

COPY

CRIMINAL COMPLAINT

UNITED STATES DISTRICT COURT		CENTRAL DISTRICT OF CALIFORNIA	
UNITED STATES OF AMERICA v. NADER ELHUZAYEL and MUHANAD BADAWI		DOCKET NO.	
		MAGISTRATE'S CASE NO. SA 15-275M	
Complaint for violation of Title 18, United States Code, Section 2339B			
NAME OF MAGISTRATE JUDGE HONORABLE ROBERT N. BLOCK		UNITED STATES MAGISTRATE JUDGE	LOCATION Santa Ana, California
DATE OF OFFENSE Beginning January 1, 2013	PLACE OF OFFENSE Orange County	ADDRESS OF ACCUSED (IF KNOWN)	
COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION: Beginning in or around January 1, 2013 to the present , in Orange County, within the Central District of California, defendants, NADER ELHUZAYEL and MUHANAD BADAWI, conspired to knowingly provide material support and resources to a foreign terrorist organization, that is, ELHUZAYEL as personnel, to Islamic State of Iraq and the Levant ("ISIL"), in violation of 18 U.S.C. § 2339B.			
BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED: (See attached affidavit which is incorporated as part of this Complaint)			
MATERIAL WITNESSES IN RELATION TO THIS CHARGE: N/A			
Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.	SIGNATURE OF COMPLAINANT ASHLEY MERICLE <i>lsl</i>		
	OFFICIAL TITLE Special Agent - FBI		
Sworn to before me and subscribed in my presence,			
SIGNATURE OF MAGISTRATE JUDGE ⁽¹⁾ ROBERT N. BLOCK			DATE May 22, 2015

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⁽¹⁾ See Federal Rules of Criminal Procedure 3 and 54

BCE

A F F I D A V I T

I, ASHLEY MERICLE, being duly sworn, declare and state as follows:

I. INTRODUCTION

1. I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7), who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI") and I have been so employed since 2002. I am currently assigned to the Orange County Joint Terrorism Task Force ("JTTF") at the Orange County Resident Agency ("OCRA") of the Los Angeles Field Division. Since entering duty, I have conducted numerous investigations into terrorism-related activities. As a result of my experience in counterterrorism investigations, I am familiar with strategy, tactics, methods, tradecraft, and techniques of terrorists and their agents. I have attended numerous trainings regarding counterterrorism strategies and international terrorism. I have also worked with other agencies involved in counterterrorism, traveled overseas in connection with sensitive counterterrorism matters, and interviewed individuals associated with terrorism.

2. This affidavit is made in support of a criminal complaint charging defendants Muhanad Badawi ("BADAWI") and

Nader Elhuzayel ("ELHUZAYEL") with conspiring to provide material support and resources, to wit: personnel, to a foreign terrorist organization, the Islamic State of Iraq and the Levant ("ISIL"), in violation of 18 U.S.C. § 2339B.

3. Section 2339B provides, in pertinent part:

Whoever knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be . . . imprisoned To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization . . . , that the organization has engaged or engages in terrorist activity . . . , or that the organization has engaged or engages in terrorism

4. Section 2339A(b)(1) defines "material support or resources," for purposes of Section 2339B, as:

[T]he term "material support or resources," means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials.

5. Section 2339B(h) provides, in pertinent part:

No person may be prosecuted under this section in connection with the term "personnel" unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be

considered to be working under the foreign terrorist organization's direction and control.

6. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause to support the criminal complaint and does not purport to set forth all of the knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only, in reliance on draft verbatim transcripts that have not yet been finalized but are accurate in their representation of the substance of the conversations and statements. All dates are on or about the specified date.

II. STATEMENT OF PROBABLE CAUSE

Background On ISIL

7. Based on my training and experience, and my review of State Department publications and publicly-released material, I know the information described below in paragraphs 8 through 10.

8. On October 15, 2004, the United States Secretary of State designated Al-Qa'ida in Iraq ("AQI"), then known as Jam'at al Tawhid wa'al-Jihad, as a Foreign Terrorist Organization ("FTO") under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist under section 1(b) of Executive Order 13224.

9. On May 15, 2014, the Secretary of State amended the designation of AQI as a FTO under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224 to add the alias Islamic State of Iraq and the Levant ("ISIL") as its primary name. The Secretary also added the following aliases to the ISIL listing: the Islamic State of Iraq and al-Sham ("ISIS"), the Islamic State of Iraq and Syria ("ISIS"), ad-Dawla al-Islamiyya fi al-'Iraq wa-sh-Sham, Daesh, Dawla al-Islamiya, and Al-Furqan Establishment for Media Production. Although the group has never called itself "Al-Qaeda in Iraq," this name has frequently been used to describe it through its history. To date, ISIL remains a designated FTO.

10. In an audio recording publicly released on June 29, 2014, ISIS announced a formal change of ISIS's name to Islamic State ("IS").

The Conspirators' Postings On Twitter

11. Based on my review of Twitter records and publicly available information on Facebook and Twitter, I know the following information in paragraphs 12 through 16.

12. During the relevant time period, BADAWI has maintained public Twitter accounts, including @darrulislam and @Mohunnid. In November 2014, on Twitter account @darrulislam, BADAWI posted, "Inshallah [God willing] soon the Islamic state will take over Baghdad ya musilmeen" [Arabic word meaning "oh

Muslims"]]. In February 2015, BADAWI posted on Twitter a tweet¹ from another user, "Islamic State steps up #Libya attacks, targets Iran ambassador #BombAttacks #Iranian/Ambassador #Islamic State." This posting included updates of ISIL's battles. In May 2015, BADAWI posted on Twitter a link to the 2014 speech by Abu Bakr Al-Baghdadi, the leader of ISIL. In the speech, Al-Baghdadi encouraged attacks against Yemen, Egypt, Libya, and Algeria. In the speech, Al-Baghdadi stated, "Oh soldiers of the Islamic State . . . erupt volcanoes of jihad everywhere."

13. On October 25, 2014, BADAWI created a post on ELHUZAYEL's Facebook page containing a photograph depicting four males wearing black t-shirts with the words, "Fuck ISIS" written in red letters. ELHUZAYEL commented "look at these kaffirs" [a kaffir is a derogatory term used to describe a disbeliever, or someone who rejects Allah]. BADAWI then commented "Lol bunch of tight Jeaned shiny faced kafirs. We should take them to a tall building and push them off because they look like a bunch of homosexuals."

14. During the relevant time period, ELHUZAYEL has also maintained public Twitter accounts, including @nader828, @Glory4Allah, @nelhuzayel, @ShariaIsJustice, @Shariawillrule, @MayAllahAccept, @VictoryForALLah, @GLoryForALLah,

¹ A person who has a Twitter account may post tweets (messages and/or pictures) publicly.

@Victory4ALLah, @GLoryForALLah_, @Victory4ALLah_,
@_Victory4ALLah, @Repent2ALLah, @Repent2ALLah_, and
@_Repent2ALLah.

15. In an Internet exchange in December 2014, ELHUZAYEL described his feelings about the possibility that ISIL would attack Israel:

ELHUZAYEL: ISIS is getting ready to attack Israel now? This is getting exciting, looking forward to see some yahoodi [a derogatory term for a Jewish person] heads rolling, or dead bodies carrying their own yahoodi heads, and jihadi john doing this stance on them. [ELHUZAYEL attached a link to a picture of a man lying on his stomach, with another man, presumably "Jihadi John" [a known ISIL member], sitting on top of the man holding the prone man's head back, displaying the man's severed neck and a bloody knife]

RESPONSE: yeah . . . lol yahoodi heads . . . inShaAllah [God willing], there is no truce now. The truce is over right. Or will there be truce???

ELHUZAYEL: yeah the truce past

RESPONSE: That's what . . . how many nations r in coalition now? 65/70?

ELHUZAYEL: Yeah definitely not 80 yet, but Allahuakbar the prophecy is coming true

16. On May 3, 2015, Twitter account @atawaakul (belonging to Elton Simpson),² tweeted:

² Elton Simpson was one of two gunmen who opened fire outside the Muhammad Art Exhibit and Contest at the Curtis Culwell Center in Garland, Texas, on May 3, 2015. Simpson and his co-conspirator were shot and killed during the attack. Two days after the attack, ISIL issued a statement on the Internet that Elton Simpson and his co-conspirator were "soldiers of the Caliphate" and ISIL claimed credit for the attack. Simpson had a Twitter

The bro with me and myself have given bay'ah to Ammirul Mu'mineen. May Allah accept us as mujahideen. Make dua. #texasattack.

17. On the same date, after Simpson's #texasattack tweet, ELHUZAYEL responded, on his public Twitter account, "aatawaakul allahuakbar brother was it you?" One hour later, ELHUZAYEL tweeted again, "@atawaakul I love you for the sake of Allah brother may Allah grant you Jannat al ferdaus [highest level of paradise that includes martyrs]." Then, ELHUZAYEL tweeted, "AllahuAkbar may allah accept the brother." At 8:03 p.m. on the same date, ELHUZAYEL tweeted, "And just like that our noble brother came as a stranger and left as a stranger. May Allah accept him as a Shaheed [martyr]."

The Recorded Conversations Between The Conspirators

18. Based on my review of a recorded conversation between BADAWI and ELHUZAYEL on April 24, 2015, I know the following:

a. ELHUZAYEL and BADAWI discussed how it would be a blessing to fight for the cause of Allah, and to die in the battlefield. Throughout their conversation, BADAWI and ELHUZAYEL referred to ISIL as "we."

b. BADAWI asked ELHUZAYEL if Abu Bakr Al-Baghdadi, the leader of ISIL, was injured. ELHUZAYEL told BADAWI that it was not true. ELHUZAYEL surmised it was false propaganda in

account "Shariah is Light@atawaakul." For his profile picture, Simpson had a photograph of Anwar Al Awlaki.

order to determine where Al-Baghdadi is located so they could drone him.

c. BADAWI and ELHUZAYEL discussed the Friday prayer service, and ELHUZAYEL stated the local Muslim leaders are not legitimate. ELHUZAYEL stated that they have to have an Islamic State and they [the local Muslims leaders] are not fighting for that. ELHUZAYEL explained that if you support democracy then you are Kafir [infidel or unbeliever].

d. BADAWI expressed concern that ISIL's expansion was struggling due to the airstrikes and the coalition. ELHUZAYEL told BADAWI to be patient, and that little by little we are expanding. ELHUZAYEL told BADAWI that they needed to increase the numbers. ELHUZAYEL stated, can you imagine when al-Qaeda joins with Islamic state, and BADAWI responded, we will be huge. ELHUZAYEL complained that they can go kill us in the Middle East, but if we fight back, we are a terrorist.

e. ELHUZAYEL stated that he wanted to die in the battlefield, he wanted to die a Shaheed [martyr], and he asked Allah to make it so.

f. ELHUZAYEL discussed whether he would rather be in Syria, Iraq, or Yemen. At first, ELHUZAYEL said he wanted to go to Yemen because it was so beautiful. But, after BADAWI stated he would rather be in Syria, ELHUZAYEL stated that he would also choose Syria.

g. ELHUZAYEL told BADAWI may Allah allow us to meet in Jannat al ferdaus [the highest level of paradise], get a drink of wine together. ELHUZAYEL stated Jannat will be such a

pleasure, and we will get to meet the Prophets. ELHUZAYEL said just thinking about it made him happy and excited. ELHUZAYEL said they were going to meet Allah when they were in paradise if they end up as Shaheeds. ELHUZAYEL said it will be an honor to meet Him.

h. ELHUZAYEL stated that he wanted to go fight, and he did not want to be here [in the United States].

19. In a recorded conversation on May 3, 2015, ELHUZAYEL told BADAWI, may we be united in the Islamic State. ELHUZAYEL then stated, Jannat al ferdaus, man. They then discussed having patience and that rushing things will get one in trouble.

The Purchase Of The Airline Ticket

20. Based on my review of records provided by Turkish Airlines, I know that a one-way airline ticket was purchased for ELHUZAYEL for travel on May 21, 2015, from Los Angeles International Airport to Tel Aviv, Israel, with an approximately six-hour layover in Istanbul, Turkey. The records revealed this ticket was purchased on May 7, 2015. The records also revealed that the ticket was purchased from an online travel company called www.cheaptickets.com.

21. On May 19, 2015, the FBI received records from Orbitz.com, the parent company of www.cheaptickets.com. Based on my review of those records, I know that records revealed that

BADAWI's debit card was used to purchase ELHUZAYEL's airline ticket. The records also showed that the IP address that was used to log on and purchase the ticket is registered to a wireless broadband belonging to T-Mobile USA. Based on telephone records I reviewed for BADAWI's cellular telephone, I know that BADAWI's cellular telephone number is serviced by T-Mobile.

22. Based on my review of physical surveillance reports, I know that on May 7, 2015, at the time the airline ticket for ELHUZAYEL was purchased, law enforcement observed BADAWI and ELHUZAYEL together, sitting in BADAWI's vehicle.

23. Based on my review of U.S. State Department records, I know that ELHUZAYEL has a valid U.S. passport.

Further Conversations After The Purchase Of The One-Way Ticket

24. Based on my review of two recorded conversations on May 8, 2015, in which the participants were ELHUZAYEL, ELHUZAYEL's father, and ELHUZAYEL's employer, I know the following:

a. During the first conversation, ELHUZAYEL told his employer that he needed to be paid the money he was owed from the employer because he was leaving in two weeks.

b. During the second conversation, which occurred a short time later, ELHUZAYEL and his father spoke to the employer. ELHUZAYEL's father discussed the money owed to

ELHUZAYEL, and told ELHUZAYEL's employer that ELHUZAYEL was leaving the country in two weeks.

25. Based on my review of a recorded conversation between BADAWI and ELHUZAYEL on May 9, 2015, I know the following:

a. ELHUZAYEL told BADAWI that he could not wait to just "bounce" out of this country. ELHUZAYEL then said that he was looking forward to just getting out of here, that he was excited, but he had a lot of anxiety about it too - he just wanted it to come faster.

b. BADAWI asked ELHUZAYEL what his next move was, and ELHUZAYEL responded his next move was to just "bounce."

c. ELHUZAYEL told BADAWI we'll meet up in the Islamic State. Later in the conversation, ELHUZAYEL told BADAWI, may Allah grant us Shaheed, man.

26. Based on my review of a recorded conversation between BADAWI and ELHUZAYEL on May 10, 2015, I know the following:

a. BADAWI asked Allah to make this the best Ramadan, and ELHUZAYEL replied that he would not be fasting in this filthy country; he added Inshallah, may Allah make it so that I make it to, to, uh, you know where by Ramadan, Inshallah.

b. BADAWI told ELHUZAYEL that he could travel from Palestine to the Islamic State in Egypt. ELHUZAYEL asked BADAWI if there was already an Islamic State in Egypt. BADAWI confirmed that there was an Islamic State in Egypt and he told

ELHUZAYEL that they need him in Egypt, because the "Sham" [Syria] and Iraq had a lot of people already.

c. ELHUZAYEL then said, can you imagine being with an Army and BADAWI replied, yeah. ELHUZAYEL then added, the mujahideen [holy warriors].

27. Based on my review of another recorded conversation between BADAWI and ELHUZAYEL on May 10, 2015, I know the following:

a. BADAWI, in response to ELHUZAYEL's concerns, warned ELHUZAYEL that he should not make it public but not to worry, we're still gonna get you there.

b. BADAWI stated further that if He [Allah] orders something, it doesn't matter what kind of, uh, these people would do -- that His [Allah's] plan will supersede any other plans, even if the whole United Nations gathered to stop you.

28. Based on my review of another recorded conversation between BADAWI and ELHUZAYEL on May 10, 2015, I know the following:

a. ELHUZAYEL told BADAWI that he [BADAWI] made him [ELHUZAYEL] paranoid about the government listening to their conversations.

b. BADAWI stated, whoever's listening, we're just going to Filisteen [Palestine].

c. ELHUZAYEL added, chill at the house, maybe make a farm, and he laughed.

d. BADAWI added, start a family.

ELHUZAYEL's Purported Plans To Marry An ISIL Supporter In Palestine

29. Based on my review of ELHUZAYEL's Internet exchanges, I know the following:

a. In approximately March 2015, after ELHUZAYEL made statements indicating future travel to Palestine, he was introduced online to a woman in Palestine.

b. Beginning on or about March 29, 2015, ELHUZAYEL and the woman communicated nearly daily via the Internet.

c. ELHUZAYEL and the woman agreed to marry, and have professed love for each other.

d. Early in their communications, the woman told ELHUZAYEL that she is pro-ISIL, and that she had tried to travel to the Islamic State but was detained and returned to her home in Palestine.

e. ELHUZAYEL responded by telling the woman that he too is pro-ISIL and that he has the same beliefs and goals as the woman.

f. In different Internet exchanges, ELHUZAYEL and the woman have discussed living on a farm, working in an electronic repair shop, and having children together. They have also expressed repeatedly their commitment to ISIL, despite their families' opposition.

g. Since "meeting" ELHUZAYEL on the Internet, the woman has publicly tweeted pro-ISIL and pro-jihad messages, including the following on May 5, 2015:

I may not be able to join in jihad and fight but I can raise the next line of Mjahideen InshaAllah and I encourage the sisters to do the same.

I won't lie to me you aren't a man if you don't fight for this Ummah, for this Deen and for Allah. To me you're a coward.

Our brothers who have gained Martyrdom have beaten us to Jannah so it's time for us to remove Al Wahn from our hearts and catch up with them.

When you stand in front of Allah and He the Almighty asks you why didn't you participate in Jihad, know that none of your excuses will work.

BADAWI Affirms Their Goal to Join ISIL

30. In a recorded conversation on May 16, 2015, BADAWI ("MB") spoke to another man (Male #1) ("M1") about BADAWI and ELHUZAYEL's plans to join ISIL and fight on its behalf:

MB: Yeah this guy is going to the Islamic State of a [Inaudible].

M1: Yeah that's crazy dude [Inaudible].

MB: He booked his ticket. He's leaving on Thursday.

M1: What if he gets caught?

MB: That's what I'm saying.

M1: What is he even gonna do? Does he even know what he's gonna do?

MB: Well. . .

M1: Is he just gonna show up in the, in the middle of the desert, or?

MB: No, he's gonna, he's gonna go to Filistin.

M1: Hmm.

MB: He's gonna get there, then find a way to get there.

31. Later, in this same conversation, BADAWI and M1 talked about Islamic scholars and mujahideen, and debated about whether or not all Muslims need to go fight with ISIL. BADAWI argued that scholars say Muslims should go fight, and M1 appeared to disagree. They then discussed the prudence of the proposed plan.

MB: He was on Twitter and his account got suspended 11 times [Inaudible].

M1: He's dumb dude [Inaudible]. Dude they listen to your phone calls and stuff.

MB: I know. We don't talk about it on the phone.

M1: He's gonna get caught up man.

MB: He's going to Filistin though. He's gonna go get married.

M1: Married? [Inaudible].

MB: Yeah. So, he's not going to the Islamic State right away. [Inaudible].

MB: He's not the first person [Inaudible].
[Hesitation] I think if he got caught [Inaudible].
Laughter. [Brief unintelligible section].

M1: I'm just waiting to see this guy on the news.

MB: Oh man, don't say that.

M1: Inshallah [Inaudible].

MB: Inshallah. He ends up in the Islamic State. I'm gonna join soon. I don't know how soon, but I will go. I'm planning to go, bro.

The Arrest of BADAWI in Anaheim, Orange County, California

32. On May 21, 2015, FBI Special Agents arrested BADAWI in Anaheim, Orange County, California. FBI Special Agents read

BADAWI his Miranda rights. After waiving his Miranda rights, BADAWI admitted he knew ELHUZAYEL planned to travel to and join the Islamic State. BADAWI admitted he gave his personal bank card to ELHUZAYEL to allow ELHUZAYEL to purchase an airplane ticket to fly from Los Angeles, California to Tel Aviv, Israel, in order for ELHUZAYEL to join the Islamic State.

The Arrest of ELHUZAYEL at Los Angeles International Airport

33. On May 21, 2015, ELHUZAYEL traveled from Anaheim, California to the Los Angeles International Airport (LAX) in Los Angeles, California. ELHUZAYEL walked to the ticket counter at Turkish Airlines, and the airline agent gave him a boarding pass for his pre-booked flight to Tel Aviv, Israel with a layover in Istanbul, Turkey. FBI Special Agents arrested him at LAX.

34. FBI Special Agents read ELHUZAYEL his Miranda rights. After waiving his Miranda rights, ELHUZAYEL admitted to the agents that he intended to fly to Istanbul, Turkey, to travel to the Islamic State, pledge allegiance to ISIL, and defend ISIL against attackers.

III. CONCLUSION

35. Based on the information described above, I respectfully submit there is probable cause to believe that BADAWI and ELHUZAYEL conspired to provide material support and resources to a foreign terrorist organization, that is,

ELHUZAYEL as personnel to ISIL, in violation of 18 U.S.C. §
2339B.

(S)

ASHLEY MERICLE, Special Agent
FEDERAL BUREAU OF INVESTIGATION

Subscribed to and sworn before me
This 22^d day of May, 2015

ROBERT N. BLOCK

Honorable Robert N. Block
United States Magistrate Judge