

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X	Docket#
UNITED STATES OF AMERICA,	: 06-m-335
	: :
- versus -	: U.S. Courthouse
	: Brooklyn, New York
EHSANUL ISLAM SADEQUEE,	: :
Defendant	: April 28, 2006
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TRANSCRIPT OF CRIMINAL CAUSE FOR DETENTION HEARING
BEFORE THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Government:

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United States Attorney

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ MAY 01 2006 ★

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1 THE CLERK: 06-m-335, United States v.
2 Sadequee.

3 Counsel, please state your appearances for the
4 record.

5 MS. KAVANAGH: Good afternoon, your Honor.

6 Colleen Kavanagh for the United States. Also
7 present from the Northern District of Georgia is
8 AUSA Robert McBernie (phonetic).

9 MR. MORRIS: Douglas Morris, Federal Defenders
10 for Mr. Sadequee.

11 Good afternoon, Judge.

12 THE COURT: Good afternoon.

13 Mr. Sadequee, do you speak and understand
14 English?

15 THE DEFENDANT: (inaudible).

16 THE COURT: The defendant has said yes.

17 I understand that this defendant has had an
18 initial appearance.

19 THE CLERK: He has, Judge.

20 THE COURT: And that we're here for a bail
21 application and/or a detention hearing.

22 MS. KAVANAGH: That's correct, Judge. Also, in
23 addition, this defendant did not submit a financial
24 affidavit and Mr. Morris was appointed for that initial
25 appearance by Judge Lindsay but I think that the Court

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1 needs to officially appoint Mr. Morris if the financial
2 affidavit hasn't even -- for that which I take it has
3 not --

4 MR. MORRIS: Your Honor, I don't think my
5 client has any funds for paying for counsel. And I think
6 that the record is sufficient.

7 THE COURT: Well, we'll have him fill out a
8 financial affidavit after the proceeding then and I'll
9 take a look at it and if I disagree, we'll have another
10 call. Okay?

11 MR. MORRIS: Thank you, Judge.

12 THE COURT: Thank you.

13 MR. MORRIS: Your Honor, I do have a bail
14 application.

15 THE COURT: I'm ready to hear it.

16 MR. MORRIS: It's a bail application in an
17 amount that the Court can set and it's secured by the
18 signatures of four suretors; my client's three siblings
19 and a sister-in-law and secured by the family home. My -
20 -

21 THE COURT: Could I interrupt you for one
22 second, Mr. Morris?

23 MR. MORRIS: Sure.

24 THE COURT: I'm sorry. I do want to make a
25 record of a certain fact. I received a confidential

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1 memorandum from the pretrial services office today. It
2 bears today's date. It concerns interviews of the
3 potential suretors.

4 Pretrial services has informed me that some of
5 the information in the report is confidential and they
6 don't want the report disclosed to counsel. I don't want
7 to breach their confidentiality but I will not rely on
8 anything that hasn't been disclosed to counsel. And so,
9 I am essentially putting it back in the envelope having
10 only glanced at it and I am not taking the facts that are
11 in there into account for one side or the other. I just
12 wanted to make that record clear, lest anybody think that
13 my decision was based on that. So, we can give this
14 envelope back to pretrial. I'm not going to take it into
15 account.

16 Go ahead. Three siblings and a?

17 MR. MORRIS: Sister-in-law.

18 THE COURT: And a family home.

19 MR. MORRIS: That's correct.

20 THE COURT: Please proceed.

21 MR. MORRIS: In terms of the three siblings,
22 two are United States citizens, one is a permanent
23 resident. They all came from Bangladesh and have been in
24 the country for almost 20 years, since 1988. One is
25 Ms. Shariniqua Sadequee. She's 27. She is the permanent

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1 resident. She lives in Atlanta, Georgia at the home --
2 at the family home and she works. She's a college
3 graduate and works at a non-profit organization called
4 Rickshaw, where she is the community leadership developer
5 and earns approximately \$30,000 per year.

6 Her older sister is Sharmine Sadequee, a United
7 States citizen who had lived in Atlanta with the family
8 until 2001 when she began a graduate school in East
9 Lansing, Michigan where she is in a PhD program and in
10 connection with that program, is a teaching assistant
11 where she earns approximately \$11,000 a year. So, that
12 is, I suppose a combination between being a full time
13 student and a part-time employee.

14 The third suretor is my client's older brother,
15 Mr. Amuel (phonetic) Sadequee, also a United States
16 citizen, 30 years old. He lives at the family home in
17 Atlanta. Is a college graduate with a bachelors in
18 business administration. He works as an electronic data
19 interchange operator for a company called NueSoft, which
20 I believe is spelled N-u-e, which is a computer software
21 manufacturer where he earns somewhat \$30,000 per year.

22 And finally, Mr. Amuel Sadequee's wife, Kahroom
23 Nahar (phonetic), who is 21, a permanent resident and
24 works at Wendy's as a server earning \$6.75 per hour.

25 In addition to their signatures, the family is

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1 ready to post the family home at 4024 Nowatta Drive
2 (phonetic). My calculations indicate that the equity in
3 the home is now \$60,000. It had a purchase price of
4 \$120,000. According to a 2005 Cobb County tax bill its
5 present value is \$160,000, the remaining mortgage is just
6 under \$100,000, yielding equity of approximate \$60,000.

7 And I would suggest that -- and the one item I
8 should add in regard to the home is that it is held in
9 the name of my client's father who has given the power of
10 attorney to Mr. Amuel Sadequee to undertake the necessary
11 steps to post that home in Georgia.

12 I think that this is a substantial bail
13 package. My client has a very committed, loving family,
14 who has been in contact with me continuously during this
15 week. In addition to the suretors, he also has a very
16 concerned and committed mother who is present in the
17 courtroom. In addition to the suretors, she's
18 unemployed. So, I am not offering her as a suretor but I
19 want the Court to know about her.

20 And the present charges against my client on
21 the complaint in the eastern district are false statement
22 charges. And were a false statement case. I think that
23 this bail package is more than sufficient. My client is
24 young. He can -- he's only 19 years old. He can live
25 with his family in Georgia and that is what I am

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1 proposing as part of the package that he live with his
2 family there. And I'm sure that the mechanisms of his
3 returning to court as appropriate are mechanisms that can
4 be worked out without really actually rather easily be
5 worked out.

6 THE COURT: Mr. Morris.

7 Ms. Kavanagh?

8 MS. KAVANAGH: Judge, with all due respect,
9 this isn't just a false statement case. This is a false
10 statement case in connection with an ongoing terrorism
11 investigation.

12 THE COURT: But the only charge is for a false
13 statement.

14 MS. KAVANAGH: Judge, that's correct. It's an
15 18 USC Section 1001 but with the terrorism enhancement,
16 this defendant is facing eight years rather than the five
17 years. And under the sentencing guidelines, were the
18 government to succeed in getting a terrorism enhancement
19 he would --

20 THE COURT: The only evidence of terrorism in
21 the complaint is from somebody else who is under
22 indictment saying -- implicating this one; right?

23 MS. KAVANAGH: That's correct, Judge.

24 THE COURT: And so we don't know how reliable
25 that information is.

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1 MS. KAVANAGH: Well, Judge, obviously his
2 reliability is somewhat corroborated in the complaint in
3 terms of the records based investigation. We obviously -
4 - this complaint goes to the 1001 and not all of the
5 facts known to the government are in this complaint.

6 But again, if we were to receive the terrorism
7 enhancement, this defendant would be in a criminal
8 history category 6, the level would be 32. So,
9 ostensibly, he would be maxed out at the eight years.

10 This defendant is an unemployed college student
11 with known terrorist ties who has been living abroad for
12 the last eight months. He's lived abroad --

13 THE COURT: What are the known terrorist ties?

14 MS. KAVANAGH: I'm sorry, Judge?

15 THE COURT: Are there known terrorist ties
16 other than what Mr. Ahmed has said about him?

17 MS. KAVANAGH: That's all we can say right now,
18 Judge.

19 THE COURT: Okay.

20 MS. KAVANAGH: The Islamic extremists that
21 Mr. Ahmed has mentioned in the complaint.

22 THE COURT: We have an indicted terrorist who
23 says that this defendant went to a meeting where other
24 terrorists talk about terrorist activities.

25 MS. KAVANAGH: That's correct.

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1 THE COURT: And then denied doing so.

2 MS. KAVANAGH: Yes, yes.

3 In addition, Judge, this defendant has been
4 living in Bangladesh. He's lived in Canada. He has
5 other family members significantly. His wife is living
6 in Bangladesh. His father, as Mr. Morris indicated, is
7 living in Bangladesh. He does not have his United States
8 passport anymore. It's been returned to -- it was
9 actually found and returned to the State Department, is
10 my understanding. And he now has a passport from
11 Bangladesh which we don't know where that is.

12 So, I just don't think that this package,
13 Judge, is adequate to insure that this defendant doesn't
14 flee. In addition, the case right now is in New York.
15 He is on a no-fly list. He will not be permitted to fly
16 back and forth to Georgia. Agents will be surveilling
17 him 24 ours a day. And I just don't think that this
18 package is enough.

19 THE COURT: That certainly minimizes the risk
20 of flight; doesn't it?

21 MS. KAVANAGH: Well, Judge, I don't know if
22 that's necessarily for the Court to be considering. I
23 mean, the agents will do the best they can; that's true.

24 THE COURT: Well, I didn't mean the agents
25 necessarily but if he's on a no fly list, it's the

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1 equivalent of not having a passport and not being
2 permitted to make use of airports.

3 MS. KAVANAGH: Well, Judge, he obviously got to
4 Canada previously.

5 THE COURT: While he was on a no fly list? I
6 mean, he didn't fly to Canada, did he, according to the
7 government's allegations? Aren't the record of how he
8 went in through Canada that he went in through Canada by
9 automobile?

10 MS. KAVANAGH: By bus, Judge.

11 THE COURT: So --

12 MS. KAVANAGH: Right. And then he could fly
13 from Canada to anywhere in the world.

14 THE COURT: Yes, okay.

15 Anything else?

16 MR. MORRIS: Your Honor, I would just mention
17 that --

18 THE COURT: I don't know if Ms. Kavanagh was
19 done. That's why I --

20 MR. MORRIS: Oh, I'm sorry.

21 THE COURT: -- asking her fist. Let's just
22 finish one at a time.

23 MS. KAVANAGH: Nothing further at this time,
24 Judge.

25 THE COURT: Okay.

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1 Go ahead, Mr. Morris.

2 MR. MORRIS: I would just mention that whatever
3 guideline calculations there might be, the possible
4 terrorist enhancements, the fact is my client has no
5 prior criminal record and no prior encounters with the
6 law that I am aware of.

7 THE COURT: Well, you know, the problem for the
8 Court when you confront a case like this is that I have
9 to rely upon the evidence that's before me and the charge
10 before me. And the government may or may not have very
11 legitimate concerns based upon information and its
12 possession that it's not in a position to share with the
13 Court. But I can't share those concerns except upon an
14 evidentiary presentation. So, I don't. I look at it as
15 a 1001 case with evidence that's really not sufficient to
16 state even probable cause, much less a strong case of
17 terrorist connection. And, therefore, I think the bail
18 package is an appropriate one.

19 I will add the additional restriction that he
20 be under house arrest and subject to random home visits
21 by pretrial services and that he only leave the house to
22 attend court proceedings, for verified employment, if he
23 obtains same, or education in Georgia living at home with
24 his family and that he report to pretrial services as
25 directed. But I don't see any reason to hold him when a

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1 bail package of this magnitude is offered given the
2 gravity of the charge, the lack of prior record and the
3 support of his family.

4 Now, I will stay his release pending your
5 appeal to the miscellaneous judge who is Judge Townes
6 today and she may have a different point of view. But I
7 am not willing to make a decision based upon an air or an
8 aroma of terrorism but only upon concrete proof that he
9 poses a threat of danger. And we don't have any that I
10 can discern.

11 MS. KAVANAGH: Judge, the government's going to
12 consider your invitation to appeal the Court's decision.

13 THE COURT: Sure.

14 MS. KAVANAGH: We would also ask the Court to
15 consider electronic monitoring to be part of that home
16 detention, as well as --

17 THE COURT: You know, I thought about that.
18 And I'm -- you know, I am really trying to be candid with
19 you about my rationale. If it weren't for the terrorism
20 allegation, I wouldn't even think about electronic
21 monitoring in a case like this. And as far as I can
22 tell, the terrorism allegation is not substantiated by
23 anything real or concrete that I can hang my hat on or
24 rely upon to determine that it has any validity. And in
25 that circumstance, I just don't think it's appropriate

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1 for a court to impose electronic monitoring based really
2 on a prosecutor telling me we have information about him
3 that we can't tell you and take our word for it. I can't
4 make that kind of a decision.

5 There's a modicum of corroboration in the fact
6 that the defendant -- there's probable cause to believe
7 the defendant lied about his contacts with Ahmed. But
8 why he did so is completely unclear to me. He may have
9 met this fellow and seen what he was about and become
10 afraid to reveal his connection with him, too. I just
11 don't know based upon what's before me.

12 I see the looks on your colleague's face of
13 skepticism and he may well know more about the defendant
14 than I do but I have to rely on what's before the Court.
15 I'm not going to order electronic monitoring.

16 MS. KAVANAGH: I understand.

17 THE COURT: Call the suretors forward,
18 Mr. Morris.

19 Do they all speak English, Mr. Morris?

20 MR. MORRIS: Your Honor, there is one suretor
21 who does not speak English well. I do have in the court,
22 I am told by friends, an attorney, Mr. Azziz (phonetic),
23 who I believe has maybe -- could translate. I think he
24 might be a certified interpreter. I think we have
25 another family friend in court who is a certified

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1 interpreter in California. So, those are the two
2 possibilities in terms of the sister-in-law.

3 THE COURT: Why don't we get an appropriate
4 interpreter and have a second call this afternoon?

5 MR. MORRIS: I would ask that we do the other
6 three suretors now.

7 THE COURT: They want to leave? Are they going
8 to leave without the sister-in-law?

9 MR. MORRIS: No, I don't believe they're going
10 to leave.

11 THE COURT: I mean, I don't want to do it twice
12 if they're going to wait around anyway. What's the
13 point?

14 MR. MORRIS: Yes, I don't want to do that.

15 THE COURT: And that will also give
16 Ms. Kavanagh time to appeal and we won't have to put them
17 through this if my decision is reversed anyway.

18 So, we'll have a second call once we can get an
19 appropriate interpreter.

20 MR. MORRIS: Thank you, Judge.

21 MS. KAVANAGH: Thank you, Judge.

22 THE COURT: Thank you.

23 **(Off the record)**

24 THE COURT: -- right now.

25 MS. KAVANAGH: A temporary order of detention,

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1 Judge.

2 THE COURT: All right. So, we definitely need
3 a second call, you know, no matter what happens. We
4 either have to enter something else or complete a bond
5 before the day is out and I'll count on counsel not to
6 let that slip as the afternoon gets --

7 MS. KAVANAGH: Thank you, Judge. And actually,
8 the other issue that we will need to address, I don't
9 know if Mr. Morris wants to address it now is the issue
10 of a preliminary hearing which was not waived.

11 MR. MORRIS: We waive preliminary hearing.

12 THE COURT: I ask the clerk to note the waiver.
13 Okay.

14 MS. KAVANAGH: Thank you, Judge.

15 THE COURT: Thank you.

16 (Matter concluded)

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C E R T I F I C A T E

I, ROSALIE LOMBARDI, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 28th day of April, 2006.

Rosalie Lombardi

Rosalie Lombardi
Transcription Plus II