

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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In Re the Matter of the )  
 )  
Extradition of: )  
 ) 2:20-mj-8033-MTM  
 )  
 ) Phoenix, Arizona  
 ) May 8, 2020  
Ali Yousif Ahmed Al-Nouri. ) 2:16 p.m.  
 )  
 )  
 )

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BEFORE: THE HONORABLE MICHAEL T. MORRISSEY, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

DETENTION HEARING

Official Court Reporter:  
Charlotte A. Powers, RMR, FCRR, CCR, CMRS  
Sandra Day O'Connor U.S. Courthouse, Suite 312  
401 West Washington Street, Spc. 40  
Phoenix, Arizona 85003-2151  
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Proceedings Reported by Stenographic Court Reporter  
Transcript Prepared by Computer-Aided Transcription

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A P P E A R A N C E S

For the Government:

U.S. Attorney's Office  
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For the Defendant Ali Yousif Ahmed Al-Nouri:

Federal Public Defender's Office  
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ALSO PRESENT: Interpreter Mohammed Abedalaziz

Interpreter Souzan Elsayed

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P R O C E E D I N G S

(Court is called to order.)

(Defendant appearing via videoconference; all other parties appearing in person in the courtroom.)

(Proceedings resume at 2:16 p.m.)

THE COURT: Please be seated.

(Pause in proceedings.)

THE COURT: So as an initial matter, we entered an order stating that members of the public could call in on a public line. Apparently we're having trouble with that public line, so my apologies to the parties. But I think the right thing to do is wait a few more minutes, and then see if we can get that up and running. And so we're not going to start now. We'll start in about five minutes.

(Pause in proceedings.)

COURTROOM DEPUTY: Case number 20-08033MMJ, United States of America versus Ali Yousif Ahmed Al-Nouri, set before the Court for detention hearing.

MR. ALLISON: Good afternoon, Your Honor.

Todd Allison, Dave Pimsner, and Dimitra Sampson for the United States.

THE COURT: Good afternoon to all of you.

MS. JOHNSON: Good afternoon, Your Honor.

Jami Johnson on behalf of Ali Yousif Ahmed Al-Nouri, who is present via videoconference from the jail.

1 THE INTERPRETER: Excuse me, sir. I couldn't hear  
2 her.

3 MS. JOHNSON: I apologize. I apparently wasn't close  
4 enough to the microphone.

5 Jami Johnson for Ali Yousif Ahmed Al-Nouri, who is  
6 present via video link with the jail, and being assisted by an  
7 Arabic interpreter.

8 THE COURT: Thank you. And good afternoon to counsel  
9 and to Mr. Al-Nouri.

10 As an initial matter, if it assists the parties, you  
11 don't need to stand to speak because what's actually more  
12 important is that you be close to the microphones and that the  
13 interpreter be able to pick up what you're saying.

14 Also, we are using consecutive translation today,  
15 which means that all of us, including myself, should try to  
16 speak in shorter verse so that the interpreter can interpret  
17 that for all the parties.

18 For the parties, I had a note from a previous  
19 conference call that we had, that either applied to this  
20 hearing or the extradition hearing that we're going to set,  
21 which talked about going out of order and having the defense go  
22 first. Is that for today for the detention hearing?

23 MS. JOHNSON: Yes, Your Honor.

24 MR. ALLISON: Yes. Yes, sir.

25 THE COURT: Then Ms. Johnson, are you prepared to

1 proceed?

2 MS. JOHNSON: Yes, we are.

3 With the Court's permission, I first would like to  
4 call our character witness speakers.

5 I would like to note, in addition to the presence of  
6 our speakers, the presence of numerous individuals from the  
7 community, many of whom submitted letters in this case, who  
8 have come in support of Mr. Ahmed. And as well as Mr. Ahmed's  
9 wife, Nora, who submitted a letter that the Court read.

10 Our first speaker is Ziaad Ismael Mustafa.

11 MR. ALLISON: Your Honor, the -- the government would  
12 ask that the witnesses be sworn in so we can ask them questions  
13 under oath in response.

14 THE COURT: That's fine.

15 (ZIAAD ISMAEL MUSTAFA is sworn.)

16 ZIAAD ISMAEL MUSTAFA: This Ziaad Mustafa from Iraq.  
17 I live in Texas, Fort Worth. I live Texas. I was born in Iraq  
18 in the same city with Ali Al-Nouri, the same village.

19 THE COURT: Mr. Mustafa, could you make sure you speak  
20 up and that you lean far into the microphone?

21 ZIAAD ISMAEL MUSTAFA: Okay. So -- (speaking Arabic).

22 THE INTERPRETER: The witness is asking if he can  
23 speak Arabic.

24 Can you speak in English?

25 ZIAAD ISMAEL MUSTAFA: Yeah, I can, but just to make

1 sure everything is right.

2 THE COURT: Well, that's why we have an interpreter.  
3 Let's go ahead and speak in English, and then he will interpret  
4 your responses.

5 ZIAAD ISMAEL MUSTAFA: Okay. This is Ziaad Mustafa  
6 from Iraq. I live in Texas. Fort Worth, Texas.

7 I know Ali Nouri the same -- he's my neighbor. And I  
8 know him when we kids. He's very good guy. I know his --

9 THE INTERPRETER: Wait.

10 ZIAAD ISMAEL MUSTAFA: Sorry.

11 (Awaiting interpretation.)

12 ZIAAD ISMAEL MUSTAFA: Yes. He's brothers, very close  
13 to me, you know, and right there is culture. The culture is  
14 like you can know about the neighbor and eat together, and he's  
15 very friend to me. And I see him in Syria last time -- not  
16 last time, in Syria.

17 THE INTERPRETER: Excuse me. Excuse me.

18 ZIAAD ISMAEL MUSTAFA: After that -- sorry.

19 (Awaiting interpretation.)

20 ZIAAD ISMAEL MUSTAFA: Yes. I'm truck driver, so I  
21 have route between Texas to Arizona. So before when he go to  
22 the jail, like one week, I come to him, visit him -- actually,  
23 he come to truck stop and he pick up me and my friend. And he,  
24 you know, we do, like, all the day. He make dinner and drink  
25 and, you know, like fun time.

1           And one more thing about the -- about the people.  
2           Like, because I know them right there. It's my city. So if  
3           someone kill someone -- like, example, the other guy, he going  
4           to kill the brothers or dad, whatever. They didn't, you know,  
5           like even four years, they didn't, you know, like -- but this  
6           people, they live together with the family Ali. And nothing.  
7           I didn't hear anything. Because if something happened, I know,  
8           because my family is still there in Fallujah.

9           THE INTERPRETER: Stop, please.

10          ZIAAD ISMAEL MUSTAFA: Sorry.

11          (Awaiting interpretation.)

12          ZIAAD ISMAEL MUSTAFA: Excuse me. No four years. I  
13          didn't say four years.

14          (Interpreter converses with Mr. Mustafa.)

15          ZIAAD ISMAEL MUSTAFA: What do you mean; Fallujah, or  
16          where? I'm talking about the -- okay. So --

17          THE COURT: Mr. Mustafa --

18          ZIAAD ISMAEL MUSTAFA: Yes, sir.

19          THE COURT: If you have any question about the  
20          interpretation, refer to me and we will discuss it, and that  
21          way the court reporter can take everything down.

22          ZIAAD ISMAEL MUSTAFA: Okay.

23          THE COURT: There really can't be side conversations.

24          ZIAAD ISMAEL MUSTAFA: Sorry.

25          (Awaiting interpretation.)



1 ZIAAD ISMAEL MUSTAFA: Can I repeat?

2 THE COURT: Yes.

3 ZIAAD ISMAEL MUSTAFA: Okay. These people, you know,  
4 they said Ali kill them or something like that. If he do that,  
5 I -- I can hear, you know, like, my city, because I know all  
6 the people. I'm barber, you know, barber right there. So I  
7 know all this almost. If something happened like that -- so  
8 this people, they go to -- sorry -- kill the brother, Ali  
9 brothers or dad or, you know. But that didn't happen. So...

10 (Awaiting interpretation.)

11 ZIAAD ISMAEL MUSTAFA: And one more thing. When we --  
12 when we visit Ali, and we drive, and some traffic light,  
13 traffic light, and we see -- he saw some stuff in the street,  
14 and he stop. I swear. He stop. And I tell him, what's going  
15 on? And he go to take all the stuff, because it's like 10  
16 years -- actually, it's nine years I didn't see Ali. So he --  
17 he very nice, you know. Like he take all the stuff on the  
18 street -- from the street, and he come back, and drive. But  
19 it's traffic, you know. Slow.

20 And I hear about his brother. And he always help  
21 people. Believe me. He help people. And he sometime give  
22 some money for nothing. That's what I know him, because I  
23 swear, you know. And --

24 (Awaiting interpretation.)

25 ZIAAD ISMAEL MUSTAFA: He give money for nothing, like

1 he help. That's what I know.

2 THE INTERPRETER: Interpreter asks, he give you what?  
3 You said he give you...

4 ZIAAD ISMAEL MUSTAFA: Oh, he just, you know, like,  
5 give people, like, a friend, you know, like help, like.

6 THE INTERPRETER: He always known of helping people.

7 ZIAAD ISMAEL MUSTAFA: Even -- even my country, city.  
8 Because I'm swear, you know. I have to say true.

9 THE COURT: Thank you.

10 ZIAAD ISMAEL MUSTAFA: I'm sorry I'm talking.

11 That's it.

12 MR. PIMSNER: Your Honor, I have a few questions, if I  
13 may.

14 THE COURT: Certainly.

15 MR. PIMSNER: Sir, you live in Fallujah in Iraq?

16 ZIAAD ISMAEL MUSTAFA: Yes.

17 MR. PIMSNER: And if I understood what you said, you  
18 were primarily friends with his older brother; correct?

19 ZIAAD ISMAEL MUSTAFA: Yes.

20 MR. PIMSNER: Do you know Mr. Ahmed's other siblings?

21 THE INTERPRETER: Interpreter ask to repeat the name,  
22 please.

23 MR. PIMSNER: Do you know Mr. Ahmed's other siblings?

24 ZIAAD ISMAEL MUSTAFA: Ahmed or Ali?

25 MR. PIMSNER: Ali's.

1           ZIAAD ISMAEL MUSTAFA: Number one, the old one,  
2 Ahmed -- Ahmed Mohammed. Yes, he. The young -- I know these  
3 people.

4           MR. PIMSNER: And what do you know about Mr. Ahmed's  
5 family's financial background?

6           ZIAAD ISMAEL MUSTAFA: Good.

7           MR. PIMSNER: Would you describe them as wealthy?

8           MS. JOHNSON: Your Honor, relevance?

9           THE COURT: Mr. Pimsner, there's an objection to the  
10 relevance of that question. What's -- what's your response?

11           MR. PIMSNER: Your Honor, whether or not he has the  
12 financial means for potential flight issues, so I think it's  
13 okay -- it's a proper inquiry into what possible wealth he may  
14 have available through his family.

15           THE COURT: Well, Mr. Pimsner, is your question as to  
16 the family's wealth back in Iraq, or to Mr. AL-Nouri's wealth  
17 here?

18           MR. PIMSNER: It's Iraq. In Iraq.

19           THE COURT: Okay. If the witness can answer, then  
20 it's allowable.

21   (Awaiting translation.)

22           ZIAAD ISMAEL MUSTAFA: In Iraq they have -- actually,  
23 a job, a job, because I don't know what they call the job in  
24 Arabic.

25           THE INTERPRETER: Carpenter.

1           ZIAAD ISMAEL MUSTAFA: They have carpenter. His  
2 brother Mohammed, he is working barber like me, working  
3 together. And another brothers he has are for, you know,  
4 like -- for, you know, like -- like working on a car. Like  
5 bus.

6           THE INTERPRETER: Your Honor, the interpreter didn't  
7 get what he said in English.

8           THE COURT: All right.

9           Let me ask. Ms. Johnson, would it help if Mr. Mustafa  
10 sat next to you and could pull the microphone directly to him?

11          ZIAAD ISMAEL MUSTAFA: I can use this.

12          THE COURT: I don't think so. We're having trouble  
13 hearing you. Why don't you take a seat.

14          Mr. Mustafa, the interpreter stated that he did not  
15 hear your last answer. I believe I heard some matters about  
16 being a barber, being a carpenter. If that's roughly correct,  
17 could you repeat your answer?

18          ZIAAD ISMAEL MUSTAFA: Yes. Another guy, he has bus.  
19 So barber, carpenter, and bus.

20          MS. JOHNSON: "Bus." Bus driver.

21          ZIAAD ISMAEL MUSTAFA: Bus.

22          THE COURT: Bus.

23          THE INTERPRETER: The interpreter heard that he worked  
24 as a barber and bus driver.

25          MR. PIMSNER: Sir, at some point you indicated earlier

1 that you saw Mr. Ali Ahmed in Syria. When did you move to  
2 Syria?

3 ZIAAD ISMAEL MUSTAFA: 2006.

4 MR. PIMSNER: What month in 2006?

5 ZIAAD ISMAEL MUSTAFA: Actually, I don't know exactly.  
6 But I just -- I go to do the bus, like maybe it's May.

7 MR. PIMSNER: About approximately May; is that what  
8 you said?

9 ZIAAD ISMAEL MUSTAFA: Just 2006. I don't know about  
10 the month exactly. I'm so sorry.

11 MR. PIMSNER: And when did you see Mr. Ali Ahmed in  
12 Syria?

13 ZIAAD ISMAEL MUSTAFA: 2006.

14 If I'm honest with you, I'm not sure exactly.

15 MR. PIMSNER: Excuse me, Your Honor.

16 (Pause in proceedings.)

17 MR. PIMSNER: Sir, how often did you see Mr. Ahmed in  
18 Syria?

19 ZIAAD ISMAEL MUSTAFA: In Syria, or when?

20 MR. PIMSNER: In Syria.

21 ZIAAD ISMAEL MUSTAFA: Just one time.

22 MR. PIMSNER: And where was that?

23 ZIAAD ISMAEL MUSTAFA: It's the passport building of  
24 Syria, in front. We drink tea.

25 MR. PIMSNER: And did you move back to Fallujah at

1 some point after living in Syria?

2 MS. JOHNSON: Objection. Relevance.

3 THE COURT: Mr. Pimsner?

4 MR. PIMSNER: Trying to establish if he had seen  
5 Mr. Ahmed in Iraq after that time, after he returned.

6 THE COURT: Why does that relate --

7 MR. PIMSNER: Part of Mr. Ahmed's argument is that he  
8 can't go back to Iraq, why would he go back to Iraq. And if he  
9 was going back to Iraq during the course of this time, you  
10 know, I think it's relevant to know his -- his travels.

11 THE COURT: Okay. I'll allow that question, but we're  
12 not going to go in depth on this with this witness.

13 MR. PIMSNER: Correct.

14 Did you see Mr. Ali Ahmed in Fallujah after you  
15 returned to Fallujah from Syria?

16 ZIAAD ISMAEL MUSTAFA: No.

17 MR. PIMSNER: You indicated that you saw Mr. Ahmed  
18 right prior to his arrest. How many times have you seen  
19 Mr. Ahmed in the United States in person?

20 ZIAAD ISMAEL MUSTAFA: One time. Just one time.

21 MR. PIMSNER: And that was just prior to his arrest?

22 ZIAAD ISMAEL MUSTAFA: Yes.

23 Now, one more thing --

24 THE COURT: Well, no, you have to wait until he asks a  
25 question.

1 MR. PIMSNER: When was the last time you communicated  
2 with Mr. Ahmed?

3 ZIAAD ISMAEL MUSTAFA: Before he got to the jail, like  
4 two days or three days.

5 MR. PIMSNER: And --

6 (Awaiting translation.)

7 MR. PIMSNER: And do you continue to communicate with  
8 Mr. Ahmed's brothers and sister?

9 ZIAAD ISMAEL MUSTAFA: Yes. Taha and Ali and  
10 Mohammed.

11 MR. PIMSNER: When was the last time you spoke to Taha  
12 and Mohammed?

13 MS. JOHNSON: Objection. Relevance.

14 THE COURT: Sustained.

15 MR. PIMSNER: Nothing further, Your Honor.

16 THE COURT: Thank you.

17 Any further points, Ms. Johnson?

18 MS. JOHNSON: Your Honor, I just wanted to invite  
19 Mr. Mustafa to add anything that he felt was relevant.

20 ZIAAD ISMAEL MUSTAFA: I'm good.

21 THE COURT: Thank you, Mr. Mustafa.

22 Ms. Johnson, before you call your next witness, I  
23 believe I forgot to put on the record that your client had,  
24 after consultation, consented to appear by video. Is that  
25 correct?

1 MS. JOHNSON: Yes.

2 THE COURT: Okay. Do you have another witness?

3 MS. JOHNSON: We do. Witness number 2 is Tanler  
4 Klemstine.

5 (TANLER KLEMSTINE is sworn.)

6 TANLER KLEMSTINE: My name is -- oh, sorry.

7 My name is Tanler Klemstine.

8 THE INTERPRETER: Interpreter ask to be slow and  
9 mention the name, please.

10 (After interpretation.)

11 TANLER KLEMSTINE: "Tanler." Tanler.

12 THE COURT: Is it Tanler, T-A-N-L-E-R?

13 TANLER KLEMSTINE: Yes, sir.

14 A little about myself. I am a neighbor of Ali. I  
15 live, I don't know, four houses away from him. And I moved  
16 into that neighborhood October 2019.

17 A few days after moving in, Ali and I struck a  
18 friendship, originally based off of raising animals.

19 I often saw him. I'm a homemaker and I homeschool my  
20 kids, so I drove by his house often and spoke with him.

21 We spoke of many things, such as my time in the  
22 service. I'm a veteran of the United States Navy.

23 I served from the beginning of 2006 until mid 2011.

24 Based off of my time in the service, I know of the  
25 country. I never stepped foot in it. I was off the coast of



1 Iraq.

2           During the time of the accusations of what he's being  
3 accused of, I do know that that country and that area  
4 specifically was in serious hardship: War, there was a lot of  
5 violence, and corruption in the government.

6           (Awaiting interpretation.)

7           TANLER KLEMSTINE: Oh, sorry. I lost it here.

8           Okay.

9           I think that there's a possibility off of what I've  
10 read -- I don't know all the details as most people in here --  
11 but based off of what I read on the news, I feel like it could  
12 have been somebody trying to at-fault somebody.

13           MR. PIMSNER: Your Honor, I'm going to object. This  
14 is speculative.

15           THE COURT: It is speculative. I'm -- I'm not  
16 tracking what you're saying.

17           TANLER KLEMSTINE: Okay. I'm -- what I'm trying to  
18 say is that somebody could be placing fault on him to get out  
19 of a situation because they know that he's not there to defend  
20 himself. And in that country you're guilty until proven  
21 innocent.

22           And as far as my relationship with Ali, we exchange  
23 text messages about animals, about his baby that was currently  
24 on the way. He sent me a picture of his son the day he was  
25 born.

1           We -- we talked a lot about animals, but I shared  
2 about my time in the service with him.

3           I spoke to him of Jesus, I spoke to him of my family.

4           I often borrowed trailers from Ali because I was  
5 developing -- developing my property, and he always showed  
6 kindness and willingness to bless me.

7           Over half the chickens -- I know this is not relevant,  
8 but half the chickens on my property were eggs for chickens  
9 that Ali and his family blessed my family with.

10           THE COURT: Mr. Klemstine, in saying "blessed" your  
11 family with, "gave" you?

12           TANLER KLEMSTINE: Yes, gave me. He would never let  
13 me pay for anything, and always told me if I bless you, God is  
14 going to bless me. And always thanked me for letting him bless  
15 me.

16           Another experience that I had with Ali, after  
17 borrowing his horse trailer, I dropped it off, it was late in  
18 the evening, and him and a buddy were having drinks.

19           THE INTERPRETER: For?

20           TANLER KLEMSTINE: When I dropped off the horse  
21 trailer late in the evening, Ali and his buddy were having  
22 drinks. Alcohol.

23           That time and every other time that I've seen Ali,  
24 messaged Ali, he was always grateful and happy to see me, a  
25 true example of somebody that's joyful, and expressed joy to

1 see me or my family members.

2 In my feelings towards Ali, I hold him close to my  
3 heart. I feel like he really exemplifies the meaning or  
4 example that a United States citizen should be like, always  
5 helpful and loving.

6 Now, I can't think of anything else that I would like  
7 to say, other than I'm grateful for the time that I got to be  
8 friends with him.

9 THE COURT: Does government have questions?

10 MR. PIMSNER: Just a couple, Your Honor.

11 Sir, I do understand correctly that you've never  
12 stepped foot in Iraq?

13 TANLER KLEMSTINE: No. Always off the coast.

14 MR. PIMSNER: And just to clarify, you only knew  
15 Mr. Ali Ahmed approximately three-and-a-half months prior to  
16 his arrest?

17 TANLER KLEMSTINE: I knew him since October 2019.

18 MR. PIMSNER: No other questions, Your Honor.

19 MS. JOHNSON: Your Honor, I just want to give  
20 Mr. Klemstine an opportunity to clarify or expound on any  
21 answers to questions asked by Mr. Pimsner.

22 TANLER KLEMSTINE: When I was off the coast of Iraq, I  
23 worked on an amphibious assault ship, which is known for  
24 transporting Marines and medical, which we were there in lieu  
25 of support of them when they're on foot in Iraq. And I was

1 close friends with many of the Marines and medics, which they  
2 told me their stories. And I was always there in support of  
3 protecting them from a distance.

4 MR. PIMSNER: So it's safe to say you never interacted  
5 with any Iraq locals or government officials; correct?

6 TANLER KLEMSTINE: Other than interpreters that came  
7 on our boat and citizens of Iraq that were helping that came to  
8 our ship for aid or a mission; like meetings, they had to come  
9 to our ship. So, yes.

10 MR. PIMSNER: Thank you.

11 MS. JOHNSON: Your Honor, Youkhanna Khaninia.

12 (YOUKHANNA KHANINIA is sworn.)

13 YOUKHANNA KHANINIA: My name is Youkhanna Khaninia.  
14 I'm a Christian Iraqi. I work as a product engineer for  
15 Microchip, and currently on disability due to my vision  
16 problem.

17 I am involved with three charitable organization, one  
18 of them -- sorry.

19 (Awaiting interpretation.)

20 THE INTERPRETER: Interpreter asks to repeat the name,  
21 please.

22 THE COURT: I'm sorry?

23 THE INTERPRETER: Interpreter asks to repeat the name  
24 slowly. I'm not familiar with these names.

25 YOUKHANNA KHANINIA: Yeah. I work for Microchips

1 semiconductor.

2 THE INTERPRETER: Name.

3 YOUKHANNA KHANINIA: Oh. Youkhanna Khaninia. My  
4 nickname is Youki. Most know me by Youki.

5 THE INTERPRETER: Sorry for that interruption.

6 THE COURT: Mr. Khaninia, you state you work for  
7 Microchip. What do you do for Microchip?

8 YOUKHANNA KHANINIA: I'm an engineer, a product  
9 engineer.

10 And I also volunteer for two charitable organization.  
11 One of them is --

12 (Awaiting interpretation.)

13 YOUKHANNA KHANINIA: One of them is Christian Assyrian  
14 Medical Society.

15 I am a cofounder and a board director. And I also  
16 volunteer for Without Border, which is based in Loma Linda,  
17 California.

18 THE COURT: I heard the first one. Christian Assyrian  
19 Medical.

20 YOUKHANNA KHANINIA: Medical Society.

21 THE COURT: Okay. The second one?

22 YOUKHANNA KHANINIA: It was Without Borders. It's not  
23 Doctor Without Borders.

24 THE INTERPRETER: Interpreter didn't get the name of  
25 the place.

1 THE COURT: I believe the second charitable  
2 organization you're associated with is called Without Borders?

3 YOUKHANNA KHANINIA: Yes, sir.

4 (Awaiting interpretation.)

5 YOUKHANNA KHANINIA: Usually we bring -- we start as  
6 bringing Christian children that needed medical help through  
7 Shriner Hospital and through St. Jude. And --

8 (Awaiting interpretation.)

9 YOUKHANNA KHANINIA: And we did bring couple kids  
10 here, was sponsored by Chandler Regional and Gilbert Regional  
11 Hospital.

12 I met Ali, like, a year-and-a-half ago at farm repair  
13 store.

14 My first question to him was if he's a Syrian, because  
15 he's very light and blue eyes.

16 (Confers with interpreter.)

17 YOUKHANNA KHANINIA: I'm sorry. A Syrian.  
18 Babylonian.

19 And his response was: I'm your brother.

20 Ali is very caring person, very loveable, very polite.  
21 And when I posted the last post of a little girl that was  
22 accepted at Shriner --

23 (Awaiting interpretation.)

24 YOUKHANNA KHANINIA: -- Ali was the first person when  
25 I posted on Facebook to come back to me. He said he would

1 sponsor the little kid.

2 THE INTERPRETER: He was... (continues  
3 interpretation.)

4 YOUKHANNA KHANINIA: Unfortunately this thing was,  
5 like, four months ago when Iraq started having problem. They  
6 shoot down the American Embassy.

7 I went to Ali to Lake Pleasant one time because he's  
8 very outgoing person and he likes to barbecue, so he invited  
9 me. He went there for few hours. We had a lot of fun, you  
10 know, talking about our history, their history, and all that.

11 And when he asked me about my family, he always  
12 referred to my "sister" and my "son" or my "brother." He never  
13 called them by name.

14 I can swear to everyone, I mean, the guy is amazing,  
15 and I'm still shocked with their position.

16 Last time, it was, I think, a couple months ago, he  
17 sent me picture of his newborn son.

18 And you know, he look like Ali 100 percent.

19 That's it.

20 THE INTERPRETER: That's all.

21 MR. PIMSNER: No questions, Your Honor.

22 THE COURT: All right. Thank you.

23 YOUKHANNA KHANINIA: Thank you. God bless.

24 MS. JOHNSON: Your Honor, Jabir Algarawi.

25 ///

1 (JABIR ALGARAWI is sworn.)

2 JABIR ALGARAWI: My name is Jabir Algarawi. I came to  
3 United States 27 years ago and -- as a refugee from Iraq.

4 I become --

5 (Awaiting translation.)

6 JABIR ALGARAWI: I become involved as a volunteer to  
7 help my fellow refugees when they come to Phoenix, Arizona.

8 And all these faces I met when they came here to  
9 Arizona, and I provide help as a consultant to them, how they  
10 can just start their new life and become self-sufficient.

11 And I -- I met Ali the year he came to Phoenix,  
12 Arizona, back in 2008, I believe.

13 And his name come to -- to my attention through his  
14 caseworker with the Catholic Charity.

15 She's my friend. We work together with the refugees  
16 back in '90s.

17 And she tell me he's very helpful to our community.  
18 He is well into volunteers and help me to help others.

19 And many times Ali come to our office as a refugee  
20 center in Northwest Phoenix and asks if we need any help,  
21 especially with transportation or anything.

22 And it's -- in the beginning, his English was limited,  
23 so he offered to help with helping refugees, with take them to  
24 shopping.

25 And when we have -- when we have a family running



1 through a hard time, like not paying the rent, many times Ali  
2 came and offer to pay some of the money to help that families.

3 And when he start his business as a driver, he help us  
4 a lot.

5 Many of refugees got their driver license without  
6 paying money.

7 And because it is very important to our refugees when  
8 they came here to get the driver license so they can start the  
9 job and become self-sufficient.

10 And this individual, sometime they don't have money to  
11 pay to get the driver license. So we talk to Ali, and Ali  
12 tell, okay, if they don't have money, I don't ask them to pay  
13 me. And if they have money in the future, they can pay me.

14 I -- I feel Ali, he is a good person. In the  
15 community, he provide a lot of help to us. And he's very  
16 lovely and very charming person.

17 And all of us, we shocked when we heard the news about  
18 that, his charges.

19 Thank you.

20 THE COURT: Does the government have questions?

21 MR. PIMSNER: No, Your Honor. Thank you.

22 MS. JOHNSON: Your Honor, our last speaker is Ahmed  
23 Allassafi.

24 (AHMED ALASSAFI is sworn.)

25 AHMED ALASSAFI: I'm Ahmed Allassafi. I am original

1 from Iraq.

2 I worked with U.S. Army as local linguist from 2004  
3 'til the end of 2009.

4 THE COURT: In what country were you doing that work?

5 AHMED ALASSAFI: What's that?

6 (Awaiting translation.)

7 AHMED ALASSAFI: Yes, the end of 2009. Yes. I did  
8 the work.

9 THE COURT: No. You said you were -- you worked as a  
10 linguist with the United States Army from 2004 to 2009. Was  
11 that in Iraq?

12 AHMED ALASSAFI: Yes, in Iraq. Baghdad.

13 And then I been given opportunity to come here to  
14 United States as refugee with my family.

15 First time I met with Ali was in the beginning of  
16 2011.

17 We were living in the same complex. It was 3333 West  
18 Dunlap Avenue, Phoenix, Arizona.

19 Sometime he invited me to his apartment.

20 He's -- he is so nice. He was so interested to make  
21 barbecue, and make fun.

22 As I know him that time, he was working for dental  
23 services. He was taking people to the dentist, and then  
24 getting back home.

25 After that, I move in North Phoenix, and then I knew

1 that he was moved to another complex, I guess, in -- he went at  
2 35th Avenue.

3 Greenway and 35th Avenue.

4 One day he invited me to his apartment as -- as the  
5 same before, for dinner and talking about lovely subjects. And  
6 he was so nice.

7 In that time, I knew that he was working for a  
8 driving, teaching people driving and getting driver license.

9 And a lot of people actually were so pleased when they  
10 being taught that driving with Ali.

11 At the end of 2016, I was deployed overseas as a  
12 linguist contractor with the DOV.

13 THE INTERPRETER: DOV?

14 AHMED ALASSAFI: Yes.

15 THE COURT: Department of Defense?

16 AHMED ALASSAFI: Yes, sir.

17 I got a job. I got a job as linguist contractor.

18 Yeah, I work there, like, three-and-a-half years.

19 And I guess year he called me or he text me that he  
20 got married, and my family was attending the wedding.

21 And when I came back, I guess May 2019 --

22 (Awaiting translation.)

23 AHMED ALASSAFI: Yes. I met with Ali again, and it  
24 was a repeat.

25 Specially, he bought a new house, and a big lot of,

1 like -- yeah, a big house with a big yard.

2 He was raising cattle, like cows, sheeps, dogs, a  
3 chicken, the birds, and he was so -- so -- so interested with  
4 that.

5 And in the same time, I want to mention something,  
6 that from October 2019 to December 2019, I paid a visit to  
7 Iraq, Baghdad.

8 And Ali asked me to call his brother in Baghdad  
9 because he had a pins for implant tooth.

10 (Pending translation.)

11 AHMED ALASSAFI: No, no. The pins, the pins. Is not  
12 -- just to bring the pins towards with his bother.

13 So I called his brother, and he was pleased, and asked  
14 me to come to his office.

15 His office for real estate in Baghdad, Mansour --  
16 Mansour neighborhood is a high class, of course, neighborhood  
17 in Baghdad.

18 There I was astonish there was a big similarity  
19 between Ali and his brother.

20 And his brother invited me to a nice restaurant there,  
21 and we took dinner.

22 And he said that Ali got apply for his mom and his  
23 brother, hoping that they gonna come to United States as family  
24 union in the future.

25 And after I came back from Iraq, December 2019, I

1 brought the pins and gave them to Ali. And then he was so  
2 happy.

3 (Awaiting interpretation.)

4 AHMED ALASSAFI: Yeah.

5 And actually a week or two weeks before his arrest, he  
6 invited me to his house with my family.

7 And we went there, and we had a good time and  
8 delicious dinner, and we were so happy.

9 And the bad news that I hear was after two weeks, he  
10 was arrested.

11 That's what I have.

12 Thank you.

13 MR. PIMSNER: Your Honor, just a couple.

14 Sir, I didn't understand your answer. When you worked  
15 as a linguist for the Army between 2004 and 2009, where in Iraq  
16 were you?

17 AHMED ALASSAFI: In Baghdad.

18 MR. PIMSNER: Baghdad?

19 AHMED ALASSAFI: Baghdad.

20 MR. PIMSNER: And isn't it true you didn't know  
21 Mr. Ali Ahmed during your time in Baghdad when he was there;  
22 correct?

23 AHMED ALASSAFI: No.

24 THE COURT: Okay. Let's have a translation.

25 (Awaiting interpretation.)

1 MR. PIMSNER: Nothing further.

2 THE COURT: Thank you.

3 MS. JOHNSON: Thank you, Your Honor.

4 May I proceed with our argument?

5 THE COURT: Yes. I think we're switching translators,  
6 though, so let's pause.

7 (Pause in proceedings.)

8 THE COURT: Is the translator ready to proceed?

9 THE INTERPRETER: Do you want to swear me in?

10 THE COURT: No.

11 Okay. Ms. Johnson, you're prepared to argue?

12 MS. JOHNSON: Yes. And can I ask whether we're still  
13 doing consecutive or --

14 THE COURT: We are.

15 MS. JOHNSON: Okay. Thank you.

16 So, Your Honor, I would like to start by addressing  
17 points that I believe the United States and Mr. Ahmed agree on.

18 We agree that Mr. Ahmed is a United States citizen.

19 He's lived in the United States since approximately  
20 2009.

21 I apologize. I forgot. During the pause Mr. Allison  
22 asked me to make a record that we do have Pretrial on the  
23 phone.

24 THE COURT: Is the Pretrial Services officer on the  
25 phone?

1 (Pause in proceedings.)

2 THE COURT: Ms. Johnson, I'm not sure we have  
3 confirmation on that.

4 MS. JOHNSON: Okay. I will proceed.

5 So we agree that Mr. Ahmed has been a citizen since  
6 2015; that he has no criminal history in the United States.

7 He's been interviewed numerous times by the FBI and  
8 other law enforcement over the last few years.

9 During those interviews, he was asked questions about,  
10 among other things, the allegations in the Iraqi complaint.

11 He agreed to participate in those interviews. He  
12 provided them with documents.

13 He never refused an interview.

14 He consistently denied the allegations in the Iraqi  
15 complaint.

16 And he -- he did not leave. He's lived in Phoenix the  
17 entire time he's been in the United States.

18 I believe we also agree that Mr. Ahmed is currently  
19 housed in a facility that as of Monday is experiencing an  
20 outbreak of the COVID-19, I believe; that Mr. Ahmed has been  
21 identified by that facility as high risk with respect to the  
22 virus because of pre-existing health condition.

23 THE COURT: Ms. Johnson, two things: One, I believe  
24 Pretrial now has confirmed they are on the phone, so that  
25 should be part of the record.

1           Secondly, your last statement that -- Mr. Al-Houri is  
2 at CoreCivic; correct?

3           MS. JOHNSON: Yes.

4           THE COURT: You said he's been identified as high risk  
5 at CoreCivic. Where is that in the record we have?

6           MS. JOHNSON: Your Honor, I was provided -- it is not  
7 in our record. I provided information and Mr. Ahmed's wife  
8 provided information about his health conditions. Mr. Allison  
9 separately two days ago emailed me a summary of an interview, I  
10 guess, they did with CoreCivic where he informed me that  
11 CoreCivic has flagged him as high risk.

12           THE COURT: Mr. Allison?

13           MR. ALLISON: Yes. I would be happy to make a record  
14 of that, Your Honor.

15           THE COURT: Okay. Here is all I want to do, because  
16 Ms. Johnson is proceeding by way of illustrating what she  
17 believes you are in agreement on.

18           Do you agree that CoreCivic has identified Mr. Ahmed  
19 as high risk?

20           MR. ALLISON: Yes, we do.

21                               (Awaiting translation.)

22           MR. ALLISON: But, I'm sorry, if I could make one --  
23 add one detail: High risk due to a heart valve replacement.  
24 That was the information we got.

25           THE COURT: Thank you.



1 MS. JOHNSON: The United States and Mr. Ahmed also  
2 agreed, and I am here going to summarize the 2019 United States  
3 State Department Country Conditions Report on Iraq.

4 As the Court may be aware, the State Department every  
5 year puts out Country Condition Reports where it describes,  
6 among other things, the human rights conditions in other  
7 countries.

8 That report is cited in our detention memorandum.

9 It is the position of the United States State  
10 Department, and Mr. Ahmed agrees, that in Iraq, government  
11 forces frequently ignore the law; they engage in arbitrary  
12 arrests and detention, particularly in cases involving  
13 allegations of terrorism; corruption is prevalent in arrest  
14 procedures; and even when individuals are cleared of crime,  
15 they face delays in getting released from prison.

16 Death penalty trials can be conducted into groups of  
17 50 to 80 people at a time and last from one to 10 minutes.  
18 Defendants can be sentenced to death at trials in which their  
19 defense counsel met them only one minute before the trial  
20 begins.

21 THE INTERPRETER: Say what again?

22 MS. JOHNSON: One minute.

23 That lawyers who represent individuals accused of  
24 terrorism are sometimes themselves detained.

25 Individuals can face arbitrary detention and be

1 released only after signing documents that they are not allowed  
2 to read.

3 The judiciary is weak and, this is a quote:  
4 Corruption or intimidation influences judges in criminal cases.

5 And violence and corruption impairs judicial  
6 independence.

7 Judges presume defendants' guilt based on presence or  
8 geographic proximity to the activities of a terrorist group.

9 Evidence is collected by torture, and judges disregard  
10 evidence of torture and they can disregard evidence that the  
11 evidence was obtained by torture.

12 So before I get to the legal standard, I think it is  
13 important to discuss the background of what we think is going  
14 on in this case.

15 It -- it was widely reported in 2016 prominent  
16 individuals in the executive branch made a statement that was  
17 widely complained of by experts in the field that the refugee  
18 process was bringing terrorists to the United States.

19 Mr. Ahmed came to the United States as a refugee.

20 Refugees are among the most vetted individuals on the  
21 planet.

22 They go through many background checks and security  
23 clearances before they are even allowed into the country.

24 This is particularly true of refugees from Iraq  
25 because the United States coalition authorities who were in

1 charge of Iraq for so many years, that they obtained biometric  
2 information about individuals living in there, in Iraq at the  
3 time.

4 As Mr. Ahmed, in his interviews with the FBI,  
5 voluntarily provided to them his biometric badge that he had  
6 in, I believe it was Fallujah, that he needed to even go across  
7 the city.

8 Mr. Ahmed was vetted again when he applied for a Green  
9 Card, again when he applied for citizenship, and then again  
10 when he went to work on a military base of the United States.

11 Nevertheless, claims were made that -- oh, and I  
12 should mention that Mr. Ahmed did not choose to come to the  
13 United States. The United States was chosen for him as is  
14 consistent with worldwide refugee resettlement futures.

15 Nevertheless, claims were made about the refugee  
16 resettlement system, was allowing the terrorists into the  
17 United States.

18 And the article, The New Yorker article, very well  
19 sourced by Ben Taub that I have submitted as an exhibit, quotes  
20 an NSC member as saying that once this claim was made,  
21 individuals were sent out in search of evidence to support this  
22 unsubstantiated claim.

23 The United States has never extradited anyone to Iraq,  
24 even though the treaty has been in place for 100 years. And  
25 that is quite likely because the United States has had, until

1 recently, a very admirable history of not extraditing people --  
2 people to countries, especially not U.S. citizens, to countries  
3 where the judicial process cannot be trusted.

4 Then in July of 2018, the United States State  
5 Department certified the extradition treaty for Omar Ameen, who  
6 was an Iraqi refugee living in Sacramento.

7 For the past nearly two years, that case has been  
8 pending.

9 We have not, in this case, had an opportunity to look  
10 into the allegations against Mr. Ahmed.

11 But in that case they have, and what they found was  
12 that Mr. Ameen is pretty -- was pretty indisputably in Turkey  
13 the entire time he was allegedly murdering police officers in  
14 Iraq.

15 THE COURT: Ms. Johnson, I want to make sure I'm  
16 tracking this part of your argument.

17 Is it your assertion that the state of the Iraqi  
18 political affairs qualifies as a special circumstance?

19 MS. JOHNSON: Your Honor --

20 THE COURT: Because we're here for a detention  
21 hearing, so where does this fit in?

22 MS. JOHNSON: Yes, Your Honor. We do believe this is  
23 a special circumstance. But moreover, the United States has  
24 claimed that Mr. Ahmed is a danger to the community, based  
25 really, solely, on the allegations in the complaint. So I

1 think it's relevant to talk about those allegations and the  
2 likelihood that they are true.

3 THE COURT: To the extent they are relevant on that  
4 basis, do you agree that your burden would be to -- I believe  
5 the standard in the law -- is to utterly destroy the basis for  
6 probable cause?

7 MS. JOHNSON: Your Honor, I believe that that is a  
8 question for the merits extradition hearing and not the  
9 standard for detention hearing.

10 THE COURT: Then we're back to my question of how you  
11 are asking me to weigh the force of your argument as to the  
12 Iraqi political conditions for a detention decision.

13 MS. JOHNSON: Your Honor, I'm asking you to refuse the  
14 government's invitation to find Mr. Ahmed to be a danger to the  
15 community based on the allegations in the complaint.

16 When the information comes to light, we will move  
17 along quickly. There was an evidentiary hearing where it came  
18 to light that it really was pretty much impossible that  
19 Mr. Ahmed did anything any of the things in the complaint very  
20 shortly thereafter.

21 The State Department certified the extradition request  
22 in this case.

23 MR. ALLISON: I'm going to object to that, Your Honor.  
24 And maybe it's the use of the term "certification of  
25 extradition." I think that case is still pending, and I think

1 they attached a similar declaration in that case that we have  
2 as part of our extradition packet here.

3 But I'm also going to object to quite a bit of  
4 conversation about a completely unrelated case and where that's  
5 going. I'm not sure.

6 THE COURT: As I understand it, it's argument by  
7 analogy that relates to whether or not Mr. Al-Nouri is a  
8 danger.

9 Because it is argument, I will overrule the objection.  
10 Certainly, Mr. Allison, you'll have your chance to respond to  
11 argument today, which raises -- we had initially set this  
12 matter to end at four o'clock. Are we able to go longer than  
13 four o'clock?

14 MS. JOHNSON: I am.

15 MR. ALLISON: Of course, Your Honor.

16 THE COURT: And what about the staff?

17 Okay.

18 All right. Ms. Johnson, how -- I'm not going to cut  
19 your argument short, I'm just trying to gauge. How much more  
20 argument do you have?

21 MS. JOHNSON: Your Honor, and I -- I apologize. When  
22 we set this hearing, I was not getting consecutive  
23 translations. It's actually double. But I -- with the  
24 translation, a half-hour.

25 THE COURT: You have about an hour's worth more of

1 argument?

2 MS. JOHNSON: No, Your Honor. With the translation, I  
3 think I can do it in a half-hour.

4 THE COURT: Half-hour.

5 That's fine. It raises the issue of whether we will  
6 complete the detention hearing today. But let's complete what  
7 we can, so let's -- let's keep hearing your argument.

8 MS. JOHNSON: Yes, Your Honor.

9 I will turn to the legal standard for release pending  
10 extradition.

11 THE INTERPRETER: Sorry. Can you repeat that again?

12 MS. JOHNSON: The legal standard for release pending  
13 resolution of an extradition request.

14 As noted in our brief, we believe that Mr. Ahmed has a  
15 due process right to liberty that can only be overcome on a  
16 showing that he is a danger or a flight risk.

17 THE COURT: So Ms. Johnson, your authority for that is  
18 Parretti versus United States, is my understanding, from your  
19 detention memorandum.

20 MS. JOHNSON: Yes, Your Honor. The Fifth Amendment  
21 and Parretti, yes.

22 THE COURT: Okay.

23 Parretti, as you know, and as you state in your  
24 memorandum, was withdrawn by the Ninth Circuit.

25 Do you have any other authority that supports the

1 assertion of the Fifth Amendment due process standard that  
2 you're proposing?

3 MS. JOHNSON: We do not.

4 I suppose the Bail Reform Act and litigation there on  
5 Salerno discussing due process and liberty interests generally.

6 THE COURT: Okay. But on -- well, let me let the  
7 translator translate.

8 (Awaiting translation.)

9 THE COURT: But on that point, both parties agree that  
10 the Bail Reform Act does not apply, so your argument is by  
11 analogy from cases dealing with detention under the Bail Reform  
12 Act.

13 MS. JOHNSON: Yes, Your Honor.

14 And we believe that there is no basis to find that  
15 Mr. Ahmed is either a flight risk or a danger to the community.

16 Mr. Ahmed owns a house, he's married to a United  
17 States citizen, he's the father of a United States citizen.  
18 And these decisions he made -- to get married, to buy a house,  
19 to have a child, to buy livestock -- were all made after the  
20 first contact with the FBI where he became aware that -- that  
21 people were saying things like this about him.

22 THE COURT: Ms. Johnson, let me -- let me ask: On the  
23 point of length of awareness of investigation, I believe your  
24 argument is that he's been aware of these allegations since  
25 October 2017.



1 MS. JOHNSON: Yes, Your Honor. At least of the  
2 investigation and that people were asking questions about him.

3 And the behavior that he's engaged in since that time  
4 simply does not indicate he has an intention to leave the  
5 United States.

6 He is, moreover, effectively disabled from travel, as  
7 are we all. Borders are closed, airplanes are not flying.

8 He certainly can't go back to Iraq. He will be  
9 killed.

10 And with respect to -- I think that we -- the  
11 government may disagree with our position on due process, but I  
12 think that we do agree that release may be warranted if special  
13 circumstances can be shown.

14 And there are numerous special circumstances present  
15 in this case.

16 The ongoing pandemic is certainly a special  
17 circumstance in the history of -- of the world.

18 And that creates special circumstances for Mr. Ahmed  
19 in a number of different ways.

20 First, it makes his incarceration more dangerous than  
21 is typically the case.

22 Since the time that we submitted the detention memo on  
23 March 31st, there have been developments in the situation, the  
24 public health situation, at CoreCivic specifically.

25 We are receiving, as I imagine the Court likely is,

1 twice daily updates about testing at CoreCivic.

2 My understanding is that as of this morning, 13  
3 inmates have tested positive for coronavirus, and seven staff.

4 And as of one week ago, there were zero positive tests  
5 among inmates, which shows how fast this disease is spreading.

6 The recommendations put forth by the CDC about social  
7 distancing and staying six feet away from everyone, they are  
8 simply not practical in a correctional setting.

9 What we have seen over the last two months is that  
10 once COVID-19 hit the jail, it spreads very quickly.

11 The New York Times has been tracking clusters,  
12 coronavirus clusters, and tracing their origins to see what --  
13 what sorts of institutions and facilities are causing the  
14 spread of the disease.

15 And of the 30 largest clusters in the United States, I  
16 believe that 19 of them are associated with jails or  
17 correctional facilities.

18 Mr. Ahmed is a high-risk individual because of  
19 pre-existing health conditions. He has a history of heart  
20 valve replacement. And as his wife stated in her letter, he  
21 has been within the last two years been hospitalized twice for  
22 pneumonia unrelated to COVID-19.

23 These are factors that the CDC has identified as  
24 making individuals particularly susceptible to a severe form of  
25 the disease.

1           At least one court in the country has found that an  
2 individual's susceptibility to COVID-19 is a special  
3 circumstance warranting release in an extradition hearing.  
4 That is the Manrique case that is cited in our motion. I  
5 believe that Mr. -- I think it's actually Mr. Toledo Manrique  
6 is the former president of Peru -- and he was released in that  
7 case, notwithstanding the fact that in that case there was, as  
8 of yet, no evidence of COVID-19 in the jail where he was being  
9 held.

10           And despite that, the judge had already found in that  
11 case that Mr. Toledo Manrique was a flight risk, which is not a  
12 finding that's warranted in this case.

13           But COVID-19 constitutes a special circumstance in  
14 other ways as well, particularly with respect to the likelihood  
15 that this case will be -- or can be resolved in anything like a  
16 reasonable time frame.

17           THE COURT: Ms. Johnson, just to make sure I'm  
18 tracking, you're about to pivot to an argument regarding delay  
19 as one of the factors of special circumstances; is that  
20 correct?

21           MS. JOHNSON: Yes, Your Honor.

22           THE COURT: To stay just for a moment on health  
23 effects, if you're asking the Court to rely on updated  
24 information as to the seriousness of the COVID-19, I would ask  
25 that by next Friday you file an additional update that deals

1 only with that issue, and then we'll give the government time  
2 to respond, because some of the statements you're making are  
3 just not sourced in the record as of now, and I'd like -- if  
4 you want me to consider them, I'm going to need support in the  
5 record.

6 We'll cover when we're going to be able to reconvene.  
7 And I think it makes sense to have the government read your  
8 memorandum first and not to do simultaneous memorandums,  
9 because that way we'll have the most up-to-date information.

10 I'd like to reconvene as soon as possible, and that's  
11 why I'm asking that you file your memorandum by next Friday,  
12 or -- certainly including next Friday. Is that doable for you?

13 MS. JOHNSON: Your Honor, I can file something Monday.

14 I believe -- I have received information from the  
15 government in the last few days in which they concede that both  
16 inmates and staff are now infected with COVID-19 at the jail.

17 The situation appears to be deteriorating by the day,  
18 as would be expected. So even if I file something Monday, it  
19 may very well be out of date by Friday.

20 THE COURT: Well, it's your choice what information  
21 you file. But if you want me to rely on it, I need more than  
22 that the Federal Public Defender's Office gets emails and  
23 updates. That's not enough for me to rely on. If you want  
24 statistics and you want me to draw inferences, you must give  
25 them to me.

1 MS. JOHNSON: I can file something Monday.

2 With respect to the -- is that -- does the Court have  
3 additional questions about the risk to Mr. Al-Nouri  
4 specifically?

5 THE COURT: I didn't understand the question.

6 MS. JOHNSON: Okay. Does the Court have additional  
7 questions about the risk to Mr. Ahmed specifically?

8 THE COURT: No, and I'll have the benefit of whatever  
9 you file. And let's establish that the government will respond  
10 three days after receipt of Ms. Johnson's memorandum.

11 MS. SAMPSON: Yes, Your Honor.

12 THE COURT: Thank you.

13 MS. JOHNSON: The -- with respect to the anticipated  
14 length of the proceedings, which have been held before to be a  
15 special circumstance when they are unduly long, the -- we are  
16 going to need to investigate these allegations. We are unable  
17 to even begin that process right now because it is not possible  
18 to travel to Iraq.

19 It is at the present time unclear when it will be  
20 possible to travel to Iraq. I am unable to review documents  
21 with Mr. Ahmed because we are not allowed to go to the jail  
22 because of the coronavirus epidemic.

23 This is a situation with no -- no end in sight.

24 In the ordinary circumstance, this case could be  
25 expected to take quite some time to resolve. The Ameen case,

1 which is the only really analogous case that's available for us  
2 to see how long these proceedings take, has been pending almost  
3 two years. And for the first year-and-a-half that that case  
4 was pending, they did not have the problems with travel and  
5 communications that we're going to have.

6 So what we're facing then is just the possibility of  
7 prolonged, indefinite detention, with no real understanding of  
8 when we might be able to -- to have this hearing.

9 None of this delay can be attributed to Mr. Ahmed or  
10 any decisions that he has made.

11 THE COURT: Ms. Johnson, are you asking that we set a  
12 date for the extradition hearing, or are you opposed to having  
13 a date for the extradition hearing?

14 MS. JOHNSON: Your Honor, we would oppose setting a  
15 date at this time, if only because I have at the present moment  
16 no idea when it might be reasonable to expect that we can have  
17 such a hearing and be prepared for such a hearing, in light of  
18 the current international public health situation.

19 THE COURT: Mr. Allison, what's the government's  
20 position on whether we should set a date for the extradition  
21 hearing, even if it's out several months?

22 MR. ALLISON: Your Honor, I'm going to address this  
23 argument because I have a different take on what constitutes  
24 delay sufficient for special circumstances.

25 THE COURT: Okay. I realize you have a whole lot of

1 argument in response that you're going to make. But on that  
2 question, do you oppose or do you think we should set a date  
3 for an extradition hearing?

4 MR. ALLISON: Your Honor, the government -- the  
5 government believes we should be setting a date for the  
6 extradition hearing. I will couch that with, the government is  
7 willing to discuss when we set that date, in light of the  
8 current COVID pandemic and the difficulties Ms. Johnson is  
9 having meeting with her client. But the government does not  
10 believe we should not have an end in sight scheduled.

11 THE COURT: Ms. Johnson, on that topic, I am inclined  
12 to try to set a date. It may be that you'll end up asking to  
13 continue that date, but I don't think we can just leave it  
14 indefinite.

15 Part of your point today has been the evolving  
16 situation. And given that the situation is evolving, it may be  
17 that we can do this sooner than -- than you think.

18 My inclination is to set a date for the extradition  
19 hearing three months from now.

20 And first let me address with the government, what's  
21 the government's time frame? Can the government be prepared in  
22 three months?

23 MR. ALLISON: Yes, Your Honor.

24 THE COURT: Ms. Johnson, I can set that date, but I'd  
25 prefer to have your input.

1 MS. JOHNSON: Your Honor, I -- I don't see any way  
2 that we are going to be able to investigate these allegations  
3 in the next three months, or likely even begin to be able to  
4 investigate them.

5 THE COURT: Okay. Well, I have your input, and I'll  
6 determine whether or not we should set a date and, if so, you  
7 can file a motion dealing with whether or not you believe  
8 that's a realistic time frame for the extradition hearing.

9 But I think you have more -- more argument on  
10 detention.

11 MS. JOHNSON: I do, Your Honor.

12 As stated in our memo, we believe that Mr. Ahmed is  
13 ultimately going to become non -- nonextraditable, to develop a  
14 special circumstance --

15 THE COURT: Ms. Johnson, on that point, you referenced  
16 earlier today that in interviews that your client denied  
17 committing the acts that are alleged in the government's  
18 complaint.

19 However, one of your arguments in the detention  
20 memorandum is that these acts would constitute a political  
21 offense. If you're relying on the political offense doctrine,  
22 is your client acknowledging commission of the offenses?  
23 Because it's only a political offense relevant to him if he  
24 engaged in what you're terming a political offense.

25 MS. JOHNSON: Your Honor, our understanding of the



1 political offense doctrine is that it is purely legal; that is,  
2 the complaint must state an offense that is not political in  
3 nature, which does not bar Mr. Ahmed from arguing additionally  
4 that he did not commit those acts.

5 THE COURT: It is not my understanding that the  
6 political offense doctrine is a legal doctrine that has no  
7 bearing upon factual issues as to whether or not an individual  
8 engaged in the factual actions that are requested to be viewed  
9 as political.

10 MS. JOHNSON: Your Honor, we will certainly brief that  
11 in connection with our extradition hearing briefing.

12 THE COURT: Well, if you want me to rely on that  
13 portion of your detention memorandum that says you believe he  
14 will not be found extraditable because these are political  
15 offenses, then you need to brief it sooner than that.

16 MS. JOHNSON: I'm happy to do that.

17 And to be clear, the political offense exception is  
18 but one of many legal arguments that we intend to present  
19 against extradition.

20 THE INTERPRETER: It's -- what was it?

21 MS. JOHNSON: It is one of many legal arguments we  
22 intend to present.

23 Mr. Ahmed's work on behalf of the military and his  
24 good works in the United States more broadly constitute a  
25 special circumstance.

1           We submitted the letter verifying that Mr. Ahmed did  
2 work on a military base as a cultural advisor to the United  
3 States military while in the United States.

4           The Court has heard from witnesses today about some of  
5 Mr. Ahmed's good works in the United States, and we also  
6 submitted many letters of support testifying to Mr. Ahmed's  
7 good work and service to others.

8           Mr. Ahmed -- our understanding is that even if the  
9 government -- if the judge were to find a special circumstance,  
10 there must also be a finding that he is not a flight risk.  
11 I've already addressed the issue of flight.

12           But I would add that we have heard a lot today, and  
13 more in the letters, about the kind of person that Mr. Ahmed  
14 is. He is the kind of person who pulls over while he's driving  
15 to clear trash out of the street, who befriends Syrian  
16 Christians, and volunteers to sponsor children who need surgery  
17 to come to the United States.

18           He gives very generously of himself and asks nothing  
19 in return.

20           There is no reason to believe that if he is released  
21 that he won't show up for court or that he will behave any  
22 differently than he's been behaving the last 11 years in the  
23 United States, which is as a respected and generous and  
24 productive member of the community.

25           THE COURT: Ms. Johnson, on flight risk, I believe

1 your client's passport is in the custody of Pretrial Services;  
2 is that correct?

3 MS. JOHNSON: I thought the government had it. I  
4 thought the government took it when he was arrested. He  
5 doesn't have it, wherever it is.

6 THE COURT: I think that's correct. But -- so here is  
7 my follow-up: The government says in its pleadings that he has  
8 used a passport card, which is a different thing than a  
9 passport, to cross to Mexico, and that it does not have his  
10 passport card.

11 MS. JOHNSON: Your Honor, I believe Mr. Ahmed's wife  
12 just signaled to me that she has it, so she could surrender it  
13 to Pretrial at any time.

14 THE COURT: Well, I leave that to you. But if -- if  
15 the argument is that he doesn't have the ability to flee in  
16 part because he doesn't have the type of documentation to flee,  
17 I think the government has made a point about the passport  
18 card, that you should -- you should address or the Court will  
19 address in whatever ruling it makes.

20 MS. JOHNSON: We certainly have no problems  
21 surrendering it. I don't know that Pretrial will take it if  
22 they are not supervising him. So unless he is ordered  
23 released -- so perhaps if we are going to continue this  
24 hearing, his wife could simply bring it with her.

25 THE COURT: Okay. I think that's all we can say on

1 that topic for now.

2 MS. JOHNSON: Okay.

3 Then that's all I have to say.

4 THE COURT: All right. We're 25 minutes past our  
5 endpoint.

6 Hold on one second.

7 (Pause in proceedings.)

8 THE COURT: For the parties, I'm hoping we can  
9 reconvene very soon, which would either be late next week or  
10 the following week.

11 Are the parties available in that time frame? Is the  
12 government available?

13 MR. ALLISON: Yes, Your Honor. We'll be available.

14 THE COURT: Okay. And Ms. Johnson?

15 MS. JOHNSON: Your Honor, I will make myself available  
16 at whatever time.

17 THE COURT: Okay.

18 (Confers with courtroom deputy.)

19 THE COURT: While we're looking for a date,  
20 Mr. Allison, is it correct that the government is going to  
21 proceed by proffer and argument, but not with witnesses?

22 MR. ALLISON: Yes, that's correct, Your Honor.

23 (Confers with courtroom deputy.)

24 THE COURT: Okay. For the parties, we're going to --  
25 we'll get on order out, but we're going to continue this to

1 next Friday, May 15th, at 1:00 p.m. I'm hopeful that the  
2 Special Proceedings Courtroom is also available then. So let's  
3 use that assumption for now.

4 Ms. Johnson has completed her initial argument points;  
5 so Mr. Allison, will you be prepared to proceed with your case?

6 MR. ALLISON: On the 15th, or now?

7 THE COURT: Yes.

8 MR. ALLISON: Of course, yes.

9 THE COURT: Okay.

10 Then we've already gone a half-hour over today, so I'm  
11 going to end it for today.

12 Thank you to the parties.

13 (Proceedings in recess at 4:28 p.m.)

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C E R T I F I C A T E

I, CHARLOTTE A. POWERS, do hereby certify that I am  
duly appointed and qualified to act as Official Court Reporter  
for the United States District Court for the District of  
Arizona.

I FURTHER CERTIFY that the foregoing pages constitute  
a full, true, and accurate transcript of all of that portion of  
the proceedings contained herein, had in the above-entitled  
cause on the date specified therein, and that said transcript  
was prepared under my direction and control.

DATED at Phoenix, Arizona, this 11th day of May, 2020.

s/Charlotte A. Powers  
Charlotte A. Powers, RMR, FCRR