Exhibits 551 A through I into evidence.

5 MR. COHN: No objection.

6 THE COURT: Received.

7 (Government's Exhibits 551-A through I received in  
8 evidence)

9 Q. If we could publish 551-A through I to the jury.

10 Agent Gaudin, do these photographs accurately depict  
11 the injuries that you saw that day on Mr. Al-'Owhali?

12 A. Yes. Except in the fact that on his hand he doesn't have  
13 the bandages on his hand, but at the time of arrest he did  
14 have like a gauze with some bandaid or tape or something  
15 covering those stitches on his hands. That's the only  
16 difference.

17 Q. Now, Mr. Al-'Owhali obviously doesn't have a shirt on, but  
18 did you notice whether the clothes that he was wearing were  
19 the same clothes that he was wearing at the time of his  
20 arrest?

21 A. Yes. In the first picture it does have his shirt on and,  
22 yes, these were the clothes he was wearing on August 12th.

23 Q. Did there come a time when you took custody of those  
24 clothes?

25 A. Yes, I did.

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1 Q. When did you take custody of those clothes?

2 A. On August 13th.

3 Q. Did the FBI maintain custody of those clothes?

4 A. Yes, they did.

5 MR. BUTLER: May I approach, your Honor?

6 THE COURT: Yes.

7 Q. Agent Gaudin, I've just handed you a bag that's been  
8 marked Government Exhibits 552 through 556 for identification.  
9 I would ask you just to open those bags and just take a look  
10 at those clothes.

11 A. These are two paper bags I had put his clothes into. The  
12 first bag, the belt --

13 Q. Don't show them to the jury yet. Look at those clothes to  
14 yourself, Agent Gaudin, and tell us whether those were the  
15 clothes that you took from the defendant Al-'Owhali that day?

16 A. The first bag is a belt, his jeans and his shirt. The  
17 second bag is socks and long underwear.

18 Q. Are those the clothes that you took from him that day?

19 A. Yes, they are.

20 MR. BUTLER: We move Government Exhibits 552 through  
21 556 into evidence, your Honor.

22 THE COURT: Received.

23 (Government's Exhibits 552 through 556 received in  
24 evidence)

25 Q. We have some photographs of the clothing that we could

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1 publish to the jury.

2 (Pause)

3 Agent Gaudin, drawing your attention to August 22,  
4 1998, did you have an opportunity to interview Mr. Al-'Owhali  
5 on that date?

6 A. Yes, I did.

7 Q. And where did that interview take place?

8 A. That interview took place at the CID headquarters in  
9 Nairobi, Kenya in an office.

10 Q. Who else was at that interview?

11 A. There was Agent Steve Baugart. There was an official from  
12 the Department of Justice. We had an FBI interpreter language  
13 specialist, and there was two Kenyan CID investigators.

14 Q. And on August 22 did Mr. Al-'Owhali agree to speak with  
15 you?

16 A. Yes, he did.

17 Q. And did he place any conditions on his agreement to speak  
18 with you?

19 A. Yes, he did.

20 MR. COHN: Objection, hearsay, your Honor, and it's  
21 an interpreter question. It's hearsay because it comes  
22 through a third party, your Honor.

23 THE COURT: Develop the events up until that point.

24 Q. Agent Gaudin, how did you communicate with Mr. 'Owhali  
25 during this interview?

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1 A. Through a translator.

2 Q. And what language was that translator translating in?

3 A. In Arabic, Mr. 'Owhali's language.

4 Q. Did Mr. Al-'Owhali appear to understand the translator?

5 A. Yes, he did.

6 MR. COHN: Objection as to what appeared.

7 THE COURT: Overruled.

8 Q. Did Mr. Al-'Owhali -- were you able to communicate with  
9 him effectively through the translator?

10 A. We had no problems communicating with him through the  
11 translator at all.

12 MR. COHN: Objection, conclusion.

13 THE COURT: Overruled.

14 Q. Through the translator did Mr. Al-'Owhali tell you that he  
15 had any conditions on his willingness to speak with you?

16 MR. COHN: Renew my objection.

17 THE COURT: Overruled.

18 A. Yes, he did. Mr. 'Owhali explained that he would tell us  
19 his involvement in the bombing of the embassy if we would  
20 guarantee him that he would be tried in the United States  
21 because that the United States was his enemy and not Kenya so  
22 he wanted a guarantee that he be tried in America to face his  
23 enemy.

24 Q. Did anyone guarantee him at that point that they would  
25 take him to America?

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1 A. No. He was not given an express guarantee that that would  
2 happen.

3 Q. Was the response to his request put into writing?

4 A. Yes, it was.

5 Q. And what did this writing tell him about whether you could  
6 guarantee you would take him to the United States?

7 A. The official from the Department of Justice had prepared a  
8 form explaining all of these things to Mr. Al-'Owhali based on  
9 his conditions. The form stated that this official from the  
10 Department of Justice would make his best efforts and make his  
11 recommendations to the appropriate people in the US for  
12 Mr. Al-'Owhali to be tried in the United States, but he  
13 couldn't guarantee that that would happen. It was only that  
14 he would do his best. He would recommend that this would  
15 happen.

16 Q. And did Mr. Al-'Owhali eventually accept the  
17 recommendations eventually?

18 A. Eventually, he did.

19 Q. And did Mr. Al-'Owhali eventually sign this agreement that  
20 you're referring to?

21 A. Yes, he did.

22 MR. BUTLER: May I approach, your Honor?

23 THE COURT: Yes.

24 Q. I'd like to show you what has been marked as Government  
25 Exhibit 557 for identification. What is exhibit 557, Agent

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1 Gaudin?

2 A. This is the form that Mr. Al-'Owhali eventually signed on  
3 August 22.

4 MR. BUTLER: Move Government Exhibit 557 into  
5 evidence, your Honor.

6 MR. COHN: Objection. Foundation, your Honor. I  
7 don't want to do a speaking objection, but --

8 THE COURT: Trace the form until it gets to the  
9 agent.

10 Q. Agent Gaudin, was this the agreement that Mr. Al-'Owhali  
11 was first read?

12 A. No, it was not.

13 Q. And what was different about the agreement that he was  
14 first read?

15 A. In the first form we had Mr. Al-'Owhali's name as we knew  
16 it at the time, Khalid Saleh. At the time that he was willing  
17 to sign the form he had instructed us that we would need to  
18 put his real name on the form instead of the name that we  
19 thought he had.

20 Q. Now, was the agreement, except for the name, otherwise the  
21 same as this agreement marked as Government Exhibit 557?

22 A. Except for the name, it was the same agreement.

23 Q. And was that first agreement read to him?

24 A. Yes, it was.

25 Q. And how was it read to him?

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1 A. The official from the Department of Justice read the form  
2 to him through the interpreter, so the Department of Justice  
3 official was speaking in English; the interpreter was  
4 translating for Mr. Al-'Owhali in Mr. Al-'Owhali's native  
5 language.

6 Q. Did Mr. Al-'Owhali agree to sign that form at that time?

7 A. No, he did not.

8 Q. What did he say about why he wouldn't sign the form?

9 A. Mr. Al-'Owhali had stated that he wanted to know if  
10 recommend means the same as a guarantee. And the official  
11 from the Department of Justice told him it's not the same;  
12 that a guarantee means a hundred percent certain or words to  
13 that effect, and recommends means, we'll do our best.

14 And Mr. Al-'Owhali had expressed that he wanted a  
15 guarantee.

16 Q. So what did you do after Mr. Al-'Owhali said that he had a  
17 problem with the word recommend?

18 A. The official from the Department of Justice explained to  
19 Mr. Al-'Owhali that this, the wording in this form was  
20 probably about as strong as he could get it to be, as strong  
21 as he could make it. But it was up to Mr. Al-'Owhali whether  
22 or not he was going to decide to speak with us or not on that  
23 day; that he was the boss on that issue. If he wanted to talk  
24 to us, it was completely up to him. If he wanted the  
25 Department of Justice official to try to change the form, the

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1 Department of Justice official told him, I can't promise you  
2 that it's going to change any more. I'll try. I'll have to  
3 contact my superiors. This could take some time but I don't  
4 want to get your hopes up that I'm going to come back with  
5 exactly what you want. This is probably about as strong as we  
6 can make it.

7 MR. COHN: Your Honor, at this time I would ask for  
8 the instruction as to why this is not hearsay, that it's not  
9 being asserted for its truth, but merely that it was said, not  
10 Mr. Al-'Owhali's state of mind.

11 THE COURT: Yes. The jury is so instructed this is  
12 an instance in which the testimony is received not for its  
13 truth but as evidence of the words spoken for whatever weight  
14 you give it with respect to Mr. Al-'Owhali's state of mind,  
15 what he understood, what he heard.

16 Q. Agent Gaudin, what happened after this discussion took  
17 place?

18 A. The official from the Department of Justice left to make  
19 whatever arrangements he could to try to get this.

20 MR. COHN: Objection as to why he left.

21 THE COURT: He left.

22 Q. And what happened after the Justice Department official  
23 left?

24 A. After a while Mr. Al-'Owhali instructed me that he would  
25 be willing to sign the form as it is, that he'd be willing to

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1 accept our best faith efforts for the recommendation to be  
2 tried in the US instead of the exact guarantee he said would  
3 be fine, and he instructed me to get the official from the  
4 Department of Justice and that we could continue.

5 Q. And then did he sign the form at that time?

6 A. Yes. Yes, he did.

7 Q. Did he sign at that particular time?

8 A. No. Eventually he signed it. When the Department of  
9 Justice official came back with the form it was presented to  
10 him, and Mr. Al-'Owhali at that point instructed us that we  
11 needed to put his true name, we had the name Khalid Saleh on  
12 the agreement and at that point he had, Mr. Al-'Owhali told us  
13 that his real name was Mohammed Rashid Daoud 'Owhali and that  
14 he's from Saudi Arabia. So the Department of Justice official  
15 had to leave the room to put his, to reflect his true name on  
16 the form and then came right back into the room.

17 Q. And did Mr. Al-'Owhali sign the agreement at that time?

18 A. Yes, he did.

19 MR. BUTLER: Your Honor, we would offer Government  
20 Exhibit 557.

21 MR. COHN: Brief voir dire, your Honor.

22 THE COURT: Yes. Let me explain what a voir dire  
23 means in this context. When a document is offered in evidence  
24 the opposing party may conduct a voir dire which is not  
25 cross-examination. It is intended to explore issues related

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1 to the admissibility in evidence of the document and it is  
2 limited to that purpose. So that's what a voir dire means  
3 during the course of the trial.

4 VOIR DIRE EXAMINATION

5 BY MR. COHN:

6 Q. Mr. Gaudin, this document was never translated into  
7 written Arabic for Mr. Al-'Owhali, was it?

8 A. No, sir, it was not.

9 Q. So it's fair to say that he could not read it, is that  
10 right?

11 A. That will be fair to say.

12 Q. And is it not also true that it was never read to him in  
13 its entirety, but that it was interrupted and a discussion  
14 ensued with this Justice Department official?

15 A. No, sir. The way I remember it is when it was first read  
16 to him it was read to him in its entirety. Then  
17 Mr. Al-'Owhali expressed whatever problems he may have had  
18 with him, and then those problems were addressed.

19 Q. Let me see, it came back. Were there two written versions  
20 of this document? Was there another written version of this  
21 document?

22 A. With his other name on it, yes, there was.

23 Q. And we don't know -- and you're attesting to the fact that  
24 those documents are entirely identical except for the name.  
25 Is that right?

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1 A. To the best I can.

2 Q. That's your testimony?

3 A. To the best I can, sir.

4 Q. To the best you can, which is from memory?

5 A. Yes, sir.

6 Q. But as to the second document when it came back, there was  
7 an attempt to read it to him, wasn't there, when this second  
8 document came back?

9 A. Yes, there was.

10 Q. And that was interrupted, was it not? It was never  
11 completed?

12 A. Mr. Al-'Owhali --

13 Q. Was it ever completed? Was it ever completed?

14 A. I'm sorry. Was it read to him again?

15 Q. Was it ever read to him in its entirety again?

16 A. No, it was not.

17 MR. COHN: I object.

18 THE COURT: Overruled. 557 is received.

19 (Government's Exhibit 557 received in evidence)

20 MR. BUTLER: Can we publish exhibit 557, please.

21 Q. Agent Gaudin, when the name was changed on the agreement  
22 that became exhibit 557, did Mr. Al-'Owhali ever ask you to  
23 read it to him again?

24 A. No, he did not. In fact, it was the official of the  
25 Department of Justice asked him, would you like me to read it

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1 again? I've changed the name. I'll read it again if you  
2 like. Mr. 'Owhali said that it wasn't necessary. He trusted  
3 us and he agreed to sign it.

4 Q. I ask you to please read for the jury Government Exhibit  
5 557?

6 A. I Mohammed Rashed Daoud Al-'Owhali born in Saudi Arabia,  
7 on January 18, 1977 am in the custody of Kenyan authorities in  
8 Nairobi Kenya and have been fully advised of my rights,  
9 including my right to remain silent and my right not to answer  
10 questions without a lawyer present.

11 As I have been previously told I understand that  
12 anything I say or have said can be used against me in court in  
13 the United States. I also understand that if I choose not to  
14 answer questions, my refusal to answer questions cannot be  
15 held against me in court.

16 I further understand that if I choose to answer  
17 questions, I can always change my mind and decide not to  
18 answer any further questions. I understand that both Kenyan  
19 and American authorities are investigating the murder of  
20 various American and Kenyan victims in and around the United  
21 States embassy in Nairobi. I have a strong preference to have  
22 my case tried in the United States court because America is my  
23 enemy and Kenya is not.

24 I would like my statement about what I have done and  
25 why I have done it to be aired in public in an American

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1 courtroom. I understand that the American authorities who are  
2 interviewing me want to know who committed the bombing of the  
3 embassy and how it was carried out.

4 I am willing to waive my right and answer the  
5 question of American authorities upon the condition that the  
6 undersigned American law enforcement authorities make all best  
7 efforts to see that I am brought to the United States to stand  
8 trial.

9 I understand that the undersigned prosecutor is only  
10 empowered to make recommendations to the Attorney General of  
11 the United States and other executive officials in the United  
12 States government, and I further understand that the United  
13 States government only intends to act with the mutual  
14 agreement of the Kenyan government.

15 No other agreements or promises have been made other  
16 than as set forth in this document. It's signed Mohamed  
17 Rashid Daoud Al-'Owhali. It's signed by the interpreter,  
18 myself and Steve Baugart 4:36 p.m. on August 22, 1998.

19 Q. After Mr. al-'Owhali signed Government Exhibit 557 did he  
20 agree to speak with you?

21 A. Yes, he did.

22 Q. Did you interview him that day?

23 A. Yes, I did.

24 Q. And starting on August 22 over the course of how many days  
25 did you interview him?

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1 A. We interviewed him on the 22nd, the 23rd, the 24th and the  
2 25th of August.

3 Q. What language did you interview him in?

4 A. I spoke in English and the interpreter translated to  
5 Mr. Al-'Owhali in his native language. Mr. Al-'Owhali would  
6 usually respond back in his native language back through the  
7 interpreter to me, and then I would come into English to me.

8 Q. And approximately how many hours did each of these  
9 interviews last?

10 A. Around four hours each day. Some less, some a little bit  
11 more.

12 Q. Was Mr. Al-'Owhali permitted breaks during the interviews?

13 A. Yes, he was.

14 Q. Was he given food during the course of these interviews?

15 A. Yes, he was.

16 Q. And was he permitted time to pray during the course of  
17 these interviews?

18 A. Every single time he asked to pray he was offered the  
19 opportunity to do so.

20 Q. And did you reread Government Exhibit 557 to him?

21 A. No, I didn't.

22 Q. Tell us what you did during each interview with regard to  
23 Government Exhibit 557?

24 A. At the beginning of each interview I would take the form  
25 that he sign on the 22nd and tell him this is the form you

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1 signed on the 22nd saying that you'd be willing to speak to  
2 us. Do you still, do you understand you still want to speak  
3 to us now? You want to continue? And he said he did want to  
4 continued. But I didn't reread it to him every time.

5 Q. Did Mr. Al-'Owhali during this period ever complain about  
6 the treatment that he was receiving?

7 A. No, he did not.

8 Q. Did you ever see him being mistreated?

9 A. I never saw him being mistreated.

10 Q. Did you ever see him being mistreated by the Kenyans?

11 A. Absolutely not.

12 Q. Did you ever see any new injuries visible to you other  
13 than the ones you saw on August 12th when you left him?

14 A. No, I did not.

15 Q. Did you ever see him getting medical treatment during this  
16 period?

17 A. Yes, he did.

18 Q. Now, what happened after these interviews were concluded?

19 A. After the interviews were concluded he was taken back to  
20 the United States.

21 Q. And what day was he taken back to the United States?

22 A. We left Nairobi Kenya in early morning on the 26th of  
23 August.

24 Q. Going to the interview on August 22nd, did Mr. Al-'Owhali  
25 say anything to you about how he wanted that interview to

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1 proceed?

2 A. Yes, he did.

3 Q. What did he say?

4 A. Mr. Al-'Owhali had told me that he wanted to tell his  
5 entire story from the beginning to the end, and once he was  
6 done telling his whole story, then I could go back and sort of  
7 go over the questions with him.

8 He explained that this was going to be a very  
9 emotional story, and that he was going to say names, and thing  
10 like that that would be code names or movement names, may not  
11 in fact be people's true names, but names as he knew them to  
12 be.

13 Q. And did he in fact finish his whole story on August 22nd?

14 A. Yes, he did.

15 Q. And did you then begin to ask him some questions on August  
16 22nd?

17 A. On August 22nd maybe some, a little followup questions but  
18 not much on the 22nd.

19 Q. Now, what did Mr. Al-'Owhali tell you about where he was  
20 from during the course of this interview?

21 A. Mr. Al-'Owhali told me that he was a Saudi citizen of  
22 Saudi Arabia but that in fact he was born in Liverpool,  
23 England.

24 Q. Did he tell you how he came to be born in Liverpool,  
25 England?

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1 A. Al-'Owhali told me that his father was in England  
2 attending some sort of master's degree program and during that  
3 point is when he was born January 18, 19977.

4 Q. And did Mr. Al-'Owhali tell you anything else about his  
5 family in Saudi Arabia?

6 A. Al-'Owhali explained to me that his family comes from, has  
7 a, his family's heritage has prominence in Saudi Arabia dating  
8 back to certain point back and also up to this day; that he  
9 comes from a very wealthy family and a very prominent family  
10 in Saudi Arabia.

11 Q. Did he tell you anything about his religious upbringing?

12 A. Yes, he did.

13 Q. What did he tell you about his religious upbringing?

14 A. Al-'Owhali explained to me that a religion was a very big  
15 part of his life and that even in his early teens he started  
16 to become more and more deeply involved in conservative  
17 religious teachings, and that he would read all kinds, certain  
18 magazines and books and listen to audio cassettes and he  
19 started to detail some of those for me.

20 Al-'Owhali told me that some of the magazines were Al  
21 Jihad, al mujahideen, and al Shad, and that some of the books  
22 two of the books that I can remember they were entitled U  
23 Shakal, and the Love and Hour of the Martyrs. Al-'Owhali  
24 explained to me that that's books or magazines detailed Muslim  
25 men who died fighting in the jihad and went to Paradise.

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1 Q. Did he tell you about any specific scholars that he used  
2 to listen to?

3 A. Al-'Owhali explained to me that he would listen to these  
4 sermons or teachings on audio cassettes and one in particular  
5 was by a Sheik, Sheik Safa, Sheik Safa, Abdul Rachman al  
6 Howari, and this particular audio cassette detailed what  
7 Al-'Owhali explained to me as the Kissinger promise and  
8 Al-'Owhali further described that as Kissinger's plan to  
9 occupy the Arabian peninsula.

10 And Al-'Owhali told me that the teachings on this  
11 particular cassette solidified his resentment towards any  
12 presence, any US presence in the Arabian peninsula.

13 Q. Did Mr. Al-'Owhali tell you what he did after high school?

14 A. Yes, after high school Mr. Al-'Owhali told me after high  
15 school he attend two years of religious university in Riyadh,  
16 Saudi Arabia called Mohamed Bin Saud.

17 Q. And what happened after he graduated from the university?

18 A. Al-'Owhali told me about two years before the bombing  
19 happened that a friend of his had come back from Bosnia and he  
20 and his friends started discussing joining a jihad in  
21 particular areas, Turkestan, Bosnia, Cheknia and that's what  
22 they wanted to do, but they couldn't find what he described to  
23 me as a cell to go there. So they decided instead to go to  
24 Afghanistan for training and join the jihad there.

25 Q. Did Mr. Al-'Owhali actually go to Afghanistan?

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1 A. Al-'Owhali explained to me he and this friend left Saudi  
2 Arabia, they traveled to the country of Qatar, and then from  
3 Qatar they made their way to Pakistan, and then from Pakistan  
4 they made their way eventually into Afghanistan.

5 Q. And did he tell you where he went once he went to  
6 Afghanistan?

7 A. Yes, he told me in Afghanistan they went to the Khaldan  
8 Camp as what he described it to me as.

9 Q. Did he meet anybody at the Khaldan Camp?

10 A. Al-'Owhali explained to me that at the Khaldan Camp he was  
11 met by the person who was in charge of the hospitality section  
12 at the camp and this person's name was Abu Sayyid al Kirdi,  
13 and this person al Kirdi had instructed them that from this  
14 point on they could never use their true names again and never  
15 say they were from Saudi Arabia again. And that's when he was  
16 given his first in a long series of aliases, as he described  
17 them to me.

18 Q. And what was that alias?

19 A. He received an alias of Mohammed Akbar from the country of  
20 Qatar.

21 Q. And did Mr. Al-'Owhali tell you about any other aliases  
22 that he had used?

23 A. He said he explained to me he has many aliases, some to  
24 include, the one I just said, Khalid Salim Saleh, Bin Rashid,  
25 Abdul Jabar Ali Abdul Lahit, Mowat, and a series of long

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1 series of other aliases.

2 Q. Now, what did Mr. Al-'Owhali do once he reached the  
3 Khaldan Camp in Afghanistan?

4 A. Al-'Owhali explained to me that the Khaldan Camp was sort  
5 of a basic training type of camp for, a basic military  
6 training camp. Al-'Owhali explained to me that prior to his  
7 arrival at the Khaldan Camp he had absolutely no comprehension  
8 of military training before. This was his first exposure to  
9 that type of thing.

10 He told me he was instructed in different type, basic  
11 types of military training to include light weapons, some  
12 demolition, some artillery, some communication, things of that  
13 nature, but he was also received periods of instruction in  
14 religious ideology.

15 Q. What did he tell you about the religious instruction that  
16 he received?

17 A. Al-'Owhali explained to me that part of his religious  
18 ideology training included fatwas which called for violence,  
19 and Al-'Owhali explained to me that if a ruler had changed  
20 something in contradiction to Islam, well, that particular  
21 ruler had blasphemed and therefore it was your right and duty  
22 to kill him.

23 Q. Did Mr. 'Owhali tell you about any other religious  
24 statements or teaching that he heard in the Khaldan Camp?

25 A. While also at the Khaldan Camp Al-'Owhali had heard

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1 statements from Usama Bin Laden and that these statements  
2 further solidified his religious feelings and his religious  
3 thoughts and things like that.

4 Q. What happened after Mr. Al-'Owhali received his training  
5 in the Khaldan Camp?

6 A. Al-'Owhali explained to me that the emir of this camp, the  
7 leader of this camp had nominated Al-'Owhali to have an  
8 audience in front of Usama Bin Laden, because of his good  
9 progression in the training, and that Al-'Owhali along with  
10 some others were actually granted this audience with Usama Bin  
11 Laden. He said it was about three days before Ramadan of that  
12 year.

13 Q. What happened with this audience with Usama Bin Laden?

14 A. At this audience with Usama Bin Laden, Bin Laden had spoke  
15 to the group in general and he impressed upon them the need to  
16 fight the Americans and to cast them out of the Arabian  
17 peninsula. He also instructed them that they should try to  
18 get more training.

19 Q. What did 'Owhali do after this meeting with Usama Bin  
20 Laden?

21 A. Al-'Owhali explained to me that he took Mr. Bin Laden's  
22 advice and did get more training in what he called the al  
23 Qaeda camps.

24 Q. And did he name those camps for you?

25 A. Al-'Owhali told me the al Qaeda camps he went to were al

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1 Sadeek, al Farouq, and the jihad war camp, and explained to me  
2 that al Qaeda is not a particular place, but it's a group, and  
3 it stands for the base of God's support, and that Bin Laden is  
4 overall in charge of al Qaeda.

5 Q. And what types of training did Mr. Al-'Owhali receive at  
6 these camps?

7 A. Al-'Owhali described the difference between the training  
8 at these three camps from the Khaldan Camp to be more advanced  
9 and more specialized; that he received training in security  
10 and intelligence, how to gather information, how to protect  
11 information from being divulged, how to conduct hijackings of  
12 buses or planes, how to do kidnappings, how to seize and hold  
13 buildings, things of that nature.

14 Q. Did Mr. Al-'Owhali tell you whether he actually ever  
15 joined al Qaeda?

16 A. Mr. Al-'Owhali explained to me that it's not necessary for  
17 you to actually join al Qaeda to actually serve with them.

18 Al-'Owhali explained this process of joining al Qaeda to be  
19 taking the bayat is what he told me. Al-'Owhali explained to  
20 me the bayat is an oath or an allegiance to Bin Laden and al  
21 Qaeda, but I don't have to do it.

22 Al-'Owhali explained to me that he had decided not to  
23 take the bayat for a couple of different reasons. He  
24 explained that once you take the bayat and that's it, you no  
25 longer have a choice of what missions you would like to do or

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1 want to do. If you've taken a bayat you have to do whatever  
2 is pretty much told to you. And 'Owhali explained that al  
3 Qaeda can assign you to both direct military roles, but also  
4 supporting roles, administrative roles, bodyguards, thing like  
5 that.

6 Al-'Owhali explained to me that he had a desire and  
7 interest to make sure that he did military roles and he was  
8 afraid that if he took the bayat he may end up in a  
9 nonmilitary role, so he decided not to take it.

10 Q. Did Mr. Al-'Owhali tell you what he did after he received  
11 this training?

12 A. Al-'Owhali explained to me that during and at the end of  
13 this training he had met with Mr. Bin Laden several times, and  
14 had expressed to him interest in missions that he would like  
15 to do, and Mr. Bin Laden told him that, take your time. Your  
16 mission will come in time.

17 Q. And what did he do after he had this meeting with Usama  
18 Bin Laden?

19 A. After this meeting Mr. -- I'm sorry -- Al-'Owhali  
20 explained to me that he had heard that the Taliban was in a  
21 crisis in the city of Kabul in Afghanistan and he had sought  
22 permission from Bin Laden to go and assist the Taliban in the  
23 fighting in that area, and Bin Laden granted him permission to  
24 do that.

25 Q. Did he tell you who the Taliban was?

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1 A. He didn't really explain to me much about the Taliban but  
2 I had some idea of what it was at the time.

3 Q. And what's the Taliban?

4 A. The Taliban --

5 MR. COHN: Objection.

6 THE COURT: What's the basis of your information  
7 about the Taliban?

8 THE WITNESS: Newspapers and works, things like that,  
9 sir.

10 MR. COHN: Objection.

11 THE COURT: Sustained.

12 Q. We'll move on. Did 'Owhali tell you whether he actually  
13 went to fight with the Taliban at this time?

14 A. Al-'Owhali explained to me that once given permission he  
15 did go to fight alongside Taliban, but initially he wasn't  
16 assigned to anything on the front lines, that he was more in a  
17 support role. And --

18 Q. What happened once he went to fight with the Taliban in  
19 the support role?

20 A. He, Al-'Owhali, explained to me that he contracted  
21 tuberculosis and became ill, and had to seek medical  
22 assistance, and he did get that assistance alongside the  
23 Taliban there and he was treated, not really treated, but he  
24 had one of the people who helped with his treatment was a man  
25 by the name of Azzam, and this person Azzam had also been

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1 trained. He explained to me this person Azzam had also been  
2 trained in the al Qaeda camps.

3 Q. Did Mr. Al-'Owhali describe who Azzam was?

4 A. 'Owhali described Azzam to be from Saudi Arabia and has  
5 another name of Jihad Ali. He was also trained as at the Bin  
6 Laden camps, and that Azzam had told 'Owhali that fighting  
7 alongside the Taliban here, this is a good mission for us,  
8 this is honorable, but there are bigger missions, better  
9 missions that we could be doing. And Al-'Owhali advised that  
10 he would be interested in one of those. So Azzam told him  
11 I'll be in contact when the mission starts to get ready, I'll  
12 let you know.

13 Q. And did Mr. Al-'Owhali eventually recover from his  
14 tuberculosis?

15 A. Al-'Owhali explained to me that did eventually overcome  
16 his illness.

17 Q. And what did he do after that?

18 A. He then started to get in the direct fighting in and  
19 around Kabul alongside of Taliban. Al-'Owhali explained to me  
20 that he had fought with them for a while and that the Taliban  
21 had suffered a major defeat near the city of Kabul. He  
22 explained some very fierce fighting that had happened and many  
23 of the people that he was with that were trained also in the  
24 al Qaeda camps had been killed in this fighting.

25 And that Al-'Owhali and five other of the men were

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1 actually able to retreat into this hill, into a series of  
2 hills. 'Owhali explained to me this was known as the, what he  
3 said the C formation battle and 'Owhali described this as very  
4 fierce fighting that he and only these five other people were  
5 able to repel the forces that were fighting against them, and  
6 they were actually able to hold their position. They didn't  
7 lose it.

8 Q. What happened after this C formation battle?

9 A. 'Owhali explained to me that because of his fighting in  
10 the C formation battle that he earned a reputation for loyalty  
11 and proved himself to be a very good soldier and received a  
12 lot of prominence in the Bin Laden camps because of his  
13 ability as a fighter.

14 Q. Is there anything in particular that indicated his  
15 prominence in the camps?

16 A. Al-'Owhali explained to me that he was actually, because  
17 of his reputation that he earned during the fighting in the C  
18 formation battle, that he was actually allowed to carry his  
19 rifle anywhere in the al Qaeda camps that he went, even in  
20 front of, even to include in the presence of Usama Bin Laden.

21 Q. And now what did Al-'Owhali do after this C formation  
22 battle?

23 A. Shortly after that he was again contacted by Azzam, and  
24 Azzam had told him that the mission that you said you might be  
25 interested in is going forward. Are you still interested? If

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1 you are, we need to start getting ready. An Al-'Owhali  
2 advised Azzam, told me that he advised Azzam that he was still  
3 interested and he did want to participate in the mission.

4 Q. And what did they do after that?

5 A. From there al-'Owhali tells me that he Azzam and four  
6 others attended what he described as a very specialized  
7 training for about a month. They went somewhere outside of  
8 Kabul, and received what he called the operation and  
9 management of the cell training, which he described as far  
10 more advanced than anything he had received up to this point.

11 Q. Did Al-'Owhali tell you who he had gone to the training  
12 with?

13 A. He said he went with Azzam and four others but he didn't  
14 give me the other people's names.

15 Q. Did he tell you who taught the training?

16 A. Al-'Owhali explained to me that the person who taught this  
17 particular training whose name was Abdul Jafar and that he was  
18 from Egypt.

19 Q. What did 'Owhali tell you about this training?

20 A. Al-'Owhali explained that this training which dealt with  
21 the cell, he explained to me that the cell is made up of four  
22 separate sections, the intelligence section, the  
23 administration section, the planning and preparation section,  
24 and then the execution section.

25 Al-'Owhali explained to me that the person who is in

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1 top of the intelligence section is in charge of the overall  
2 cell, and that he assigns deputies to conduct various tasks to  
3 complete their mission. He was also trained in intelligence,  
4 in security and how to do site surveys of a particular target  
5 using cameras with both still and video photography, and that  
6 once a cell's target was actually identified it was also  
7 called a station.

8 Q. Did Mr. Al-'Owhali mention anyone else who was involved in  
9 this training who taught this training?

10 A. Al-'Owhali explained to me that he was, it was his  
11 impression that this type of cell training was first taught at  
12 the al Qaeda camps by another Egyptian man but he didn't know  
13 that person's name.

14 Al-'Owhali further described that guy to be another,  
15 I'm sorry, an Egyptian man that was trained either by the  
16 American military or the American intelligence agencies, but  
17 for some reason this man was no longer trusted in the Bin  
18 Laden camps, so he no longer teaches there and Al-'Owhali  
19 believes he lives somewhere in the United States.

20 Q. Did Mr. Al-'Owhali tell you what happened after he  
21 received this training?

22 A. After this training Azzam again told Al-'Owhali that you  
23 know the mission is getting more and more ready. You need to  
24 travel from here to Yemen. And Al-'Owhali agreed to do that.  
25 So in preparation to travel to Yemen he shaved his beard, and

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1 in the al Qaeda camps he received a new passport.

2 Al-'Owhali said he could choose from a variety of  
3 passports and he picked an Iraqi passport in the name of  
4 Abdul Ali Latif from Iraq. Al-'Owhali further explained to me  
5 that Azzam's cousin Bilal left the area with and went to Yemen  
6 in order to facilitate 'Owhali obtaining a Yemeni passport  
7 once he got there because this person had connections, this  
8 Bilal person had connections in Yemen that he could make that  
9 happen.

10 Q. And did Mr. Al-'Owhali tell you approximately when this  
11 happened, when he took his trip to Yemen?

12 A. He said it was sometime about three to five months before  
13 the bombing.

14 Q. Did he actually go to Yemen?

15 A. He did. He told me he did.

16 Q. And what did he do in Yemen?

17 A. Al-'Owhali explained to me that prior to getting to Yemen  
18 that he had telephoned Bilal because he had a small delay in  
19 obtaining an exit visa, couldn't pick up his plane tickets  
20 right away and Bilal had told him you know when you get here,  
21 don't stay at a hotel, stay at a member, stay at a house of  
22 one of the people from the camps.

23 So Al-'Owhali did that. Upon arrival Al-'Owhali  
24 stayed with his friend Ahmed al Hazza who he also gave another  
25 name of Abdul Aziz. He said this Ahmed al Hazza was someone

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1 was a very good friend of his who was also trained in the Bin  
2 Laden camps who fought alongside Al-'Owhali in that famous, as  
3 he describe the famous C formation battle. So Al-'Owhali  
4 stayed at this person's house.

5 Q. What did Al-'Owhali do while he was in Yemen?

6 A. Al-'Owhali telephoned his parents, and it was decided,  
7 Al-'Owhali decided it would be too dangerous for him to travel  
8 to Saudi Arabia, so his father, it was agreed that his father  
9 would travel from Saudi Arabia to Yemen, and he did and he met  
10 with Al-'Owhali and Ahmed al Hazza.

11 Q. And did Al-'Owhali mention anything else he did while he  
12 was in Yemen?

13 A. While he was in Yemen he did receive the passport that was  
14 facilitated by Bilal and he received a Yemen passport in the  
15 name of Khalid Salim Saleh Bin Rashid. Al-'Owhali also met  
16 with Ahmed al Hazza and his father and there was an agreement  
17 made that Ahmed al Hazza would be the middleman in between  
18 Al-'Owhali and his father. From this point on if Al-'Owhali  
19 needed anything from his father, Ahmed al Hazza would be the  
20 go between to make any of that happen.

21 Q. It did Mr. Al-'Owhali eventually leave Yemen?

22 A. Yes. He was again contacted that the mission was getting  
23 closer and that he needed to come back to Pakistan.

24 Q. And who contacted him?

25 A. It was Azzam who had contacted him.

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1 Q. And did he eventually go back to Pakistan?

2 A. Yes, he did.

3 Q. Did he tell you about when this was?

4 A. This is about three months before the bombing.

5 Q. What did he do when he went back to Pakistan?

6 A. Al-'Owhali explained to me upon arrival in Pakistan he was  
7 met by Azzam, and another person that Al-'Owhali described to  
8 me to be named Khalid.

9 Q. Did he describe Khalid at all?

10 A. He described Khalid to be someone in his twenties from  
11 Saudi Arabia but that's all, that's about all the description  
12 he gave me.

13 Q. And what happened when he met with Khalid and Azzam?

14 A. Azzam told Al-'Owhali that Khalid was going to give him  
15 his instructions on what the mission was and then to listen to  
16 Khalid. And then Azzam departed.

17 Q. Did Al-'Owhali eventually have a meeting with Khalid?

18 A. Yes, he did. Al-'Owhali explained to me that Khalid told  
19 him that the mission was going to be a martyrdom operation  
20 that would end, that would result in Al-'Owhali's own death;  
21 that there was going to be, there was a target against the  
22 United States where Al-'Owhali would be assisting in driving a  
23 truck full of explosives, and somehow at that target the truck  
24 would explode and Mr. Al-'Owhali would become a martyr.

25 Q. Did Khalid tell him anything about what the target was at

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1 that time?

2 A. He just told him it was a US target somewhere in East  
3 Africa, but didn't specify the exact location of the target at  
4 that time.

5 Q. And did Al-'Owhali tell you he did anything else with  
6 Khalid at this meeting?

7 A. Al-'Owhali explained to me that Khalid then took what  
8 Al-'Owhali described to me to be a martyrdom video where  
9 Khalid operated a video camera and instructed Al-'Owhali to  
10 say something while it was being filmed, and that this video  
11 would be played upon the successful completion of his mission  
12 and Mr. Al-'Owhali's martyrdom or death.

13 Q. Did Mr. Al-'Owhali film this video?

14 A. I'm sorry?

15 Q. Did they actually film this video?

16 A. 'Owhali explained to me they did film the video and during  
17 the filming Khalid instructed to Al-'Owhali to say that he was  
18 with a particular unit.

19 Q. Do you recall the name of that unit?

20 A. Al-'Owhali told me the unit was the Third Martyr Barracks  
21 First Squad of the El bara bin Malik division of the  
22 Liberation Army of the Army of the -- I'm sorry -- of the Army  
23 of Liberating the Islamic holy lands.

24 Q. And did Mr. Al-'Owhali tell you whether he had ever heard  
25 of this group before?

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1 A. Mr. Al-'Owhali explained to me that he wasn't exactly sure  
2 what that group was, but that's what Khalid told him to say so  
3 that's what he said on the video.

4 Q. Now, did Mr. Al-'Owhali tell you about any other public  
5 statements that he had heard from the group at around that  
6 time?

7 A. Al-'Owhali explained to me that around this time, around  
8 the time of the filming of the ABC interview with Khost,  
9 Afghanistan of Bin Laden that he did meet with Bin Laden one  
10 more time.

11 Q. Did he hear about any public statement by any particular  
12 group around that time?

13 A. Al-'Owhali explained to me that he had learned of fatwas  
14 that were put out and he described the fatwas put out by the  
15 International Islamic Foundation -- I'm sorry -- the  
16 International Islamic Front. And that this particular fatwa  
17 called for violence against the United States was the main,  
18 the main cause of the fatwa of its main cause.

19 Q. Did Mr. Al-'Owhali say anything about who he understood  
20 belonged to the International Islamic Front?

21 A. He said this particular fatwas was signed by Usama Bin  
22 Laden and several other leaders of jihad groups.

23 Q. Did Mr. Al-'Owhali tell you about anyone else who was  
24 present in Khost during the time of the Bin Laden interview  
25 with ABC News in May 1998?

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1 A. Al-'Owhali explained to me that Azzam was actually present  
2 during the filming of that ABC interview of Usama Bin Laden.

3 Q. Now, after Mr. 'Owhali filmed in videotape, did he have  
4 any further conversations with Khalid?

5 A. He told me that Khalid instructed him that time to go and  
6 you're going to be traveling to Nairobi, Kenya, and upon  
7 arrival in Nairobi Kenya you'll be met by others in the group  
8 who will give you your last, your final instructions on the  
9 mission.

10 Q. Did Mr. Al-'Owhali eventually leave Pakistan for Nairobi?

11 A. Al-'Owhali explained to me that he left, his itinerary to  
12 leave Pakistan on July 31st and he was schedule to arrive in  
13 Nairobi Kenya on Saturday, August 1st. 'Owhali explained to  
14 me that his route of travel was on the Gulf Airline from Lahor  
15 Pakistan to Karachi Pakistan, from Karachi to Muscat and from  
16 Muscat to Abu Dhabi of the United Arab Emirates and from there  
17 to one last leg to Nairobi Kenya where he should have arrived  
18 on the 1st of August.

19 (Continued on next page)

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1 Q. Did Mr. al-'Owhali actually arrive in Nairobi on August 1?

2 A. Al-'Owhali told me that on this journey that he missed a  
3 connecting flight between Muscat and Abu Dhabi, and because he  
4 missed his connection flight he calls Khalid and Khalid  
5 explains to him that you're not going to arrive on time now so  
6 you're going to miss the link-up with Azzam and the others who  
7 are going to be going to Mombasa, but get the next connecting  
8 flight to Nairobi and someone from the group will eventually  
9 pick you up. Upon arrival in Nairobi, take a taxi to the  
10 Ramada Hotel in Iftin.

11 Q. And when did Mr. al-'Owhali actually arrive in Nairobi?

12 A. Al-'Owhali arrived in Nairobi on the Sunday, the 2nd of  
13 August.

14 Q. What did he do once he arrived in Nairobi?

15 A. Upon arriving in Nairobi, he followed Khalid's  
16 instructions and he took the taxi to the Ramada Hotel. Upon  
17 arrival at the hotel, he used a phone service, not at the  
18 Ramada but nearby the Ramada, as he explained it to me, and  
19 telephones Khalid and advised Khalid that he, Al-'Owhali, had  
20 checked into room 24. Khalid explains to Al-'Owhali that he  
21 would contact Saleh in Mombasa and explain to him where he was  
22 and to instruct someone to go pick up Al-'Owhali at the Ramada  
23 Hotel.

24 Q. And did Mr. al-'Owhali tell you about what time he arrived  
25 in Nairobi?

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1 A. He arrived on early morning on Sunday, the 2nd of August.

2 Q. What happened after he checked into the Ramada Hotel in  
3 Iftin?

4 A. Like I said, he called Khalid, let people know that he was  
5 in room 24, and before sunset that same day, a man Al-'Owhali  
6 identified as Harun picked him up from the Ramada Hotel.

7 Q. Did he describe Harun?

8 A. He described Harun to be a Somali-looking man who was in  
9 his 20s, around five-foot-five, just basic description like  
10 that.

11 Q. Did Mr. al-'Owhali eventually identify Harun?

12 A. Yes, he did.

13 Q. How did he identify Harun?

14 A. We had a videotape queued up in a VCR for Mr. al-'Owhali  
15 to view and when we put in the videotape he realized, and he  
16 expressed to me that he realized, that this video was  
17 regarding a ferry accident in Lake -- ferry accident, and at  
18 the particular point where Harun's face became clear in the  
19 monitor, he identified the person to be Harun.

20 Q. What did Harun do once he got to the Ramada Hotel?

21 A. Upon Harun arriving at the Ramada Hotel, he paid the bill  
22 for Al-'Owhali even though he didn't stay there for the night,  
23 he paid for whatever time he had stayed there, collected  
24 Al-'Owhali and took Al-'Owhali to his house in Nairobi.

25 Q. What happened after Mr. al-'Owhali went back to Harun's

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1 house in Nairobi?

2 A. Al-'Owhali explained to me that he stayed at Harun's house  
3 for the rest of the week up to the time of the bombing. He  
4 arrived in Harun's house again on the 2nd. The very next day,  
5 Azzam and Saleh came to Harun's house and that's when they  
6 started to get the instructions on the mission from Azzam and  
7 Saleh.

8 Q. You mentioned Saleh. Did Mr. al-'Owhali tell you who  
9 Saleh was?

10 A. Al-'Owhali described Saleh to be an Egyptian male in his  
11 30s, physical, not very much more than that, other than that  
12 he was the leader of the cell.

13 Q. Did Mr. al-'Owhali say anything about Saleh's role in the  
14 bombings?

15 A. Al-'Owhali explained to me that Saleh was the planner of  
16 both, of the bombing in Nairobi and the bombing in Dar es  
17 Salaam. Saleh was the leader of the cell that was going to  
18 carry out both of these attacks.

19 Q. Did Mr. al-'Owhali tell you anything about what Saleh said  
20 about Harun?

21 A. On this day when Saleh and Azzam came from Mombasa, Saleh  
22 had given Al-'Owhali the details of what the mission was going  
23 to be. He said first that this Harun was the facilitator or  
24 the person who was the administrator of inside the cell, that  
25 Harun had obtained the house that they were staying at that

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1 time, his house here in Nairobi, and also that this is where  
2 the truck and the bomb -- the truck was kept and where the  
3 bomb was assembled, in the garage of Harun's house.

4 Q. Did Mr. al-'Owhali meet with Saleh that day, on August 3?

5 A. Yes, he did.

6 Q. What did they discuss on August 3?

7 A. On that day, Saleh started to give Al-'Owhali the details  
8 of the mission. Saleh explained to Al-'Owhali that in fact  
9 there were going to be two bombings, there was going to be a  
10 bombing of the U.S. embassy in Nairobi, Kenya and the bombing  
11 of the U.S. embassy in Dar es Salaam, Tanzania; that both of  
12 these were going to occur on the same day, on Friday, August  
13 7th, between 10:30 and 11:00 in the morning.

14 Saleh then showed Al-'Owhali some photographs and  
15 some drawings of the embassy in Nairobi and started to give  
16 Al-'Owhali details of what his mission was going to be. Saleh  
17 explained to Al-'Owhali that Al-'Owhali's role was to assist  
18 Azzam in getting the bomb truck to the embassy in Nairobi.  
19 Azzam would be the driver, Al-'Owhali would be the passenger.

20 Upon arriving at the embassy, Al-'Owhali was to exit  
21 the vehicle -- he had a couple missions. One was to exit the  
22 vehicle and use a pistol to get the guard to open the drop bar  
23 so that Azzam could drive the truck as close to the embassy as  
24 possible. Upon that happening, Al-'Owhali was instructed that  
25 he was to fire his gun in the air and also to throw several of

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1 what Al-'Owhali described to me as homemade stun grenades  
2 around the area and this was to scatter people out of the  
3 area.

4 The last part of his mission was that the particular  
5 truck, the way it was designed was that the bomb had to be  
6 detonated by pressing some electric buttons from inside the  
7 truck, that the driver of the truck would actually have to do  
8 it. It wasn't like a remote control or anything like that,  
9 the driver had to press some buttons inside the truck.

10 If for some reason the electrical circuit didn't  
11 work, Al-'Owhali's last portion of the mission was, he had  
12 keys to the back of the truck where the door was in the back  
13 and that's where the bomb was housed, and if for some reason  
14 the electrical detonation didn't work, that he was to take  
15 his -- these homemade stun grenades that were made out of a  
16 portion of TNT and some other materials and he was to throw  
17 them inside the back of the truck to cause the bomb to  
18 manually explode instead of being detonated from the front.

19 Q. Did Saleh tell anything to Mr. al-'Owhali about the bomb  
20 that was going to be used?

21 A. Saleh, Azzam and Harun and Al-'Owhali all then went to the  
22 garage and they showed Al-'Owhali the truck that the bomb was  
23 in, and Saleh had explained to Al-'Owhali that the bomb had  
24 been built about two weeks ago. And Al-'Owhali described the  
25 truck to be light brown or beige-colored, that it had two

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1 wheels in the front on the front axle and four wheels on the  
2 back axle, and that the truck was, the compartment of the  
3 truck was encased with metal. The front part of the truck  
4 just had a regular compartment for the driver and the  
5 passenger, no additional seats, and that the bomb itself was  
6 comprised of TNT, aluminum nitrate and aluminum powder that  
7 were put in many, many wooden boxes or wooden crates and these  
8 were all connected with wires to some batteries in the back of  
9 the truck and that then the wiring would go to the front of  
10 the truck where the bomb would be detonated.

11 Q. Did Saleh tell anything to Mr. -- say anything to  
12 Mr. al-'Owhali about the plan for the bombing in Dar es  
13 Salaam?

14 A. Yes, he did. Al-'Owhali explained to me that Saleh told  
15 him that in addition to the bombing in Nairobi on the 7th of  
16 August, there would also be a truck bombing of the U.S.  
17 embassy in Dar es Salaam and he explained to me some of the  
18 differences between the two: Whereas in Nairobi there would  
19 be two people in the truck, in Dar es Salaam there would only  
20 be one person in the vehicle. And Al-'Owhali told me that  
21 person's name was Ahmed Abdallah, who Al-'Owhali also knew as  
22 Ahmed the German.

23 Q. Did Mr. al-'Owhali tell you anything about Ahmed Abdallah?

24 A. He referred to Ahmed the German to be someone who was from  
25 Egypt who was a trainer in the Jihad Wal Camp in Afghanistan,

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1 one of the al Qaeda's camps, and Al-'Owhali and him were  
2 friends from that time at the camp.

3 Al-'Owhali expressed to me at that point that because  
4 he had arrived a day late in Nairobi, he missed the link-up  
5 that would have happened in Mombasa and he expressed to me  
6 that because of him missing that date, he didn't get to say  
7 good-bye to Ahmed the German in Mombasa. He expressed to me  
8 that he would have liked to have done that.

9 Q. Did he give you any physical description for Ahmed the  
10 German?

11 A. He was from -- that he was actually fair-skinned with  
12 light hair and light eyes and that's, Al-'Owhali said, how he  
13 gets the name Ahmed the German, even though he's someone from  
14 Egypt.

15 Q. Did Saleh tell him anything about the plan to bomb the  
16 embassy in?

17 A. Al-'Owhali told me that the plan to bomb the embassy  
18 again, the bomb itself was also going to be delivered by a  
19 truck, but this particular truck was a refrigerator truck. So  
20 I asked him, was it meant to be kept cold for something? He  
21 said, no, it's a refrigeration truck because it was the only  
22 truck available.

23 Al-'Owhali told me that Saleh had bragged to  
24 Al-'Owhali that they were able to build this bomb and get  
25 everything ready in only ten days. He had said that several

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1 days, Saleh was very boastful about being able to put the Dar  
2 es Salaam bombing together in such a short period of time.  
3 But also, one of the other differences between the two  
4 bombings was that also comprised of the bomb in Dar es Salaam  
5 was comprised of TNT, batteries, wires and things of that  
6 nature, but also would also have a number of oxygen tanks or  
7 gas canisters in the back of the -- in the back with the TNT.  
8 And I asked Al-'Owhali why that was, and he said he wasn't a  
9 bomb builder but from what he understood, it was for  
10 additional fragmentation.

11 Q. Did Mr. al-'Owhali tell you anything about the location of  
12 the bomb truck in Dar es Salaam?

13 A. He said that initially the plan was to put the truck  
14 within a three-meter space at the embassy at Dar es Salaam. I  
15 didn't have a picture, he couldn't identify it, but I remember  
16 him specifically saying a three-meter space, but for some  
17 reason that this particular space was too close to the French  
18 Embassy so that the planners decided to move it to one of the  
19 security gates.

20 Q. Did Mr. al-'Owhali tell you how Saleh kept in contact with  
21 Ahmed the German in Dar es Salaam?

22 A. Yes. Al-'Owhali explained to me that Ahmed the German had  
23 a mobile phone and that he would keep in touch with Saleh with  
24 using that phone in case anything needed to be changed with  
25 the mission or anything like that.

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1 Q. Did Mr. al-'Owhali tell you anything about who he reported  
2 to in this mission?

3 A. Al-'Owhali explained to me that his organization is  
4 loosely structured; that depending on the mission, you report  
5 to different people at different times. Al-'Owhali explained  
6 to me in this mission that he reported to the person who  
7 recruited him, which would be Azzam, and then Azzam in turn  
8 reported to somebody higher up, and that person higher up and  
9 so on all the way up to the top.

10 Q. Did Mr. al-'Owhali tell you what if anything he believed  
11 Usama Bin Laden's role in the bombing was?

12 A. Al-'Owhali explained to me that Usama Bin Laden is at the  
13 very top of al Qaeda but that he has several senior military,  
14 several senior military leaders directly under him, and that  
15 Bin Laden provides the political objectives to these military  
16 leaders or these senior leaders and that these people would  
17 then provide the instructions down, down lower to the lower  
18 chains of command. Al-'Owhali explained that it wouldn't be  
19 normal for Bin Laden to directly give instructions to someone  
20 like Azzam or directly to him.

21 Q. What happened after this meeting on August the 3rd that  
22 Mr. al-'Owhali had with Saleh?

23 A. Al-'Owhali explained that on the 3rd of August -- I'm  
24 sorry, on Tuesday, which would be the 4th of August, Saleh had  
25 took Al-'Owhali to the American Embassy in Nairobi and showed

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1 him where he wanted the bomb truck to be placed by the drop  
2 bar in the rear rear of the U.S. embassy.

3 Al-'Owhali had expressed to Saleh that, wouldn't it  
4 be better if we were to put the bomb truck in the front of the  
5 U.S. embassy, and Saleh disagreed. And then Al-'Owhali  
6 suggested, wouldn't it be better for us to put the bomb  
7 underneath the U.S. Embassy in the garage that goes underneath  
8 and that way we would cause more damage to the Americans since  
9 it's the U.S. Embassy, but Saleh had explained to him that  
10 would be difficult to do, to get it past the section of the  
11 security gate to Al-'Owhali. The plan didn't get changed.

12 Q. Did Mr. al-'Owhali tell you anything about why the day,  
13 that particular day was selected, Friday, August 7?

14 A. Al-'Owhali explained to me that he was part of the  
15 execution phase of the bombing. He, you know, he didn't know  
16 all that much about the planning and preparation except what  
17 Saleh was telling him.

18 Saleh had explained to him that they had chose Friday  
19 between 10:30 and 11 because that would be when most of them  
20 should be either at mosque or on their way to mosque at that  
21 time. This way, by doing it at that time on Friday, they  
22 would be less likely to hurt any Muslims.

23 Q. Did Saleh say anything about why the embassy in Nairobi  
24 was targeted?

25 A. Al-'Owhali explained to me that there were several reasons

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1 for picking -- explained to him through Saleh there were  
2 several reasons why the embassy in Nairobi was picked. First,  
3 there was a large American presence at the U.S. Embassy in  
4 Nairobi; that the ambassador of the U.S. Embassy was a female  
5 and if the bomb resulted in her being killed, it would further  
6 the publicity for the bombing.

7 Also, that there were embassy personnel in Nairobi  
8 who were responsible for work in the Country of Sudan. There  
9 were also a number of Christian missionaries at the embassy in  
10 Nairobi. And lastly, that it was what Al-'Owhali explained as  
11 ease of access to the embassy. It was an easy target.

12 Q. Did Mr. al-'Owhali discuss any other targets with Saleh at  
13 this time?

14 A. Al-'Owhali explained to me -- explained to me that there  
15 were, there's a number of different targets. He doesn't know  
16 where they all are, but they're in the planning stages.

17 Al-'Owhali discussed with Saleh when, you know, are  
18 there targets in the United States that we can attack? Saleh  
19 had explained to him there are targets in the U.S. that we  
20 could hit, but things aren't ready yet, we don't have  
21 everything prepared to do that yet. First, we must -- first,  
22 Saleh explains to Al-'Owhali that we have to have many attacks  
23 outside the United States and this will weaken the U.S. and  
24 make way for our ability to strike within the United States.

25 Q. Did Mr. al-'Owhali tell you about anything that he learned

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1 about targets during his training on camps in Afghanistan?

2 A. Al-'Owhali explained to me during his training they  
3 emphasized priorities of attacks, three of those to be  
4 military bases, U.S. missions or diplomatic posts and  
5 kidnapping ambassadors.

6 Q. Did Mr. al-'Owhali see Saleh again after Tuesday, August  
7 4th?

8 A. Al-'Owhali explained to me that after Tuesday, the 4th, he  
9 never saw Saleh again.

10 Q. What did Mr. --

11 MR. BUTLER: Your Honor, we have about another half  
12 an hour or so on direct. Would you like to take a break?

13 THE COURT: We'll take a recess at this point.

14 (Jury not present)

15 THE COURT: Is this too early for a prayer recess?

16 MR. COHN: Yes, prayer's okay now.

17 THE COURT: Prayer is okay now. Let's take a prayer  
18 recess.

19 MR. COHN: May I just raise scheduling? Since the  
20 government has another half hour and this will take to 4:15,  
21 quarter to, leave us to quarter after, unless you're prepared  
22 to let me finish my cross until the end, I would like to break  
23 at the end of the government's witness's direct.

24 THE COURT: Of direct.

25 MR. COHN: I will either go to the end of mine, which

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1 is about 45 minutes, or I would like to go tomorrow. I don't  
2 want to split it up.

3 THE COURT: I have no problem with it. The  
4 government has no problem.

5 MR. COHN: Very good.

6 THE COURT: All right.

7 (Recess)

8 THE COURT: All set to resume? All right, the  
9 witness and the jury.

10 MR. COHN: Judge, while we're waiting, just for the  
11 record, we had a problem with the clothing. I made an  
12 objection in the robing room. I didn't object when it came in  
13 and that's because the government convinced me that I was  
14 wrong, and I have withdrawn the objection.

15 THE COURT: Very well.

16 (Jury present)

17 THE COURT: Mr. Butler.

18 BY MR. BUTLER:

19 Q. Agent Gaudin, you testified, I believe, as to certain  
20 information that Mr. al-'Owhali learned about targets while he  
21 was in the training camps in Afghanistan. Did he tell you  
22 anything about why embassies are specifically targeted?

23 A. In addition to telling me the types of targets, he also  
24 explained that hitting embassies achieves certain objectives  
25 that he was instructed or that he was taught at the camps, and

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1 by hitting an embassy the objectives are that you would  
2 achieve would be you hit the ambassador by hitting the  
3 embassy, you would also -- also an objective would be the  
4 military attache, the press attache and what Al-'Owhali  
5 described as, most importantly, the intelligence officers at  
6 the embassy.

7 Q. Just to be clear, what did Mr. al-'Owhali tell you about  
8 what his understanding was of Usama Bin Laden's role in the  
9 bombing of the embassy in Nairobi?

10 A. Al-'Owhali explained to me that he was never specifically  
11 told that this mission was Usama Bin Laden's mission, but he  
12 always believed it to be so. Al-'Owhali explained to me that  
13 his understanding of the way things work is that Usama Bin  
14 Laden, it's not likely that he would take direct credit for  
15 attacks like this. That's how he explained it to me.

16 Q. Now, after this meeting with Saleh on August 4th, 1998,  
17 what did Mr. al-'Owhali do after that?

18 A. Al-'Owhali explained to me that after the 4th he spent the  
19 next several days at Harun's house mentally preparing himself  
20 to become a martyr, to die in the operation that was scheduled  
21 for the 7th. He explained to me that on either Wednesday or  
22 Thursday, he wasn't sure which day, either the 5th or 6th of  
23 August, another person came to Harun's house and they all  
24 accompanied this person to the garage.

25 Al-'Owhali explained that this person's name was

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1 Abdel Rahman and he was the, what Al-'Owhali described to me  
2 as the technician who was, who would make the final electrical  
3 connection between the bomb in the back of the truck and the  
4 detonating device in the compartment, the driver's  
5 compartment.

6 Q. Did Mr. al-'Owhali describe Abdel Rahman for you?

7 A. He described Abdel Rahman to be an Egyptian man who was in  
8 his 30s, pretty much the basic description.

9 Q. Did Mr. al-'Owhali tell you anything else that Abdel  
10 Rahman did?

11 A. Al-'Owhali explained that Abdel Rahman not only made the  
12 final electrical connection for the bomb in Nairobi, but he  
13 also did the same thing for the bomb in Dar es Salaam as well.  
14 He said that this connection was done right in Al-'Owhali's  
15 presence and that it didn't take very long at all.

16 Q. And that was the connection in Nairobi?

17 A. The connection in Nairobi, yes.

18 Q. What else did Al-'Owhali tell you, if anything, that  
19 happened while he was in Harun's house on Wednesday and  
20 Thursday before the bombing?

21 A. Al-'Owhali had explained to me that both on the -- between  
22 the 4th and up to the day of the bombing that he made a series  
23 of telephone calls to his friend in Yemen, Ahmed al Hazza, who  
24 had fought with him in the C Formation battle I described  
25 earlier today.

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1 Al-'Owhali explained to me he made these phone calls,  
2 they were collect calls that he had made from Harun's house,  
3 and the number that he called in Yemen to reach Ahmed al Hazza  
4 was 9671200578, he called that number to reach Ahmed al Hazza.

5 Q. Did he tell you when the last call that he made to that  
6 number was?

7 A. Al-'Owhali explained to me the last phone call he made was  
8 approximately an hour before the bomb exploded on Friday, the  
9 7th of August.

10 Q. Did Mr. Al-'Owhali tell you anyone else made phone calls  
11 from Harun's house during this time period?

12 A. Al-'Owhali explained to me that Azzam, Jiad Ali, also made  
13 a series of phone calls to his family, to Azzam's family in  
14 Saudi Arabia on those last few days before the bomb exploded.

15 Q. Did Mr. al-'Owhali tell you about any instructions that  
16 were made to the group during this time?

17 A. Yes, he did. Al-'Owhali explained that he was told from  
18 both Harun and Azzam that Saleh had put out an order that  
19 anyone even remotely associated with the bombings had to leave  
20 the area immediately, had to leave before the explosion  
21 actually took place. Then Al-'Owhali gave me a couple of  
22 examples of what that was.

23 Al-'Owhali said to me, for instance, whoever bought  
24 the truck, the person responsible for buying the truck, that  
25 person would have to leave immediately; and also anyone who

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1 even knew what Saleh was doing would also have to leave before  
2 the attack occurred. The only people that should be remaining  
3 in Nairobi on the day of the attack are the people who were  
4 necessary to actually carry the attack out.

5 Q. Now turning to the day of the bombing, what did  
6 Mr. al-'Owhali tell you about the day of the bombing, August  
7 7th?

8 A. Well, on the 7th of August, on the day of the bombing,  
9 August 7, Al-'Owhali had made his last phone call to his  
10 friend Ahmed al Hazza around 20 past 9 in the morning. At  
11 about 9:45, they began to leave Harun's house.

12 Al-'Owhali explained that he was wearing black shoes,  
13 blue jeans, white-colored shirt with short sleeves with  
14 buttons that didn't go all the way down the shirt, just a few  
15 buttons, and that the shirt had some sort of colored pattern  
16 on it. He also had a jacket, a blue cotton jacket, and inside  
17 the jacket is where his pistol was, in the pocket of the  
18 jacket, and he also had four of what he described to me as  
19 these homemade stun grenades tucked into his belt.

20 He described these stun grenades to be comprised of a  
21 quarter finger of TNT, some aluminum powder and some black  
22 tape. He had those tucked in his belt. Around 9:45 that  
23 morning, they departed Harun's house. Harun would be driving,  
24 and was driving, according to Al-'Owhali, a white pickup truck  
25 and that Harun would be acting as the lead vehicle towards the

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1 U.S. Embassy in Nairobi. Azzam would be the driver of the  
2 bomb truck, the bomb vehicle, and Al-'Owhali was the only  
3 passenger in the truck.

4 Q. What did Mr. al-'Owhali tell you about what he did on the  
5 way to the embassy?

6 A. Okay. On the way to the embassy, Azzam had instructed  
7 Al-'Owhali that your wearing that jacket may cause you  
8 problems at reaching the stun grenades, you should take your  
9 jacket off. So Al-'Owhali did take his jacket off.

10 They continued to drive towards the embassy. Harun  
11 is driving the lead vehicle, Al-'Owhali and Azzam are  
12 following them in the bomb vehicle, and on their way  
13 Al-'Owhali described to me that he and Azzam were listening to  
14 an audio cassette of what he described as chanting poems for  
15 motivation in preparing to die on the way to the embassy.

16 Q. Now, did Harun go all the way to the embassy with Azzam  
17 and Al-'Owhali?

18 A. Al-'Owhali explained to me that Harun didn't drive all the  
19 way, they drove to a certain point, a traffic circle or  
20 roundabout or something, and pulled off to the side and that  
21 Azzam and Al-'Owhali continued on in the direction of traffic  
22 along Haile Selassie Avenue towards the embassy.

23 Q. What happened when they reached the embassy?

24 A. Upon reaching the rear parking lot of the embassy, Azzam  
25 pulls into the embassy and starts to head for the drop bar in

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1 the back of the U.S. Embassy by the parking lot. At that  
2 point another vehicle had just exited that drop bar from the  
3 U.S. Embassy and it created a little bit of a backup. So  
4 Azzam wasn't able to get exactly where he wanted to go.

5 As Azzam gets close to the drop bar, Al-'Owhali jumps  
6 out of the vehicle and starts to go towards the guard. And he  
7 realized that his pistol that he was supposed to use to  
8 confront the guard was in his jacket pocket that he had took  
9 off in the truck, so he tells me that he hesitated for a  
10 second to go back to the truck to get the gun but realized  
11 that that was probably going to -- it was too much time, he  
12 didn't want to do that. So instead of using the gun, he ends  
13 up pulling out one of those stun grenades in his right hand  
14 and approaches the guard and demands that the guard open the  
15 drop bar in English. And Al-'Owhali explained to me that the  
16 guard didn't move fast enough, so he pulls the pin with his  
17 left hand and he throws the stun grenade in the direction of  
18 the guard and that that caused a loud explosion and the guard  
19 ran.

20 At that point, other people started to run also,  
21 other people started to scatter from the area from the loud  
22 explosion, and Azzam started to move the truck. And as  
23 Al-'Owhali described it, Azzam moved the truck somewhat  
24 parallel to the embassy. Al-'Owhali says at this point Azzam  
25 starts shooting directly at the U.S. Embassy with a pistol.

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1           And Al-'Owhali explains between Azzam firing the  
2 pistol at the embassy and the loud explosion that was created  
3 from when he threw the stun grenade, people started to  
4 scatter. And Al-'Owhali explains to me at this point he  
5 realized that his mission is complete, that he did exactly  
6 what he was instructed to do. His mission was to help Azzam  
7 get the truck as close as possible to the embassy and to  
8 scatter away the people, the Kenyan people in and around the  
9 area. Al-'Owhali says to him -- says to me that, at that  
10 point, that had happened and it was no longer necessary for  
11 him to die in the attack.

12           Al-'Owhali explained to me that the reason he had  
13 died was the mission didn't go exactly point for point and  
14 time to time the way it was supposed to. Al-'Owhali explained  
15 to me that he was fully prepared to die in carrying out the  
16 mission and that that would equate to being a martyr, to reach  
17 martyrdom, dying in completion of your mission. But to die  
18 after your mission had already been complete, Al-'Owhali  
19 explains to me, is not martyrdom, it's suicide, and he  
20 explains that suicide is -- it's not acceptable in his  
21 religion and that that wasn't what his mission was. To die as  
22 a martyr carrying out the mission was fine, but there was no  
23 reason for him to commit suicide.

24 Q. So what did Al-'Owhali do?

25 A. Al-'Owhali ran toward, he explains to me that he ran

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1 towards the co-op building, and as he was running towards the  
2 co-op building, Azzam detonated the bomb, causing the  
3 explosion.

4 Q. What happened to Al-'Owhali after the explosion?

5 A. Al-'Owhali says in the blast that he's knocked down and  
6 suffers some injuries and that he's able -- he picks himself  
7 up and is able to walk to a first aid station or a clinic to  
8 receive treatment for his injuries. Upon arriving at the  
9 clinic, he realized that he still had one of those stun  
10 grenades tucked into his belt, so he got it and he threw it in  
11 a trash can in the clinic.

12 After receiving some initial first aid from the  
13 clinic he's taken by an ambulance to an actual hospital, which  
14 Al-'Owhali describes to me as the MP Sha Hospital. Upon  
15 arriving at the MP Sha Hospital, he actually receives stitches  
16 to his forehead, to his right hand, his wrist, I don't  
17 remember which one, but inside both hands and also in the  
18 center of his back.

19 After receiving treatment at the hospital, Al-'Owhali  
20 starts to leave the hospital and is going to go back to  
21 Harun's house. So Al-'Owhali explains to me that he was  
22 supposed to die in this attack. There was absolutely no  
23 extraction plan for him to leave the country. All his plane,  
24 his plane tickets, his passport in the name of Khalid Salim  
25 Bin Rashed, the Yemen passport, a bunch of other travel

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1 documents as well as Azzam's documents were all left with  
2 Harun. So he wanted to get back to Harun's house.

3           When he got out in front of the hospital, he went to  
4 reach to see if he had any money on him. He realized that he  
5 still had the keys to the back of the truck and that was where  
6 in case the bomb didn't get detonated by Azzam, he was  
7 supposed to open the back of the truck and throw the stun  
8 grenades in to manually detonate it. He had the keys and he  
9 also had three bullets in his pocket as well from that pistol.

10           So he goes back inside the hospital, and inside the  
11 hospital he goes into the men's room and he tells me that he  
12 washes the keys and the bullets in the sink to remove any  
13 fingerprints on them and then tries to flush them down the  
14 toilet to get rid of them. But for some reason, he explained  
15 that he couldn't get the toilet to flush them down, so he  
16 retrieved them from the toilet and he hid them on a ledge in  
17 the men's bathroom and then left the hospital.

18           MR. BUTLER: Your Honor, may I approach?

19           THE COURT: Yes.

20 Q. Agent Gaudin, I have placed before you Government Exhibit  
21 558 and 559 for identification. Do you recognize Government  
22 Exhibits 558 and 559?

23 A. Yes, I do.

24 Q. What are Government Exhibits 558 and 559?

25 A. There's two keys and three bullets.

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1 Q. Did you show these items to Mr. al-'Owhali during the  
2 course of your interview?

3 A. Yes, I did.

4 Q. What did Mr. al-'Owhali say when you showed him these  
5 items?

6 A. Al-'Owhali said to me that these are the keys and the  
7 bullets that he hid in the MP Sha Hospital's bathroom, the  
8 men's room.

9 MR. BUTLER: Move Government Exhibits 558 and 559  
10 into evidence, your Honor.

11 MR. COHN: No objection.

12 THE COURT: Received.

13 (Government Exhibits 558 and 559 received in  
14 evidence)

15 MR. BUTLER: May we publish a photo of those items to  
16 the jury, your Honor?

17 THE COURT: Yes.

18 Q. Just to be clear, Agent Gaudin, Government Exhibit 558 is  
19 what?

20 A. They are two keys, Tri-Circle keys, they're called, the  
21 name of the company of the keys. I believe there's another  
22 picture on the back that says Tri-Circle.

23 Q. Can we show Government Exhibit 559, please.

24 What is Government Exhibit 559?

25 A. Okay, it's actually three bullets. You may see four

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1 objects there, but one of the bullets is removed, the actual  
2 bullet is removed from its casing. That was done at the  
3 laboratory. The other two bullets are still intact.

4 Q. After Mr. al-'Owhali left the MP Sha Hospital, what if  
5 anything did he tell you that he did?

6 A. Mr. al-'Owhali explained that he tried to find Harun's  
7 house. He left on foot but he couldn't find Harun's house, so  
8 he decided to take a taxi back to what he explained to me as  
9 the only other place he knew to go. He went back to the  
10 Ramada Hotel, which is the hotel he had checked in when he  
11 arrived in Nairobi on Sunday, the 2nd.

12 Q. What happened when he arrived in the Ramada Hotel?

13 A. When he arrived at the Ramada Hotel, he had no money and  
14 he went in to talk to the hotel clerk and explain to the hotel  
15 clerk, I was here on the 2nd of August, I'm sure you remember  
16 me, you keep my name in the ledger, I was here, I'm from  
17 Yemen, but I lost all my travel documents and I was injured in  
18 the explosion that happened earlier today. Could you please  
19 give me some credit and let me stay here, pay for my taxi, and  
20 I'll contact people who will send me money and then I'll be  
21 able to pay you whatever I owe you. And the hotel clerk,  
22 Al-'Owhali explained to me the hotel clerk agreed to do that.

23 Q. Did he tell you what room he checked into?

24 A. Al-'Owhali told me at that point he checked into room  
25 number 7 at the Ramada Hotel.

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1 Q. What happened after he checked into room 7 at the Ramada  
2 Hotel?

3 A. Al-'Owhali explained to me that the clerk of the hotel  
4 went into the town and tried to find another person from his  
5 country, another person from Yemen who may be able to provide  
6 Al-'Owhali with some help because he obviously needed help  
7 from being injured in the explosion.

8 So this hotel clerk does find a person from Yemen and  
9 that person gets a set of clothes for Mr. al-'Owhali.

10 Al-'Owhali takes off the clothes he was wearing. Al-'Owhali  
11 explained that he had blood on them, so he took the bloody  
12 clothes off and he put them in a drawer inside of room 7 and  
13 then put on the new clothes that this other person from Yemen  
14 had just provided him.

15 Q. What else did Al-'Owhali tell you that he did during this  
16 period?

17 A. Al-'Owhali explained to me that the next morning, the 8th,  
18 he began to make a series of phone calls back to his friend in  
19 Yemen, Ahmed al Hazza, at the number I had said earlier.

20 Al-'Owhali explained to me that again he had no plans to leave  
21 the country. He was supposed to die, he was prepared to die  
22 in the explosion. He had no money, no passport, no plane  
23 tickets left, that was all left in the room.

24 He explains that calling his friend Ahmed al Hazza  
25 was very frustrating for him because he was afraid the phones

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1 were being tapped or monitored, so when he would call him he  
2 was talking to him as cryptically or as coded as he could. So  
3 he had to make a series of different phone calls to Ahmed al  
4 Hazza and eventually get the point across that, I need help, I  
5 need you to wire transfer me money and I also need you to get  
6 me travel documents so that I can leave. But ensure that  
7 these travel documents that you get to me, make sure that they  
8 are stamped, there's an entry stamp as entering Kenya after  
9 the 7th of August, not before.

10 Also, he instructed Ahmed al Hazza to telephone  
11 Khalid for him and give him the following message, and the  
12 message was "tell Khalid I did not travel." And Al-'Owhali  
13 explained to me that that was code that Khalid would  
14 understand is that Al-'Owhali didn't die while carrying out  
15 the mission.

16 Q. Did Mr. al-'Owhali eventually receive this wire transfer?

17 A. Al-'Owhali explained to me that the money did eventually  
18 get wire transferred to him and Al-'Owhali said that he picked  
19 up a thousand dollars, a thousand U.S. dollars at a jewelry  
20 store or a gold store near the Ramada Hotel called Sheer Gold  
21 and he did receive that money.

22 Q. What happened after Al-'Owhali received the thousand  
23 dollars?

24 A. Al-'Owhali explained to me that plans were in the works  
25 for this Ahmed al Hazza to come to assist Al-'Owhali getting

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1 out of the country, but Al-'Owhali explains that he was  
2 arrested on the 12th. Had he been arrested the day or two  
3 after, maybe he, both he and Ahmed al Hazza would have been  
4 arrested instead of just him.

5 Q. Did this essentially complete Mr. al-'Owhali's story on  
6 the 22nd?

7 A. Yes, it did.

8 Q. And did you ask him any questions following this story?

9 A. Yes, I did. In addition --

10 Q. What did you ask him?

11 A. In addition to making sure that I had the details of what  
12 he explained to me as correct as I could, I asked him the  
13 question of, what would it take for this fighting to stop, you  
14 know, how can we prevent this, how can we end this?

15 Al-'Owhali explained to me that there were several  
16 conditions that would have to be met, and he said the first  
17 condition was that his -- he first said that the United States  
18 is going to remain a target; that there's -- that the planning  
19 to target the United States will not stop unless certain  
20 conditions were met. First condition was that there would  
21 have to be no U.S. presence, absolutely no U.S. presence  
22 anywhere in the Arabian Peninsula; that the U.S. would also  
23 have to stop providing any type of support for the enemies of  
24 the Muslims, and he included specifically Israel and the  
25 Serbs; and then the third statement was that the U.S. would

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1 have to stop using its influence from preventing Muslims from  
2 instituting the sharia worldwide.

3 Q. Did Mr. al-'Owhali identify a photograph of Azzam, also  
4 known as Jiad Ali?

5 A. Yes, he did. When I presented him a photograph to  
6 identify, Al-'Owhali picked up the photograph and he said this  
7 is Azzam, also known as Jiad Ali. He called Azzam a hero and  
8 then he kissed the picture.

9 Q. How did this interview end?

10 A. The interview ended where Mr. al-'Owhali stated that he  
11 would like to recite a poem to the investigators and he wanted  
12 the official from the Department of Justice to also stay and  
13 hear the poem as well. So Al-'Owhali began to say this poem,  
14 and it wasn't so much normal speak, it was a chanting, almost  
15 a singing-type poem.

16 He was doing it in his -- in Arabic, in his language  
17 and through the translator I was able to determine that this  
18 particular chanting poem questioned whether or not two friends  
19 would ever meet again in paradise, and Al-'Owhali explained to  
20 me that this chanting poem is what he and Azzam were listening  
21 to as they were driving for motivation, they were listening to  
22 for motivation as they were driving to attack the U.S.  
23 Embassy. And as Al-'Owhali was reflecting on his friendship  
24 with Azzam and this chanting poem, he started to cry.

25 MR. BUTLER: No further questions, your Honor.

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1           THE COURT: All right, ladies and gentlemen, I think  
2 we'll call it a day. Have a pleasant evening. Please  
3 remember about not reading or listening or watching anything  
4 about this case, and we'll resume tomorrow at the regular  
5 time.

6           (Jury not present)

7           MR. COHN: Your Honor, before Agent Gaudin leaves,  
8 would your Honor instruct him that although no questions has  
9 been asked, the government has stopped and he's under cross  
10 and he's not to talk with the government overnight?

11          MR. BUTLER: Your Honor, cross hasn't begun, so --

12          MR. COHN: I'll ask a question for that.

13          THE COURT: No. No.

14          MR. BUTLER: Mr. Cohn requested that we break after  
15 direct.

16          THE COURT: Yes. I decline to give that instruction.  
17 Anything that has to be addressed before the  
18 resumption of the proceedings before the jury tomorrow?

19          MR. COHN: Your Honor, we are checking. It's our  
20 feeling, and I just can't document it yet, that one of the two  
21 numbers that was mentioned, telephone numbers that was  
22 mentioned by Agent Gaudin as being given on the 22nd was in  
23 fact being given during the period before the 22nd. We're  
24 checking. We have no way of knowing that. We'll advise the  
25 Court.