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19 UNITED STATES DISTRICT COURT

20 FOR THE CENTRAL DISTRICT OF CALIFORNIA

21 UNITED STATES OF AMERICA,
 22 Plaintiff,
 23 v.
 24 MOHAMAD YASSIN ALCHARIHI,
 25 aka "Mohamad al-Sharihi" and
 26 "Mohamad AlCharihi,
 27 Defendant.

No. CR 20-307-GW

GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION IN LIMINE RE:
DEFENSE WITNESS BELAL ALJRAD

Hearing Date: April 20, 2023
 Hearing Time: 11:00 a.m.
 Location: Courtroom of the
 Hon. George H. Wu

1 The United States of America, by and through its counsel of
2 record, the United States Attorney for the Central District of
3 California and Assistant United States Attorneys Mark Williams,
4 Matthew O'Brien, and Maxwell Coll, and Trial Attorney Christian
5 Levesque, hereby files this Opposition to Defendant's Motion In
6 Limine Re: Defense Witness Belal AlJrad.

7 This opposition is based upon the attached memorandum of points
8 and authorities, the files and records in this case, and such further
9 evidence and argument as the Court may permit.¹

10 Dated: April 19, 2023

Respectfully submitted,

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15 /s/
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21 /s/
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26 _____
27 ¹ The government apologizes to the Court for filing this brief
28 the night before the noticed hearing, but the government received
defendant's motion only three business days ago and the undersigned
counsel spent most of April 18, 2023 attending a Rule 15 deposition
of a defense witness in this case.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 Defendant and his associates, including Belal AlJrad, conspired
4 to smuggle a valuable ancient Roman mosaic (the "Mosaic") from Syria
5 through Turkey and into the United States in order to sell it for a
6 massive profit. Defendant and AlJrad communicated regularly - often
7 on a daily basis - about the scheme to smuggle the Mosaic, restore
8 it, and sell it.

9 Despite AlJrad's considerable baggage, defendant seeks to call
10 AlJrad as a defense witness at trial. The government anticipates
11 cross-examining AlJrad on a host of incriminating issues. As such,
12 the government attempted to facilitate AlJrad's visa application, and
13 even issued - at the defense's request - a "safe passage" letter to
14 AlJrad promising not to arrest him for his role in the scheme while
15 he was in Los Angeles for this trial. However, the U.S. Department
16 of State subsequently denied AlJrad's visa application on terrorism-
17 related grounds.

18 When defendant requested that AlJrad be permitted to testify at
19 trial by live video-teleconference ("VTC") from Saudi Arabia, the
20 government did not object. Indeed, the government again facilitated
21 the defense's request by arranging for the testimony to be carried
22 out at a U.S. Embassy, and issued a second "safe passage" letter
23 promising not to arrest AlJrad during his testimony.

24 Defendant now seeks to elicit supposedly exculpatory testimony
25 from AlJrad, his co-conspirator who is safely 8,000 miles away, while
26 precluding the government from presenting evidence that AlJrad was
27 denied a visa to testify in Los Angeles on terrorism-related grounds.
28 Defendant cannot have it both ways. If defendant wants to use AlJrad

1 as a witness, the government must be permitted to impeach AlJrad on
2 all available grounds, including evidence of AlJrad's visa denial on
3 terrorism-related grounds.

4 **II. BACKGROUND**

5 Defendant and AlJrad conspired to smuggle and resell the Mosaic.
6 The government intends to introduce, inter alia, the following
7 evidence, based primarily on seized communications between defendant
8 and AlJrad. The government summarizes this evidence below so that
9 the Court can appreciate AlJrad's central role in the scheme, and
10 hence the centrality of his credibility - or lack thereof - at trial.

11 **A. The Discovery of the Mosaic**

12 Defendant and AlJrad communicated extensively about the
13 discovery of the Mosaic. For example, on January 1, 2015, AlJrad
14 messaged defendant about the Mosaic (perhaps for the first time) and
15 said that he needed to think of how he could deliver the Mosaic to
16 defendant. AlJrad told defendant that the price of the Mosaic
17 could reach one million dollars. Defendant asked AlJrad if the
18 Mosaic was Roman, and AlJrad responded that the faces of the Mosaic
19 belong to Greeks - Zeus and Hercules. On January 3, 2015, defendant
20 asked AlJrad whether the Mosaic was on the wall or on the floor, and
21 AlJrad said that the Mosaic was discovered on the floor. That same
22 day, AlJrad sent emails to the Louvre and Sotheby's attaching
23 photographs of the Mosaic.

24 On January 12, 2015, AlJrad sent an email to Edgar Owen, an arts
25 dealer, attaching photographs of the Mosaic. Owen responded that the
26 Mosaic might be worth \$100,000 to \$200,000. AlJrad quickly forwarded
27 Owen's estimate to defendant.

28

1 **B. The Importation of the Mosaic**

2 Defendant and AlJrad exchanged messages about their plan to hide
3 the Mosaic in a shipping container bound for Los Angeles by
4 concealing the Mosaic behind approximately 80 cheap vases. On March
5 6, 2015, defendant told AlJrad that the Mosaic was priceless and that
6 they needed documents to get the Mosaic into the United States. When
7 preparing for the shipment, AlJrad told defendant that the vases used
8 to disguise the Mosaic in the shipment were causing a delay;
9 defendant responded to AlJrad that this was ironic because the vases
10 were included in the shipment so that there would not be any
11 problems, but now the vases had become the problem. After the
12 shipment arrived in the United States, defendant discovered that the
13 vases were broken. But this did not matter. Defendant messaged
14 AlJrad stating that everything was working as planned.

15 On July 14, 2015, AlJrad messaged defendant that he had some bad
16 news because a different piece was caught at the border (likely the
17 Syria-Turkey border). Defendant asked AlJrad if the Turks caught it,
18 and AlJrad responded that yes, the smuggler had made a mistake and
19 lost it. Defendant asked about a different mosaic, and AlJrad
20 responded that there was good fortune that both were not caught.
21 AlJrad also messaged defendant about Interpol, noting that Interpol
22 was searching for a mosaic panel. AlJrad stated that Interpol was
23 searching for the first mosaic, the second one got caught, and that
24 he prayed that God would save the third (i.e., the Mosaic in this
25 case). On June 13, 2015, before the Mosaic entered the United
26 States, AlJrad emailed himself an Interpol article regarding the
27 looting of ancient mosaics from Syria.

28

1 **C. The Efforts To Sell the Mosaic**

2 After the Mosaic entered the United States, defendant and AlJrad
3 communicated regularly about the restoration and sale of the Mosaic.
4 They communicated about the creation of fake documents needed to sell
5 the Mosaic. For example, on August 27, 2015, after the Mosaic
6 entered the United States, defendant told AlJrad that documents from
7 a museum in Idlib, Syria, were necessary in order to sell the Mosaic.
8 When creating some of the fake documents, defendant told AlJrad that
9 there were too many unnecessary stamps on the documents and that this
10 would attract suspicion; AlJrad tried to assuage defendant's concerns
11 by responding that the number of stamps was common on official
12 documents.

13 **D. AlJrad's Lies at His Interview**

14 On March 15, 2021, Saudi officials interviewed AlJrad in Jeddah,
15 Saudi Arabia, pursuant to the government's MLAT request relating to
16 this prosecution. FBI agents and Saudi law enforcement officials
17 attended the interview. During the interview, AlJrad made numerous
18 demonstrably false statements regarding, inter alia, his role in the
19 scheme, his connections to the antiquities trade, the forged
20 documents, his communications with defendant, and his knowledge of
21 this criminal prosecution.

22 **E. AlJrad's Terrorist Links**

23 In response to the request from defendant and AlJrad, the
24 government provided AlJrad with a "safe passage" letter, in which it
25 agreed that the U.S. Attorney's Office for the Central District of
26 California would not authorize the arrest of AlJrad for crimes
27 relating to the Mosaic while he was in Los Angeles to testify at
28 trial. At the time, AlJrad's visa application was pending.

1 AlJrad's visa application ultimately was denied on two separate
2 grounds by the U.S. Department of State.¹ First, the Department of
3 State denied AlJrad's visa application under section 212(a)(3)(B) of
4 the Immigration and Nationality Act, which enumerates visa
5 ineligibility on terrorism related grounds. (Def's Mot., Exh. A.)
6 Second, AlJrad was denied a visa under section 306 of the Enhanced
7 Border Security and Visa Reform Act of 2002, which prohibits
8 admission of an alien from a country designated to be a state sponsor
9 of international terrorism unless the Secretary has determined that
10 such individual does not pose a risk or security threat to the United
11 States. (Id.)

12 Defendant's attempt to portray the visa denial as not
13 necessarily relating to AlJrad's ties to terrorism is misplaced. In
14 fact, according to information obtained earlier today from the
15 Department of Homeland Security, information obtained during the
16 review of AlJrad's visa application was referred to the Security
17 Advisory Opinion ("SAO"), which consists of intelligence components
18 from various federal agencies. Based on their research, AlJrad is
19 being nominated for risk enhancement in a federal database of
20 terrorists (the Terrorist Identities Datamart Environment, or
21 "TIDE").

22 Other evidence corroborates AlJrad's ties to terrorism. For
23 example, on November 6, 2014, shortly before AlJrad appears to have
24 discovered the Mosaic, he emailed himself the following photograph of
25 individuals holding machine guns.

27 ¹ Defendant's insinuation that the U.S. Attorney's Office played
28 a role in the denial of the visa is false and nonsensical. The
undersigned counsel wanted AlJrad to testify in person, and took
multiple steps to facilitate that result.



Based on open-source research, it appears that the photo depicts members of Jabhat al-Nusra, an extremist group affiliated with al-Qaeda that has conducted extensive looting in Syria. The photo appears to depict, from left to right:

- "Khalid al-Aruri" (Abu al-Miqdad/al-Qassam al-Urduni);
- "SU" (Sami al-Uraydi/Aridi/Abu Mahmud al-Shami);
- Former Dar'a head military commander "Mukhtar" (Abu Abdullah al-Maqdisi); and
- "AJ" (Iyad al-Tubaysi/Abu Jalibib/Julaybib).

Starting in 2012, Al-Nusra "expanded its operations to 11 of Syria's 13 governorates, including parts of Aleppo, Raqqa, Deir el

1 Zour, Daraa, and Idlib."² Now known as Hay'at Tahrir al-Sham
2 ("HTS"), the extremist group has engaged in extensive looting in
3 Syria. For example, in 2013, HTS/Jabhat al-Nusra "began ransacking
4 historical sites, creating large networks in order to smuggle and
5 trade in artifacts."³ Smuggling networks overseen by HTS also
6 transported artifacts from Syria to Turkey and then HTS "oversaw the
7 illegal sale of these objects to other countries."⁴ This information
8 is corroborated by 14 articles provided by one of the government's
9 noticed experts, Dr. Eric Doehne, related to looting in Syria. (See
10 ALC-GOV-28551-28717.)

11 **III. ARGUMENT**

12 Given that AlJrad's visa request has been denied, the government
13 does not oppose taking his testimony via VTC. The government does
14 oppose defendant's request to bar the government from questioning
15 AlJrad about the denial of his visa.

16 **A. The Government Does Not Oppose Conducting AlJrad's** 17 **Testimony by Live Video Teleconferencing, Provided the** 18 **Testimony Occurs at the U.S. Embassy in Riyadh, Saudi** 19 **Arabia.**

20 The defense has asserted that AlJrad has material and relevant
21 information that may counter the government's theory of the case.
22 The government's strong preference was for AlJrad to appear at trial
23 in person where the government could cross-examine him under oath in
24 front of the jury.

25 ² See [https://cisac.fsi.stanford.edu/mappingmilitants/profiles/hayat-](https://cisac.fsi.stanford.edu/mappingmilitants/profiles/hayat-tahrir-al-sham)
26 [tahrir-al-sham](https://cisac.fsi.stanford.edu/mappingmilitants/profiles/hayat-tahrir-al-sham).

27 ³ See [https://www.mei.edu/publications/economics-hayat-tahrir-](https://www.mei.edu/publications/economics-hayat-tahrir-al-sham)
28 [al-sham](https://www.mei.edu/publications/economics-hayat-tahrir-al-sham).

⁴ See [https://www.atlanticcouncil.org/blogs/syriasource/the-](https://www.atlanticcouncil.org/blogs/syriasource/the-destruction-and-looting-of-idlib-s-ancient-heritage-by-extremists/)
[destruction-and-looting-of-idlib-s-ancient-heritage-by-extremists/](https://www.atlanticcouncil.org/blogs/syriasource/the-destruction-and-looting-of-idlib-s-ancient-heritage-by-extremists/).

1 Given that AlJrad's visa to travel to the United States has been
2 denied, the government does not oppose taking his testimony via live
3 VTC, provided it occurs at the U.S. Embassy in Riyadh, Saudi Arabia.
4 Conducting AlJrad's examination at the embassy serves several
5 purposes. First, it will ensure there is adequate security, which is
6 important given AlJrad's terrorist links. Second, it will ensure
7 that the government has an opportunity to conduct a fulsome cross
8 examination of AlJrad. Third, AlJrad will be sworn to an oath to
9 tell the truth in an environment where a U.S. official can be
10 present, and the integrity of the criminal judicial process will be
11 upheld as much as possible (despite AlJrad's credibility issues).
12 Testifying in a less solemn environment would not accomplish these
13 goals and would leave the process susceptible to undue influence on
14 AlJrad's testimony. For example, if AlJrad were to testify outside
15 of an embassy, no one would be present to observe the process and
16 ensure, as much as possible, that it would mirror the environment of
17 open court where a witness testifies without phones, notes, or under
18 other circumstances that could influence the testimony.

19 The defense has agreed to the above terms. Courts have approved
20 live VTC testimony in criminal proceedings in environments where the
21 gravity and solemnity of providing testimony in a criminal proceeding
22 can be observed. See, e.g., United States v. Beaman, 322 F. Supp. 2d
23 1033, 1035 (D. N.D. 2004) (finding, in a criminal case, that there
24 were appropriate safeguards such that witness testimony via real-
25 time video conference would not deprive defendant of his right to
26 confront the witness, where the witness was under oath, subject to
27 cross-examination, and observable by the jurors, counsel, defendant,
28 and the court); United States v. Smith, Crim. No. 1:09-CR-100, 2010

1 WL 5211498, at *2 (W.D.N.C. Dec. 16, 2010) (permitting Oklahoma-based
2 expert to testify by contemporaneous transmission in North
3 Carolina trial and relying on Civil Procedure Rule 43(a) for
4 guidance) (citing Maryland v. Craig, 497 U.S. 836, 849 (1990)).

5 For all these reasons, the government does not object to AlJrad
6 testifying via live VTC, provided his testimony can occur at the U.S.
7 Embassy in Riyadh, Saudi Arabia, as planned.

8 **B. The Denial of AlJrad's Visa Application on Terrorism-**
9 **Related Grounds Is Relevant and Admissible**

10 The State Department's denial of AlJrad's visa application on
11 terrorism-related grounds is admissible for two independent reasons:
12 (1) to impeach AlJrad as to his bias and credibility; and (2) to
13 corroborate other evidence that AlJrad looted the Mosaic from Syria,
14 and then smuggled it into Turkey (and then the United States), a
15 common practice of terrorism groups, including HTS, as discussed
16 above.

17 1. The Evidence Is Admissible for Impeachment Purposes

18 Based on the demonstrably false statements that AlJrad made
19 during his MLAT interview in Saudi Arabia in March 2021 (in the
20 presence of FBI agents and Saudi law enforcement officials), the
21 government anticipates that AlJrad will make similarly false
22 statements at trial. Given the apparent importance of AlJrad to the
23 defense, the government's cross-examination of AlJrad will be a
24 critical part of the trial. The Court should deny defendant's
25 attempt to limit the government's means to conduct this cross-
26 examination.

27 The central issue here is AlJrad's bias. His motive to lie is
28 not limited to his desire to see defendant (his friend and business

1 partner) acquitted, so that they can get the Mosaic back and sell it.
2 As a suspected terrorist, AlJrad's bias extends toward his disrespect
3 for the United States government, including its law enforcement
4 officers, its Customs laws and regulations, and its courts.

5 Defendant's motion discusses the Federal Rules of Evidence at
6 length. But the Federal Rules of Evidence do not constrain the
7 government's ability here to introduce evidence for impeachment for
8 bias. See, e.g., United States v. Abel, 469 U.S. 45, 51 (1984) ("We
9 think the lesson to be drawn from all of this is that it is
10 permissible to impeach a witness by showing his bias under the
11 Federal Rules of Evidence just as it was permissible to do so before
12 their adoption.").⁵ The government should be allowed to explore a
13 witness's anti-government and anti-United States beliefs,
14 particularly where the witness (1) has demonstrated links to
15 terrorist groups, (2) is testifying to facilitate a defendant's
16 acquittal on a criminal charge, (3) has a demonstrated history of
17 lying about the same issues on which his testimony will focus, and
18 (4) will testify about a subject matter closely linked to terrorist
19 groups. AlJrad's ties to terrorism are relevant to support the
20 inference that his testimony will be biased and untruthful. Hence
21
22
23

24
25 ⁵ "Bias is a term used in the 'common law of evidence' to
26 describe the relationship between a party and a witness which might
27 lead the witness to slant, unconsciously or otherwise, his testimony
28 in favor of or against a party. Bias may be induced by a witness'
like, dislike, or fear of a party, or by the witness' self-interest.
Proof of bias is almost always relevant because the jury, as finder
of fact and weigher of credibility, has historically been entitled to
assess all evidence which might bear on the accuracy and truth of a
witness' testimony." Abel, 469 U.S. at 52.

1 his visa denial is relevant and admissible, under both the
2 government's common-law right to impeach for bias, and Rule 608(a).⁶

3 The government has been unable to locate a case on point
4 (defendant's motion cites none). The government suspects that this
5 is because the defense's gambit here is so unusual: attempting to
6 put a suspected terrorist on the stand to provide exculpatory
7 testimony free from any consequences to the witness, who is 8,000
8 miles away and conveniently insulated from a prosecution for perjury.
9 Common sense dictates that, should defendant proceed with this
10 strategy, the government should be permitted to question AlJrad about
11 his biases, for which the denial of his visa on terrorism-related
12 grounds is direct evidence.

13 2. AlJrad's Terrorism Ties Are Admissible To Corroborate
14 the Government's Theory of the Case: The Mosaic was
Looted and Smuggled

15 The evidence concerning AlJrad's visa denial corroborates that
16 defendant and AlJrad engaged in a scheme to smuggle an ancient Mosaic
17 from Syria to the United States and that defendant intentionally lied
18 about the Mosaic's origin, value, and quality. As described in Part
19 II, supra, the communications between defendant and AlJrad show that
20 they made plans to find and detect "treasures" of antiquity, sought
21 estimates for the value of the Mosaic by admitting the Mosaic was
22 from Syria, and then falsely claimed there was legitimate paperwork
23 to prove the legality of removing it from Syria.

25
26 ⁶ Rule 608(a) provides, in relevant part, that a "witness's
27 credibility may be attacked or supported by testimony about the
28 witness's reputation for having a character for truthfulness or
untruthfulness, or by testimony in the form of an opinion about that
character." Mirroring Rule 608(a), there is an explicit exception to
the hearsay rules for a witness's reputation concerning character.
See Fed. R. Evid. 803(21).

1 Terrorist groups, including HTS, loot antiquities from conflict
2 areas, including Syria. AlJrad has connections to terrorist groups.
3 AlJrad (or co-conspirators) looted the Mosaic from Syria. Defendant
4 is charged with illegally bringing the looted Mosaic into the United
5 States. AlJrad's terrorist connections are thus inextricably
6 intertwined with the government's case, and hence inadmissible on
7 their own irrespective of impeachment.

8 The jury should be allowed to assess such evidence in the
9 context of AlJrad's and defendant's communications about the looting
10 of antiquities from Syria, their representations of the Mosaic's
11 origin, and their extensive efforts to both obtain value estimates
12 for the Mosaic and then sell it. The basis upon which AlJrad was
13 denied a visa and the other evidence mentioned above also are
14 relevant to corroborating defendant's intent and motive to obscure
15 the true origin, value, and quality of the Mosaic, defendant's desire
16 to make a huge profit, and his intent to hide the fact that the
17 Mosaic was looted from Syria, a country ravaged by armed conflict and
18 terrorist activity.

19 3. The Terrorism Evidence Is Not Unfairly Prejudicial
20 Under Rule 403

21 AlJrad is a demonstrated liar. He has lied repeatedly to Saudi
22 officials and the FBI about his involvement in defendant's scheme.
23 The government anticipates that he will continue these lies at
24 defendant's trial. Against this backdrop, AlJrad's terrorism
25 connections are not unfairly prejudicial to the defense. To the
26 contrary, it would be unfairly prejudicial to the government for the
27 Court to prevent a thorough cross-examination of AlJrad's anticipated
28 testimony. Given defendant's apparent gameplan to make his co-

1 conspirator's lies a centerpiece of the defense, the government
2 should not be hamstrung in its cross-examination. Moreover,
3 alternatives to exclusion exist, including guarding against jury
4 confusion by reading a limiting instruction at the time of
5 examination concerning the denial of his visa.

6 **IV. CONCLUSION**

7 For the foregoing reasons, the government opposes defendant's
8 motion in limine, but does not oppose defendant's request that AlJrad
9 testify via live VTC provided his testimony can be given at the U.S.
10 embassy in Riyadh, Saudi Arabia.

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