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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)	
)	File No. 22-cr-124
Plaintiff,)	(NEB/DTS)
)	
v.)	
)	
Abdiaziz Shafii Farah(1),)	Courtroom 13W
Mohamed Jama Ismail(2),)	Minneapolis, Minnesota
Abdimajid Mohamed Nur(4),)	Tuesday, June 4, 2024
Said Shafii Farah(5),)	8:54 a.m.
Abdiwahab Maalim Aftin(6),)	
Mukhtar Mohamed Shariff(7),)	
Hayat Mohamed Nur(8),)	
)	
Defendants.)	

BEFORE THE HONORABLE NANCY E. BRASEL
UNITED STATES DISTRICT COURT DISTRICT JUDGE

JURY TRIAL PROCEEDINGS - VOLUME XXIX OF XXX

Court Reporter: RENE E. A. ROGGE, RMR-CRR
United States Courthouse
300 South Fourth Street, Box 1005
Minneapolis, Minnesota 55415

* * *

Proceedings recorded by mechanical stenography;
Transcript produced by computer.

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APPEARANCES:

1
2 For Plaintiff: UNITED STATES ATTORNEY'S OFFICE
3 BY: JOSEPH H. THOMPSON
4 HARRY JACOBS
5 MATTHEW S. EBERT
6 CHELSEA A. WALCKER
7 DANIEL W. BOBIER
8 600 United States Courthouse
9 300 South Fourth Street
10 Minneapolis, Minnesota 55415

11 For Defendant BIRRELL LAW FIRM PLLC
12 Abdiaziz Shafii BY: ANDREW S. BIRRELL
13 Farah(1): IAN S. BIRRELL
14 333 South Seventh Street, #3020
15 Minneapolis, Minnesota 55402

16 For Defendant SIEBEN & COTTER PLLC
17 Mohamed Jama BY: PATRICK L. COTTER
18 Ismail(2): 105 Hardman Court, #110
19 South St. Paul, Minnesota 55075

20 For Defendant SAPONE & PETRILLO LLP
21 Abdimajid Mohamed BY: EDWARD V. SAPONE
22 Nur(4): 40 Fulton Street, 17th Floor
23 New York, New York 10038

24 For Defendant Said MASLON LLP
25 Shafii Farah(5): BY: STEVEN L. SCHLEICHER
CLAYTON CARLSON
225 South Sixth Street, #2900
Minneapolis, Minnesota 55402

For Defendant KOCH & GARVIS
Abdiwahab Maalim BY: ANDREW S. GARVIS
Aftin(6): 3109 Hennepin Avenue South
Minneapolis, Minnesota 55408

For Defendant Mukhtar GOETZ AND ECKLAND P.A.
Mohamed Shariff (7): BY: FREDERICK J. GOETZ
ANDREW H. MOHRING
KAITLYN C. FALK
615 First Avenue NE, #425
Minneapolis, Minnesota 55413

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APPEARANCES (Continued):

For Defendant Hayat
Mohamed Nur (8):

BRANDT KETTWICK DEFENSE PLLC
BY: MICHAEL J. BRANDT
NICOLE A. KETTWICK
2150 Third Avenue, #210
Anoka, Minnesota 55303

* * *

IN OPEN COURT**(JURY NOT PRESENT)**

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2
3 THE COURT: Good morning, everyone. You may be
4 seated.

5 We are on the record out of the presence of the
6 jury. Last evening Juror Number 22 called her family to let
7 her know -- let them know that she was being sequestered,
8 and their immediate response was, Is it because of the
9 bribe.

10 And so she immediately called Ms. Wegner and let
11 her know. And Ms. Wegner instructed her, after talking to
12 me, not to tell anyone else what she had heard. And I
13 believe that she has done that.

14 And then we called Juror Number 78, who is an
15 alternate, who was instructed to be a retained juror and not
16 to speak to anyone over the evening. So the time that had
17 elapsed was probably three hours, I think, by the time that
18 you called 78. And we let Juror Number 78 know that that
19 juror may be called in as an alternate.

20 That is what has occurred. Juror Number 78 is
21 here. Juror Number 22 is here.

22 My suggestion is that we release Juror Number 22
23 and that I call Juror Number 78 into the courtroom to
24 inquire whether he has talked with anyone or looked at any
25 media over the last 12 hours or so and, if not, that we seat

1 him, and they begin deliberations. We have instructed the
2 jury this morning not to begin deliberations until we take
3 care of this process.

4 I would not intend to call Juror Number 22 into
5 the courtroom, unless any counsel wanted me to do so.

6 That is my proposed process. Any objections to
7 that process?

8 MR. THOMPSON: No, Your Honor.

9 THE COURT: Any objections to my release of Juror
10 Number 22?

11 (No response)

12 THE COURT: All right. A reminder that we now
13 have two released jurors. You are not to contact any
14 released juror without the court's permission.

15 I didn't place that on the record yesterday. It
16 should have been obvious, and I think it is to the
17 attorneys, but I wanted to make that reminder clear on the
18 record.

19 All right. With that, then I would propose to
20 bring in Juror Number 78 and inquire.

21 Before I do that, does anyone have any specific
22 information they request from Juror Number 78, other than
23 confirmation that he has not spoken to anyone or looked at
24 any media?

25 Mr. Goetz.

1 MR. GOETZ: Your Honor, not specific to the
2 court's question, but I guess my concern is how confident
3 are we that the other jurors have not been exposed to
4 anything?

5 I mean, Juror 22 is to be commended for bringing
6 this to Ms. Wegner's attention, but are we confident that
7 none of the other jurors -- there is -- you know, it blew up
8 yesterday, and so there was a lot of exposure.

9 THE COURT: The only time they would have had that
10 contact would be their call home. And I hesitate to -- I
11 can bring everybody in and ask them whether their call home
12 precipitated anything.

13 I am pretty confident. I'm very confident. This
14 jury has -- you know. They've been extremely conscientious.
15 Juror Number 22 knew without Ms. Wegner telling her that she
16 was not to tell anyone else what she had heard. And they
17 are allowed to call home during their -- right? And so we
18 would have to actually have that inquiry every day, and I
19 worry about that, just highlighting something that maybe we
20 shouldn't highlight.

21 I'm willing to bring them all in and ask them, but
22 I don't know that that's what we want to do collectively.
23 Again, it may just highlight something and trigger something
24 that we don't want to trigger for them.

25 MR. GOETZ: I understand. It's a difficult

1 situation, but --

2 THE COURT: Right. I'm confident in this jury.
3 They are extremely conscientious. I mean, we have had two
4 issues now, and they have immediately reacted in the correct
5 way and in the way that we want our jurors to react. I
6 think that is consistent with what we have observed over the
7 last six weeks with these jurors, so I'm confident in them.

8 All right. We're going to bring Number 78 in, and
9 I'm releasing Number 22.

10 (Juror Number 78 enters courtroom)

11 THE COURT: Good morning.

12 THE JUROR: Good morning.

13 THE COURT: Thank you for coming in.

14 THE JUROR: Yeah.

15 THE COURT: You may have a seat. I just have a
16 couple of questions for you for the record.

17 THE JUROR: Yep.

18 THE COURT: You are Juror Number 78, correct?

19 THE JUROR: Correct.

20 THE COURT: All right. And yesterday when I told
21 you you were a retained juror, I think that was at about
22 4:00-ish, 4:30, maybe.

23 THE JUROR: Yep, that sounds right.

24 THE COURT: And the instructions that I gave you
25 were: You are not to talk with anyone about the case; you

1 are not to receive any information; and you are not to look
2 at any media.

3 THE JUROR: Yep.

4 THE COURT: And then I think you got a call from
5 Ms. Wegner 8:00-ish, maybe.

6 THE JUROR: Between 8:00 and 9:00. It was later
7 than 8:30, I believe.

8 THE COURT: Okay. And at that time, between the
9 time that I told you you were retained and you went home and
10 the time that Ms. Wegner called you, had you received any
11 information about the case? Had you looked at any media?
12 Had you talked to anybody about the case?

13 THE JUROR: Nope.

14 THE COURT: Absolute no information?

15 THE JUROR: No, besides telling my wife and kids
16 that, you know, I got released and --

17 THE COURT: And they -- okay. Go ahead.

18 THE JUROR: -- breaking the news that I got called
19 back again.

20 THE COURT: Okay. And they didn't give you any
21 information that they had heard?

22 THE JUROR: No.

23 THE COURT: Okay. And then in between 8:30 and
24 when you came in this morning, 8:30 last evening and when
25 you came in this morning, had you received any information,

1 looked at anything, talked to anyone involved in or about
2 the case at all?

3 THE JUROR: No.

4 THE COURT: You've taken obviously that obligation
5 seriously?

6 THE JUROR: Yep.

7 THE COURT: Absolutely sure?

8 THE JUROR: Yep.

9 THE COURT: And are you prepared to be seated as a
10 deliberating juror?

11 THE JUROR: Yes.

12 THE COURT: All right. Wait outside in the
13 hallway before you go in. Let me just take a moment with
14 the attorneys, but I believe that I will seat you. Okay?

15 THE JUROR: Thank you.

16 THE COURT: All right. Thank you.

17 (Juror Number 78 exits courtroom)

18 THE COURT: Does anyone have any further inquiry
19 they wish me to make of 78?

20 (No response)

21 THE COURT: All right. Now that you have heard
22 and had a few moments to reflect on the process, does anyone
23 wish me to call in all the jurors?

24 (No response)

25 THE COURT: All right. Ms. Wegner has logistical

1 communications with this juror. She must do that. And she
2 can ask as well to ensure. I have not. I am not contacting
3 them at all, but Ms. Wegner talks about logistics with the
4 jurors. She must because of the sequestration. She can ask
5 the question as to whether they have received any
6 information, if you want me to do that, off the record.

7 MR. ANDREW BIRRELL: I don't want you to do that.

8 THE COURT: Okay. Then we will not.

9 All right. Anything further then that needs to
10 come before the court at this time?

11 MR. GOETZ: One request, Your Honor, very quickly.
12 This relates to the detention issue.

13 THE COURT: Yes, sir.

14 MR. GOETZ: Yesterday the government mentioned the
15 search warrant and the application for the search warrant.
16 I ask that that be disclosed. My understanding from media
17 reports is that it's not filed under seal. So I'd ask the
18 government produce a copy of that to all defense counsel.

19 MR. THOMPSON: That's fine. It's a public
20 document. I can make it available.

21 THE COURT: All right. Is there an MJ number for
22 it?

23 MR. THOMPSON: There is. I think it's 24-mj-382.

24 THE COURT: 24-mj. I don't know this to be true.
25 I'm repeating what Mr. Thompson just said. 24-mj-382.

1 MR. THOMPSON: But I can also email it.

2 THE COURT: Thank you.

3 MR. GOETZ: The latter would be quicker.

4 THE COURT: Yes, yes.

5 And if you do that, would you do that to the court
6 as well?

7 MR. THOMPSON: Yes, Your Honor.

8 THE COURT: Actually, you don't need to do that,
9 actually. I can get it.

10 Mr. Garvis, were you --

11 MR. GARVIS: No.

12 THE COURT: You are just standing up. Okay.

13 Anyone else?

14 All right. Thank you for being here. I know it
15 was difficult for all of you all to get here, to be here
16 this morning. I'm glad that you had at least an opportunity
17 to speak with your counsel again, so -- but I thank you all
18 for being here this morning.

19 We're adjourned.

20 THE CLERK: All rise.

21 (Recess taken at 9:05 a.m. till 1:31 p.m.)

22

23 **IN COURT CHAMBERS**

24 **TELEPHONIC CONFERENCE WITH COUNSEL ONLY**

25 THE COURT: Good afternoon, everybody. It's

1 Judge Brasel. We are on the record, and I have a jury
2 question.

3 I'm not going to call roll because I think
4 Ms. Wegner already did that, and we have got everyone who we
5 need to have.

6 The jury question reads as follows: "Some of the
7 jurors would like the option to bring their notes home to
8 the hotel at night to review on their own time. The hope is
9 that this will help with efficiency. Can this be allowed
10 starting tonight?" And it's signed by one or more jurors.

11 My proposed answer is, "Yes, you may do so."

12 I'll start with the government. Any objection or
13 comment on my proposed response?

14 MR. SAPONE: Your Honor, this is Ed Sapone for
15 Abdi Nur. How are you?

16 THE COURT: Good. Thank you.

17 MR. SAPONE: Okay. Your Honor, my concern would
18 be -- I just want to sort of think out loud, you know,
19 obviously come to the right conclusion here -- is that,
20 Would that equal, you know, sort of a deliberation outside
21 the time of deliberating and, you know, sort of without the
22 benefit of a form of deliberation with the rest? That is,
23 someone would be outside the time period with their own
24 notes perhaps drawing incorrect conclusions? I don't know.

25 I also wonder if we trust people. For sure this

1 jury has been wonderful, but who's to know what that person
2 is doing during that time with the notes without sort of the
3 oversight of the rest.

4 And, again, I'm not making a formal motion right
5 now. I'm just throwing it out there just as my initial
6 thought and impression.

7 THE COURT: All right. Anyone else?

8 MR. THOMPSON: Your Honor, this is Joe Thompson on
9 behalf of the United States. We're fine with your proposed
10 response.

11 THE COURT: And --

12 MR. ANDREW BIRRELL: Judge, this is Andy Birrell.

13 I am also in agreement with the court's response.
14 I think that because the jurors are sequestered that the
15 normal concerns about taking notes home wouldn't be present.

16 THE COURT: Mr. Cotter.

17 MR. COTTER: Thank you, judge.

18 I'm kind of thinking it through. While I have
19 some of Mr. Sapone's concerns, more so if, like, there's two
20 jurors next to each other in a hotel room and they are
21 talking, but I agree they've been phenomenal.

22 So they're not going to communicate with one
23 another when they're in the hotel. So I have no objection
24 to them being allowed to read their notes in their own hotel
25 room.

1 THE COURT: Thank you.

2 Mr. Schleicher.

3 MR. SCHLEICHER: Thank you, Your Honor.

4 Your Honor, I have a couple of, just a follow-up
5 question. That is, Do the jurors have any access to the
6 internet or research tools in any way while sequestered?
7 And assuming the answer to that is "No," I generally don't
8 oppose them having access to their notes individually, but I
9 think they would need to be given some instruction.

10 The answer would be, "Yes, so long as you only,
11 you know, use the notes to study yourself and not discuss
12 those with other jurors or anyone else outside of the
13 deliberation process."

14 THE COURT: All right. They technically have
15 access -- they have their telephones with them for use for
16 family communication only, and they've been given strict
17 instruction about that, and so that is what they have
18 available.

19 We have trusted them all along to follow my
20 instructions, and they have done so. So that's the answer
21 to your question.

22 And I agree that adding something like, "So long
23 as you do not deliberate or discuss the notes with anyone
24 while at the hotel" would be an appropriate addition to my
25 proposed response.

1 MR. SCHLEICHER: I think so, Your Honor.

2 And I think that then it's the equivalent of the
3 juror just being free to, kind of like being alone with
4 their own thoughts as they're -- whether they're reading
5 their notes or just thinking about it, it seems to be the
6 same so long as there is no discussion with anyone else.

7 So I would be unconcerned and support the general
8 idea that they could do so.

9 THE COURT: That was my thought as well, was that
10 it would be as though they were alone with their own
11 thoughts. It's just that their own thoughts cannot contain
12 all of the information that they've received over the last
13 six weeks.

14 Mr. Garvis.

15 MR. SCHLEICHER: Yes.

16 MR. GARVIS: Well, Your Honor, after hearing from
17 obviously Mr. Cotter and Mr. Schleicher, I sort of echo I
18 guess that same sentiment, that I'm okay with it as long as
19 it's, you know, them being able to review their own notes
20 and that they don't obviously engage in some type of
21 deliberation with others just, you know, outside of the
22 process. That's sort of what Mr. Schleicher said.

23 So I'm in agreement with that sort of, I guess,
24 the additional, sort of, clarity from the court besides just
25 "Yes."

1 THE COURT: Fair. Thank you.

2 Mr. Mohring or Ms. Falk?

3 MR. MOHRING: Thank you, judge.

4 I'm okay with the discussion. I mean, it isn't
5 our request -- I think sequestration is the context that
6 makes this perhaps out of the ordinary, otherwise I would
7 say no, but -- or my vote would be no, but, yeah, I think
8 yes, but with the additional information, including a very
9 clear indication in that that any discussion or interaction
10 about the notes or their memories of the evidence or any of
11 the aspects of trial can only happen during deliberations,
12 full deliberations with the entire jury.

13 THE COURT: Right. And this is not something I
14 would allow if they weren't sequestered.

15 Mr. Brandt or Ms. Kettwick?

16 MS. KETTWICK: We agree as well, Your Honor, with
17 the additional clarification.

18 THE COURT: All right. So then the response will
19 be -- thank you -- the response will be, "Yes, you may, so
20 long as you do not deliberate or discuss the notes with
21 anyone while at the hotel."

22 Any objection? All right.

23 MR. BRANDT: None on behalf of Hayat Nur.

24 THE COURT: Okay. I'm not hearing any objections.

25 So we're going to go off the record, and then I

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had something else I wanted to discuss with you all,
counsel.

Thank you. And just one moment.

(Court adjourned at 1:38 p.m., 06-5-2024.)

* * *

I, Renee A. Rogge, certify that the foregoing is a
correct transcript from the record of proceedings in the
above-entitled matter.

Certified by: /s/Renee A. Rogge
Renee A. Rogge, RMR-CRR