

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)
)
 v.) **Crim. No.14-10159-WGY**
)
KHAIRULLOZHON MATANOV,)
 Defendant)

**GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION
CONCERNING ALLEGED LEAKS TO PRESS AND DISSEMINATION OF
DOCUMENTS BY LAW ENFORCEMENT**

Mr. Matanov's motion for an evidentiary hearing about alleged leaks and dissemination of documents (a Braintree Police Department interview transcript and FBI 302s) by law enforcement officials should be denied.

Mr. Matanov bases his argument on the online availability of a transcript of his interview with the Braintree Police Department, and a recently-released *Boston Magazine* article that appears to draw from FBI reports concerning Mr. Matanov. The article focuses on Tamerlan Tsarnaev and his actions in the days after the Marathon bombings. It also mentions Mr. Matanov.

Matanov was arrested and had his initial appearance on May 30, 2014. The government moved for an order of pretrial detention, and a detention hearing was scheduled for June 4, 2014. Before the hearing, the government provided Matanov's then defense-counsel with a package of early discovery materials, including the FBI reports on which the Boston Marathon article appears to be based and a transcript of the Braintree Police Department's interview with Mr. Matanov. No protective order covered the use of those documents at that time.

Mr. Matanov's counsel made extensive use of the FBI reports and transcript to cross-examine a government agent at the detention hearing, quoting from them at length. *See* Detainment Hearing and Arraignment Tr. at 24-54 (June 4, 2014) (Exhibit A). He made such

extensive use of them that the Court suggested it would help the court to have copies. *See id.* at 37:4-8. Only the police interview transcript was admitted into evidence. *See id.* at 32:4-12, 62:14-21. But it is not clear from the detention hearing transcript whether copies of the other reports were provided to the court (or deputy clerk) for the court's convenience.

Once the police interview transcript was admitted into evidence not under seal, it ceased to be a nonpublic document. A document submitted to the court not under seal becomes a part of the public record and is then subject to the public's presumptive right to access it. *E.g., United States v. Kravetz*, 706 F.3d 47, 57-59 (1st Cir. 2013) (holding sentencing letters submitted to the court by third parties on defendant's behalf qualify as judicial documents to which the public has a presumptive right of access). Mr. Matanov did not ask the court to seal access to the transcript, either during the detention hearing or when he submitted the transcript as an exhibit to his current motion. As a result, this transcript became part of the public record by the hand of Mr. Matanov as early as June 4, 2014.

As for the *Boston Magazine* article, the article's author — who attended the detention hearing — does not claim in the article to have obtained the reports she cites from the FBI or from any other law enforcement official. She writes only that the reports were “obtained exclusively by *Boston* magazine.” This is in sharp contrast to other articles by this author on the same topic, in which she cited alleged law enforcement sources. *See* Defendant's Third Motion for Hearing to Address Leaks by Law Enforcement at 4-5, *United States v. Tsarnaev*, No. 13-CR-10200-GAO (Oct. 24, 2014) (quoting and characterizing articles). In light of how the documents were disclosed and used by Mr. Matanov's counsel, the author might have obtained them, made copies of them, or been permitted to take notes from them by non-law enforcement sources. Yet Mr. Matanov, without citing any effort to exclude or even investigate those obvious possibilities,

requests an evidentiary hearing into law enforcement's purported leaks of the reports to *Boston Magazine*.

Despite the absence of a prima facie showing (or even an allegation by the article's author) that law enforcement officers provided any reports to *Boston Magazine* or put the police interview transcript on the Internet, the government has taken steps to investigate this matter and is continuing to do so. As the United States has stated in the *Tsarnaev* case and Dzhokhar Tsarnaev has acknowledged in the litigation about alleged leaks in his case, the government has repeatedly reminded law enforcement officers, both orally and in writing, of their duty to avoid public disclosure of investigative materials. Moreover, as set forth in an exhibit that is sealed in the *Tsarnaev* case and is being submitted under seal in this case ("Exhibit B"), the government's investigation has yielded no information that would justify the evidentiary hearing that Mr. Matanov requests. If the government obtains information that suggests that law enforcement officers might have been the sources, it will promptly notify the Court.

The government therefore respectfully requests that Mr. Matanov's motion for an evidentiary hearing be denied. If Mr. Matanov's motion for an evidentiary hearing is not denied, the government requests an opportunity to obtain evidence about how those shown the discovery materials by the defense have handled those materials.

Respectfully submitted,

CARMEN M. ORTIZ
UNITED STATES ATTORNEY

By: /s/ Scott L. Garland
SCOTT L. GARLAND
ALOKE S. CHAKRAVARTY
ASSISTANT U.S. ATTORNEYS

CERTIFICATE OF SERVICE

I hereby certify that this document is being filed through the ECF system and therefore will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, with the exception of Exhibit B, which is being filed under seal and will be served upon Mr. Matanov's defense counsel via electronic mail.

/s/ Scott L. Garland
SCOTT L. GARLAND
ASSISTANT U.S. ATTORNEY

Date: December 18, 2014

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Criminal Action
v.)	No. 14-10159
)	
KHAIRULLOZHON MATANOV,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE MARIANNE B. BOWLER
UNITED STATES MAGISTRATE JUDGE

DETAINMENT HEARING AND ARRAIGNMENT

John J. Moakley United States Courthouse
Courtroom No. 13
One Courthouse Way
Boston, Massachusetts 02210
Wednesday, June 4, 2014
11:05 a.m.

Marcia G. Patrisso, RMR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3510
Boston, Massachusetts 02210
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

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APPEARANCES:

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On Behalf of the Government

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On Behalf of the Defendant

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I N D E X

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WITNESSES FOR THE GOVERNMENT:

TIMOTHY McELROY

By Mr. Garland	5		54
By Mr. Hayden		24	

E X H I B I T S

<u>GOVERNMENT'S</u>	<u>DESCRIPTION</u>	<u>FOR ID</u>	<u>IN EVD.</u>
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1	MoneyGram receipt		13
2	MoneyGram receipt		13
3	Forensic accountant's summary		18
4	MoneyGram Transactions sent 2010-2013 by sender and recipient		18
5	MoneyGram Transactions sent 2010-2013 by recipient		18

DEFENDANT'S

1	Transcript of interview		32
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1 THE CLERK: All rise.

2 (The Court enters the courtroom at 11:05 a.m.)

3 THE COURT: Please be seated.

4 THE CLERK: The United States District Court for the
5 District of Massachusetts is now in session, the Honorable
6 Marianne B. Bowler presiding.

7 Today is Wednesday, June 4, 2014. The case of United
8 States of America v. Matanov, Criminal Action No. 14-10159,
9 will now be heard.

10 Will counsel please identify themselves for the
11 record.

12 MR. GARLAND: Good afternoon, your Honor. Assistant
13 U.S. Attorney Scott Garland on behalf of the United States.

14 THE COURT: Thank you.

15 MR. CHAKRAVARTY: Also, Aloke Chakravarty, your Honor.

16 THE COURT: Thank you very much.

17 MR. HAYDEN: Good afternoon, your Honor. Edward
18 Hayden for Mr. Matanov.

19 THE COURT: Thank you very much.

20 And again, Mr. Hayden, I just want to be sure that
21 your client does not require the services of an interpreter.

22 MR. HAYDEN: That is accurate, your Honor.

23 THE COURT: All right. Are we ready to proceed with
24 detention?

25 MR. GARLAND: The government is, your Honor.

1 THE COURT: Would you call your first witness, please.

2 MR. GARLAND: Thank you. The United States calls
3 Special Agent Tim McElroy, please.

4 THE COURT: Would you please come forward and be
5 sworn.

6 TIMOTHY McELROY, duly sworn

7 THE COURT: And I'll just ask you to sit forward and
8 microphone.

9 THE WITNESS: Yes, your Honor.

10 THE CLERK: Could you introduce yourself, spelling
11 your last name for the record.

12 THE WITNESS: Certainly. My name is Timothy McElroy.
13 My last name is M-C-E-L-R-O-Y.

14 MR. GARLAND: May I proceed, your Honor?

15 THE COURT: You may.

16 DIRECT EXAMINATION

17 BY MR. GARLAND:

18 Q. Special Agent McElroy, who do you work for?

19 A. I'm currently employed by the FBI here in Boston,
20 Massachusetts.

21 Q. How long have you been with the FBI?

22 A. I've been with the FBI for the last 18 years.

23 Q. And what types of cases do you investigate?

24 A. Currently I'm assigned to the organized crime squad. I've
25 been doing so for the past ten years, approximately. Prior to

1 that I worked narcotics investigations, domestic terrorism
2 investigations, public corruption investigations and healthcare
3 fraud cases.

4 Q. And who did you work for before working for the FBI?

5 A. Before being employed with the FBI I was a special agent
6 with the Department of Justice, Office of the Inspector
7 General, in Washington, D.C.

8 Q. Have you been involved in the investigation of the
9 defendant, Mr. Matanov?

10 A. Yes, I have.

11 Q. And what have your duties been?

12 A. Primarily my duties were some spot-check surveillances,
13 which are commonly referred to as "drive-by surveillances,"
14 non-static surveillance, and recently I assisted with the
15 arrest of Mr. Matanov.

16 Q. And are some of the things that you are about to testify
17 today, the basis of your knowledge, based on information that
18 you've gained from other agents involved in the investigation?

19 A. Yes, they are.

20 Q. Since you mentioned surveillance, I want to talk to you
21 about the April and May time period of 2013. Was Mr. Matanov
22 under surveillance by the FBI and others during that period?

23 A. Yes, he was.

24 Q. And how was that surveillance conducted?

25 A. It was conducted basically as a -- what we term a "bumper

1 lock surveillance," an overt surveillance. The directives
2 given to the investigative team at the time was to make sure
3 that they stayed with Mr. Matanov and did not lose him.

4 Q. And when you say that it was overt, what does that mean?

5 A. That means Mr. Matanov was certainly aware of people
6 following him, cars following him, things of that nature. It
7 was not covert in any manner.

8 Q. The FBI wasn't trying to hide that it was surveilling him
9 at that time?

10 A. That's correct.

11 Q. Did Mr. Matanov appear to recognize that he was being
12 trailed by the FBI?

13 A. Yes, he did.

14 Q. How do you know that?

15 A. I know that from review of two separate FD-302s, the forms
16 on which we write reports on. One of those was dated May 9,
17 2013, where Mr. Matanov was surveilled to downtown Boston, and
18 he was followed to the Boston University Dental Service. When
19 he was there he approached one of the surveillance agents and
20 began to basically talk to the agent, identifying himself and
21 asking him just basic questions.

22 Q. Did he exhibit any other behavior that suggested that he
23 was aware that he was being followed?

24 A. Yes. Approximately ten days later, on May 19, 2013, he
25 was -- Mr. Matanov was under surveillance again, and the

1 surveillance team noticed that on several different occasions
2 throughout the day that Mr. Matanov was making some evasive
3 driving styles. He was making sharp turns, traveling in an
4 erratic manner on the expressway, going through different lanes
5 of traffic quickly, things that were obviously a sign of
6 concern to the surveillance personnel at the time for public
7 safety and other reasons.

8 Q. Did anybody from the government contact Mr. Matanov either
9 directly or through his attorney at the time about this?

10 A. Yes. It's my understanding that Mr. Matanov was contacted
11 through his attorney. I believe his attorney at the time was a
12 Mr. Glickman. And the government advised Mr. Glickman to
13 please pass along to Mr. Matanov to obey the traffic laws of
14 the Commonwealth and to be careful when driving for obvious
15 concerns, civilian population and law enforcement and
16 Mr. Matanov himself.

17 Q. To be fair to Mr. Matanov, did he appear to follow that
18 direction, or follow that advice?

19 A. As far as I'm aware, yes, he complied with all of those
20 terms.

21 Q. I'm going to talk to you next about July 4th of 2013. Did
22 a similar call go out from the government to Mr. Matanov's
23 attorney about July 4th, in advance of July 4th?

24 A. Yes, that's true. According to the information given to
25 me, Mr. Matanov's attorney was advised by the U.S. Attorney's

1 Office that Mr. Matanov would be under surveillance and to make
2 certain that Mr. Matanov, to the best of his knowledge or
3 approach, could stay away from the July 4th celebration
4 happening in the city of Boston.

5 For obvious reasons, the city was on edge following the
6 marathon bombings. Law enforcement was extremely tight and
7 concerned with any sort of potential issue for anybody. And
8 the government, through the U.S. Attorney's Office, requested
9 Mr. Matanov to stay clear of the July 4th celebration.

10 Q. And again to be fair to Mr. Matanov, did he appear to stay
11 away from Boston on July 4th of last year?

12 A. Yes, he did.

13 Q. Did a similar call go out to Mr. Matanov's attorney
14 concerning Patriot's Day of this year, 2014, asking him to stay
15 outside of Boston on that date as well because of -- or at
16 least making him aware that he'd be under a lot of surveillance
17 at that time?

18 A. It's my understanding that, yes, that happened.

19 Q. And did he again obey -- not obey that, but did he stay
20 away from Patriot's Day in Boston at that time?

21 A. Yes, he did.

22 Q. I want to now talk to you about Mr. Matanov's ties to the
23 community or lack thereof. To your knowledge, is Mr. Matanov a
24 citizen of the United States?

25 A. No, he's not a citizen.

1 Q. Is he in the United States lawfully?

2 A. It's my understanding, yes, he's here lawfully. He's
3 considered a legal permanent resident.

4 Q. To your knowledge, does Mr. Matanov have a job right now?

5 A. Currently, right now, I do not believe he has a job. He
6 was employed as a cab driver until his arrest last Friday.

7 Q. And have FBI agents talked to Mr. Matanov's employer about
8 whether he has a job during the pendency of this case?

9 A. It's my understanding that the employer of Mr. Matanov has
10 advised the government that Mr. Matanov does not have a job as
11 of today and will not have a job with his company until this
12 case is adjudicated.

13 Q. Has the FBI checked whether Mr. Matanov owns any real
14 property in the Commonwealth of Massachusetts?

15 A. Yes, the investigative team has checked that out.

16 Q. And what did they learn?

17 A. They could find no real property or anything -- any assets
18 owned by Mr. Matanov here in the United States or locally.

19 Q. What's your understanding of his living situation?

20 A. My understanding of his living situation was that he was a
21 month-to-month lessee, or renter, of an apartment in Quincy,
22 Massachusetts.

23 Q. To your knowledge does he live there alone or does he have
24 a roommate?

25 A. It's my understanding that he has a roommate.

1 Q. And to your knowledge do they share the rent?

2 A. They split the rent, yes.

3 Q. Did the FBI look into whether Mr. Matanov owns a car?

4 A. Yes, we did.

5 Q. What did they find?

6 A. There was no ownership of any sort of vehicle.

7 Mr. Matanov had leased a cab for purposes of his employment,
8 and as far as we know that's the only access he has to a
9 vehicle.

10 Q. I want to now talk to you about financial transactions
11 between Mr. Matanov and other people. The Court heard last
12 Friday that Mr. Matanov has no family in the United States but
13 does have family outside the United States. Has the FBI done
14 any investigation into whether Mr. Matanov has conducted
15 financial transactions between himself and people outside the
16 United States?

17 A. Yes, we have.

18 Q. And was there evidence that he had engaged in such
19 transactions?

20 A. Yes, there is.

21 MR. GARLAND: Your Honor, may I approach the witness
22 with a couple of exhibits?

23 THE COURT: You may. And you need not ask again.

24 MR. GARLAND: Thank you, your Honor.

25 BY MR. GARLAND:

1 Q. Special Agent McElroy, I've just handed you what's been
2 marked Exhibit No. 1 and Exhibit No. 2. Do you have those in
3 front of you?

4 A. Yes, I do.

5 Q. Do you recognize them?

6 A. Yes, I do.

7 Q. What do they appear to be?

8 A. They appear to be MoneyGram remitter forms.

9 Q. And what do you understand MoneyGram to be?

10 A. It's my understanding that MoneyGram is a money-remitting
11 company similar to that of Western Union and Green Dot,
12 companies like that, where individuals can come to a MoneyGram
13 location and send money domestically and internationally. Many
14 times it's used by persons who don't have bank accounts.

15 Q. And what on this form would convey to MoneyGram where
16 money would be sent from and to?

17 A. For these types of forms you'll have a sender section,
18 which is on the top of this Exhibit No. 1. In the center
19 information is provided, or asked for, a full name -- a first
20 name, a maiden name, a last name, an address, things like that.
21 And then underneath that is the amount to be sent -- in Block
22 No. 2 how much money is to be sent to the recipient.

23 And then the second -- or the third -- excuse me -- the
24 third spot there is called "receiver" or recipient of the
25 money. And a person's name is written in this form as a

1 receiver -- potential receiver of certain monies.

2 Q. Where were Exhibits No. 1 and No. 2, or at least the
3 originals, of which these were copied, found?

4 A. It's my understanding that these two MoneyGram form
5 receipts were located in Mr. Matanov's -- in his apartment, in
6 his bedroom, located inside his bedroom closet inside a
7 luggage -- a piece of luggage. And that was pursuant to a
8 search of Mr. Matanov's apartment. And that was a consent
9 search given by Mr. Matanov.

10 Q. You mentioned before that Mr. Matanov has a -- has or had
11 a roommate. Did Mr. Matanov and the roommate share a bedroom
12 or did they have separate bedrooms?

13 A. It's my understanding they had separate bedrooms.

14 MR. GARLAND: Your Honor, I move to admit Exhibits 1
15 and 2 into evidence.

16 MR. HAYDEN: No objection.

17 THE COURT: All right. Government Exhibits 1 and 2
18 will be made part of the record for the purpose of this
19 hearing.

20 (Government Exhibit Nos. 1 and 2 received into
21 evidence.)

22 BY MR. GARLAND:

23 Q. Did the FBI obtain any records from MoneyGram to see
24 whether Mr. Matanov had actually sent any funds overseas?

25 A. Yes, we did.

1 Q. What was the process by which they did that?

2 A. The process by which that occurred was subpoena requests
3 were sent out for records through MoneyGram and any other
4 money-remitting agency similar to Western Union, Green Dot and
5 the like, for any transactions relative to Mr. Matanov. When
6 those records were received by the government, an additional
7 request went out for information pertaining to the recipients
8 of the monies that were sent by Mr. Matanov outside of the
9 United States.

10 Q. And did MoneyGram respond with any records that fit those
11 requests?

12 A. Yes, they did.

13 Q. When they obtained records from MoneyGram showing that
14 other people had sent information -- money to people who had
15 already received information --

16 THE COURT: Can we have approximate dates so we can
17 set this in time?

18 MR. GARLAND: Yes.

19 BY MR. GARLAND:

20 Q. Over what dates were the records gathered?

21 A. Sure. They were between the years 2010 and 2013,
22 approximately.

23 THE COURT: Thank you.

24 Q. Did MoneyGram send records that indicated Mr. Matanov had
25 sent money to people overseas?

1 A. Yes, they did.

2 Q. And did they respond with records showing that other
3 people, or at least other names, had been used to send money to
4 those same recipients over the same periods?

5 A. Yes.

6 Q. Did the FBI attempt to determine whether any of the names
7 that had been used to send -- other names that had been used to
8 send money to those recipients were linked to Mr. Matanov
9 himself?

10 A. Yes, we did.

11 Q. How did they do so?

12 A. The investigative team did so through checks of
13 public-source databases, things like the Registry of Motor
14 Vehicles here in the Commonwealth, the U.S. Postal Service to
15 try to verify addressees; the Customs and Border Patrol,
16 crossings, any sort of entry into the United States; and the
17 use of ACCRA and those types of databases to try to identify if
18 the persons listed were actual persons or just aliases.

19 Q. Did they try to crosscheck any of the addresses or
20 telephone numbers or places from which the money had been sent
21 in those other names correlated to addresses, phone numbers,
22 and the like that Mr. Matanov had used?

23 A. Yes, they did.

24 Q. Did they find commonalities?

25 A. Yes, they did.

1 Q. Did they check those other names to see whether those
2 names belonged to people who were real people within the
3 Commonwealth of Massachusetts?

4 A. Yes, they did.

5 Q. What did they find?

6 A. They could not find any sort of reference to the named
7 individuals as being people; it appeared that those -- the
8 names listed were simply aliases, fictitious names.

9 Q. And what sort of commonalities did they find in the
10 biographical details or the contact information among those
11 other names and Mr. Matanov?

12 A. Well, the certain commonalities again were addressees that
13 were listed that were very similar or close to Mr. Matanov's
14 addressees listed here in the local Boston area.

15 THE COURT: Addressees?

16 THE WITNESS: Excuse me. Addressees.

17 And they were listed through -- there were similar
18 telephone numbers as well listed on some of the recipients and
19 addressees that ties back to Mr. Matanov.

20 BY MR. GARLAND:

21 Q. Did anybody at the FBI summarize these records that they
22 had received documenting transactions between Mr. Matanov and
23 people outside the United States as well as money that had been
24 sent to people outside of the United States using aliases that
25 they traced to Mr. Matanov?

1 A. Yes.

2 Q. I'm approaching you with what's previously been marked as
3 Exhibits 3 through 5 and have been provided to the Court and
4 defense counsel.

5 THE COURT: Are you moving to admit 1 through 2?

6 MR. GARLAND: Yes, your Honor. 1 and 2 I ask be
7 admitted.

8 THE COURT: No objection.

9 MR. HAYDEN: No objection.

10 THE COURT: All right. For the record.

11 BY MR. GARLAND:

12 Q. Do you recognize Exhibits 3 through 5?

13 A. Yes, I do.

14 Q. What are they?

15 A. Those are the charts that were put together by forensic
16 accountant Lindsay Zimmerman with the FBI detailing the various
17 MoneyGram transactions conducted by Mr. Matanov between the
18 years 2010 and 2013.

19 Q. If you could refer back to Exhibit No. 1, what is the
20 sender name on the MoneyGram slip that was found on -- on this
21 MoneyGram slip that was found in Mr. Matanov's closet?

22 A. The name listed was Ali Hasan.

23 Q. On Exhibit 3, do you see Ali Hasan listed as a sender?

24 A. Yes.

25 Q. What's the name that's listed on Exhibit No. 1 as the

1 receiver of those funds?

2 A. Forgive me for the pronunciation. The first name is
3 Kamoliodin; the last name is Nitazaliev.

4 Q. And on Exhibit No. 2 is the name of the receiver Normatov
5 Mukhammadali?

6 A. Yes.

7 Q. And do you see those last two names that we discussed, the
8 Nitazaliev and the Mukhammadali names, showing up in the record
9 summarized by the forensic accountant in Exhibit 3?

10 A. Yes.

11 MR. GARLAND: Your Honor, I move to admit Exhibits 3
12 through 5 as evidence in this proceedings.

13 MR. HAYDEN: No objection, your Honor.

14 THE COURT: All right. Government's Exhibits 3
15 through 5 are made part of the record for purposes of this
16 hearing.

17 (Exhibit Nos. 3, 4 and 5 received into evidence.)

18 BY MR. GARLAND:

19 Q. If you could turn now to Exhibit No. 3. What period of
20 time does this exhibit summarize records for MoneyGram?

21 A. This summarizes records from MoneyGram between 2010 and
22 2013.

23 Q. Looking at the first column, does it say at the top
24 "Sender Name, Recipient Location, Recipient Name"?

25 A. Yes, it does.

1 Q. And can you explain for the Court how this is organized in
2 Column 1?

3 A. Yes. In Column 1, again, it's listed as the sender name.
4 The first person would be the sender of the transaction -- the
5 MoneyGram transaction. The recipient location is where the
6 money was sent to. And then the third section is "recipient
7 name," so whoever received -- the name of the person who
8 received the transaction.

9 And going over to the right, the next column is the value,
10 or the amount of the transaction. And then the last column is
11 the number of occurrences, which list transactions that went to
12 individual recipients.

13 Q. So going back to Column No. 1, each of the names that were
14 traced to Mr. Matanov are, if I'm correct, in bold and in all
15 capital letters?

16 A. That's correct.

17 Q. And below that, the names that are not in boldface, those
18 are the recipients as well?

19 A. That's correct.

20 Q. And does it also list the countries to which the funds had
21 been transferred?

22 A. That is correct.

23 Q. How many total transactions were made either in
24 Mr. Matanov's name or in aliases traced to him?

25 A. 114 transactions.

1 Q. Where is that listed on this spreadsheet?

2 A. That is listed at the -- near the bottom on Column 3 where
3 it says "grand total." The grand total starts on the left, the
4 grand total sum of transactions, the money figure, is
5 \$71,385.91, and the number of occurrences is 114 transactions.

6 Q. How much was sent in Mr. Matanov's own name?

7 A. In his own name -- well, the total received by identified
8 family members, is that the request?

9 Q. In fact, we'll get to that in a little bit when we get to,
10 I believe, Exhibit No. 5. Let me ask you this: Did the FBI
11 try to identify through this list whether any of these
12 recipients were members of Mr. Matanov's own family?

13 A. Yes, they did.

14 Q. And how did they do that?

15 A. They did that by looking at the names, doing some research
16 and analysis on the names to try to identify if they're family
17 members or not of Mr. Matanov.

18 Q. Is there a -- an entry or several entries here to somebody
19 with the name of Mataeva?

20 A. Yes, there is.

21 Q. I can see from -- has that been identified or indicated on
22 this spreadsheet as a member of Mr. Matanov's family, or a
23 probable member of his family?

24 A. Yes, it is.

25 Q. And why does the Mataeva surname correspond to a family

1 name of Mr. Matanov?

2 A. It is my understanding that "Mataeva" is the feminine for
3 "Matanov" in Russian.

4 Q. Since we are talking about a number of recipients and how
5 many recipients, if you could turn to Exhibit No. 5, please.

6 What do the shaded rows on this spreadsheet indicate in
7 the top portion?

8 A. The shaded rows represent family members of Mr. Matanov.

9 Q. And does Exhibit No. 5 essentially present the same
10 information as is on Exhibit No. 3 but summarized in grosser
11 detail?

12 A. That's my understanding, yes.

13 Q. If we can come back to Exhibit No. 5 -- actually, let's
14 stick with Exhibit No. 5 for a second.

15 On this spreadsheet, does it indicate the number of --
16 money that went to identified family members?

17 A. Yes, it does.

18 Q. How much and how many transactions?

19 A. The total of identified family members -- or total number
20 of transactions was 93, and the amount of money that was
21 transferred was \$56,590.41.

22 Q. And how much money was found to be going to non-familiar
23 associates of Mr. Matanov?

24 A. It was \$14,795.50 over the course of 21 transactions.

25 Q. In total, how many recipients of funds are there on this?

1 A. There are 15 different recipients on this chart.

2 Q. What does the second block of spreadsheet entries on
3 Exhibit No. 5 represent?

4 A. The second block represents the various countries where
5 money was sent by Mr. Matanov to.

6 Q. How many different countries did the money go to,
7 excluding the United States?

8 A. Excluding the United States, it went to six different
9 countries.

10 Q. If you would turn back to Exhibit No. 3. Do you see a row
11 that starts out "Date Range - Potential False Names
12 Transactions"?

13 A. Yes.

14 Q. What does the information in that row and below that row
15 summarize?

16 A. What it summarizes is the various date ranges between the
17 time in which aliases were used to send monies overseas
18 between, again -- starting at around September 2011 through
19 April 2013.

20 Q. What does the first set of transactions represent, over
21 what date range and how many occurrences?

22 A. The first date range is between September 22, 2011, and
23 November 13, 2011. The amount was \$2,495, and there were three
24 occurrences or transactions.

25 Q. What was the next transaction done in a false name after

1 that November 13, 2011, transaction?

2 A. That was July 7, 2012, for \$890.

3 Q. So there are no transactions between November of 2011 and
4 July of 2012?

5 A. That's correct.

6 Q. And when's the next transaction done in a false name after
7 July 7, 2012?

8 A. The next transaction was September 4, 2012.

9 Q. And how many -- and what's the next -- what's the range of
10 transactions starting then?

11 A. The range is between September 4, 2012, through January
12 23, 2013, for a total of \$12,098, which was transmitted over 15
13 different transactions.

14 Q. So you just testified there is essentially a gap between
15 November of 2011 and July of 2012 in transactions done in a
16 false name. Was there a significant event related to the
17 marathon bombings or the suspected bombers that occurred during
18 that period?

19 A. Yes.

20 Q. What was that?

21 A. Tamerlan Tsarnaev traveled to the country of Dagestan
22 beginning in January 2012 through July of 2012.

23 Q. Were there any transfers by Mr. Matanov in his name or in
24 false names, aliases, that were traced to him in April of 2013?

25 A. Yes, there were.

1 Q. When were those and how many transactions?

2 A. The date range for those transactions were April 2nd,
3 2013, through April 18, 2013, for a total of \$2,910 over four
4 transactions.

5 Q. Did Mr. Matanov ever tell federal investigators how many
6 languages he speaks?

7 A. It's my understanding, yes, he did.

8 Q. And how many?

9 A. Seven.

10 MR. GARLAND: Your Honor, may I take a moment to
11 confer with counsel?

12 THE COURT: You may.

13 (Counsel confer.)

14 MR. GARLAND: No further questions at this time, your
15 Honor.

16 THE COURT: Cross-examination, Mr. Hayden?

17 CROSS-EXAMINATION

18 BY MR. HAYDEN:

19 Q. You're familiar with the affidavit that was submitted with
20 the indictment?

21 A. Yes, I am.

22 Q. On Thursday, April 18th, at about 5:15 p.m., the FBI put
23 up the Tsarnaev brothers' photographs on their website?

24 A. Yes.

25 Q. At that time when they put the photographs up, did the FBI

1 have the name for those two brothers as being "Tsarnaev"?

2 A. Not that I'm aware of.

3 Q. And they didn't have their addresses?

4 A. Not that I'm aware of, no.

5 Q. Or their phone numbers?

6 A. No.

7 Q. On Friday, the 19th, at about 2 a.m. the FBI put more
8 photographs on their website?

9 A. Yes.

10 Q. Did they have the name of the Tsarnaev brothers at that
11 time?

12 A. I'm not sure.

13 Q. And so you're not sure whether or not they had their
14 addresses?

15 A. I'm not sure. I doubt that. But, again, I'm not sure.

16 Q. Fair enough. And the same thing with the phone numbers?

17 A. Correct.

18 Q. At about eight o'clock in the morning on Friday, the 19th,
19 Mr. Matanov goes to the Braintree Police Station, agreed?

20 A. I believe so. I'd have to look at the document that
21 you're referring to. If you have a copy of the indictment?

22 Q. Sure.

23 THE COURT: You may approach the witness, Mr. Hayden.

24 MR. HAYDEN: Thank you, your Honor. I should have
25 asked.

1 BY MR. HAYDEN:

2 Q. Take your time and take a look at it.

3 (Pause.)

4 A. So on Friday the 19th, right?

5 Q. Correct. Matanov goes to the Braintree Police Station?

6 A. He does. I don't know the time. I don't see a time here
7 listed. Is there a time listed?

8 Q. Well, don't worry. It was Friday morning, agreed?

9 A. Agreed.

10 Q. Okay. And he spoke with a Detective Heslam.

11 A. Again, I don't --

12 Q. Okay. I'll show you the transcript.

13 MR. HAYDEN: May I approach, your Honor?

14 THE COURT: You may, and you need not ask again.

15 THE WITNESS: Thank you.

16 BY MR. HAYDEN:

17 Q. You're looking at the transcript of the detective's
18 interview with Mr. Matanov, agreed?

19 A. Yes.

20 Q. And the detective in Braintree, that was his name,
21 Detective Heslam?

22 THE COURT: Can we have a spelling, please?

23 THE WITNESS: Yes, your Honor. It says Matt Heslam,
24 M-A-T-T, last name H-E-S-L-A-M.

25 THE COURT: Thank you.

1 BY MR. HAYDEN:

2 Q. Now, when Mr. Matanov showed up at the Braintree Police
3 Station, he gave his contact information to Detective Heslam?

4 A. I'll take your word for it, sure.

5 Q. Okay. And at that time he told Detective Heslam the name
6 of the bombers?

7 A. Again, I haven't read this. This is the first time I'm
8 seeing this document, but I'll agree to that for sure.

9 Q. Okay. And he gave the Tsarnaevs' phone numbers to
10 Detective Heslam?

11 A. Let me -- yes, it looks like he gave at least -- yeah, one
12 number, an 857 number. Yes, it looks that way. Yes.

13 Q. And Matanov gave the detective the Tsarnaevs' address?

14 A. Do you know where in this transcript it is, Counselor?

15 Q. I probably highlighted it but --

16 A. Okay.

17 THE COURT: Do you want to direct his attention?

18 MR. HAYDEN: Do you know what? I don't have to -- I
19 can withdraw that question just to...

20 BY MR. HAYDEN:

21 Q. But in any event, this interview occurred on Friday
22 morning?

23 A. Yes. April 19, 2013.

24 Q. Approximately twelve hours before Dzhokhar was taken into
25 custody?

1 A. Yes.

2 Q. At the end of the interview Detective Heslam says to
3 another Braintree police officer, "I got to call the FBI right
4 now." And that's on page 18, Bates No. 18.

5 A. Okay. Yes, I see that.

6 Q. You'll agree that's what Detective Heslam said?

7 A. Yes.

8 Q. And there's no indication in the transcript -- I mean,
9 that wasn't recorded, but is it safe to assume Heslam called
10 the FBI Friday morning?

11 A. That's a safe assumption, yes.

12 Q. And, again, there is no record of this, but it's a safe
13 assumption that Detective Heslam must have emphasized the
14 importance of the information he had?

15 A. Yes.

16 Q. And you'd agree with me that the FBI didn't interview
17 Matanov until Saturday afternoon?

18 A. Again, I'm not sure of when that took place, Counselor,
19 but soon after. Soon after.

20 Q. Well, but the first interview with Matanov was Saturday
21 afternoon.

22 A. Okay.

23 THE COURT: He just testified he doesn't know.

24 MR. HAYDEN: Oh, doesn't know.

25 THE WITNESS: I've not seen -- do you have a 302 of

1 that or --

2 BY MR. HAYDEN:

3 Q. I do.

4 A. Okay.

5 THE COURT: No federal tort claims, please.

6 (Laughter.)

7 BY MR. HAYDEN:

8 Q. Actually, I'm showing you Bates No. 66. If you would look
9 at the first page just to familiarize yourself with it.

10 A. This -- okay. This says the interview was on May 3rd.

11 Q. No, I think -- if you look at page 66 --

12 A. Okay. I'm at Bates page 66.

13 Q. At the very bottom I underlined it.

14 A. Yes.

15 Q. "I interviewed Matanov on Saturday, the 20th"?

16 A. Yes, it says he, Mr. Matanov, was accompanied to the
17 Braintree Police Department, that's on the 19th, and then the
18 FBI contacted Matanov the next day. That's what it says in
19 this.

20 Q. Okay. And when you're saying "May 3rd," I mean, that's
21 the date the report was written or something, right?

22 A. Right. Right. Right.

23 Q. So could we agree the FBI didn't interview Matanov until
24 at least 24 hours after he went to the Braintree police?

25 A. Yes.

1 Q. And in the affidavit for the indictment it says that
2 Matanov told Detective Heslam that he had not seen the Tsarnaev
3 photographs the previous night. And that's on Paragraph 30 in
4 the affidavit for the indictment.

5 A. The indictment itself? You're referring to the
6 indictment?

7 Q. The affidavit. Paragraph 30.

8 A. Paragraph 30.

9 THE COURT: What are you -- are you referring to the
10 actual indictment?

11 MR. HAYDEN: Well, the affidavit that accompanied it,
12 your Honor.

13 THE COURT: Was there an affidavit?

14 MR. GARLAND: Your Honor, no, it's a speaking
15 indictment, so...

16 THE COURT: Exactly. Exactly.

17 BY MR. HAYDEN:

18 Q. All right. Paragraph 30.

19 A. Paragraph 30 of the indictment, the document that you
20 handed me, Paragraph 30?

21 Q. Right.

22 A. At the bottom of page 7? Okay.

23 Q. And that alleges that one of the things that Matanov
24 misled the detective was by saying that he had not seen the
25 Tsarnaev photographs the previous night?

1 A. Correct.

2 Q. But you'd agree with me that Matanov did say that he had
3 heard on the radio that morning that it was the Tsarnaevs?

4 A. Where is that?

5 Q. That's on the transcript, page 3.

6 A. Back to the transcript?

7 Q. Right. Page 3.

8 A. Page 3? Bates stamp 9, right?

9 Q. Pardon me? It's not the Bates stamp. It's just page 3 of
10 that transcript.

11 A. Okay. And you underlined it, I believe, Counselor, right,
12 I think?

13 Q. All right. Just to help you out.

14 A. Would you like me to read it?

15 Q. Well, I mean, he did say that he heard it and that's why
16 he ended up at the Braintree Police Station.

17 THE COURT: Well, if you want him to read from a
18 specific section, point it out to him.

19 BY MR. HAYDEN:

20 Q. Well, do you agree with me?

21 A. I'll read it as it's transcribed here, and it's according
22 to Mr. Matanov. It says, "So, then, like, I heard today in the
23 morning that, like, it was him and, actually, I didn't see that
24 it was theirs, the photos' last name. I didn't see them. And
25 then they -- they said, like, he got shot and he's dead. And,

1 like, I can't imagine that he did it, that kind of stuff. And
2 if anything I can help, like, to do, like I -- I am open to
3 that."

4 MR. GARLAND: Your Honor, the government has no
5 objection to the agent reading the transcript. We would
6 suggest, however, it should be an exhibit since so much
7 information is coming out.

8 THE COURT: I'm going to suggest that, Mr. Garland.

9 MR. HAYDEN: I certainly would request it be admitted.

10 THE COURT: All right. It will be admitted as
11 Defendant's Exhibit 1 for the purpose of this hearing.

12 (Defendant's Exhibit No. 1 received into evidence.)

13 BY MR. HAYDEN:

14 Q. Another basis for the indictment is that Matanov did not
15 say that he was a friend of Tamerlan Tsarnaev, agreed?

16 A. I don't know, you know, the basis for --

17 Q. Well, look at Paragraph 31 in the indictment.

18 A. Paragraph 31? Okay.

19 Q. Okay. You agree?

20 THE COURT: Are you asking him whether it's a basis
21 for the indictment?

22 BY MR. HAYDEN:

23 Q. That is what's written in Paragraph 31 of that indictment.

24 THE COURT: That calls for a legal conclusion, so I'd
25 ask you to rephrase the question.

1 BY MR. HAYDEN:

2 Q. In Paragraph 31 it says that "Matanov did not admit that
3 he was friends with Tamerlan," agreed?

4 A. What Paragraph 31 says is -- is it all right for me to
5 read this?

6 THE COURT: You may --

7 MR. HAYDEN: Sure, sure.

8 THE WITNESS: It says -- according to this Paragraph
9 31 on page 8 of the indictment handed to me, it said, "Matanov
10 also told the detective that he mostly knew the Tsarnaevs
11 through a common place of worship and through playing soccer,
12 which Matanov intended to be false, misleading and to conceal
13 the fact that Matanov was Tamerlan Tsarnaev's friend and had
14 seen him twice that week on occasions unconnected with soccer
15 or worship."

16 BY MR. HAYDEN:

17 Q. Okay. Now, in the transcript of the interview with
18 Detective Heslam, Matanov does say that Tamerlan gave him
19 boxing lessons, page -- Bates 14.

20 A. Again --

21 Q. You'd agree that he did say during that interview that
22 Tamerlan gave him boxing lessons?

23 A. Played soccer and boxed a little bit, trained, yes.

24 Q. And that they went to a Golden Gloves boxing match in
25 Lowell.

1 A. Yes, that's what he said.

2 Q. And you'd agree with me that Detective Heslam never asked
3 Matanov what his relationship was with Tamerlan? And
4 calling your attention -- now, look at page 2 of that --

5 A. Can I answer that?

6 Q. -- transcript.

7 Go ahead.

8 A. This is the first time I've seen this, so I have not read
9 this entire document, so I don't know exactly if he asked that
10 question or not, Counselor, about what his relationship with...

11 Q. Look at page 2. Just the second page, not a Bates number.
12 Just page 2.

13 A. Okay.

14 Q. Detective Heslam says, "He's the older brother, right?"
15 You get where I am?

16 A. Yes.

17 Q. And then Matanov says, "Yeah." And then Heslam says,
18 "Okay." And then Matanov continues with the relationship that
19 he has with Tamerlan, agreed?

20 A. Agreed.

21 Q. All right. And then he gets cut off.

22 A. Okay.

23 Q. And Heslam doesn't go back to his relationship with
24 Tamerlan, does he?

25 A. Well, again, right here on this page I don't see it, but I

1 have not read the entire document. So if you would like me to
2 sit and try and read the whole --

3 Q. Well, I don't want to waste the Court's time now, but it's
4 being admitted as an exhibit so it doesn't need to do that.

5 Okay. On the first FBI interview on Saturday --

6 A. Is this from the document?

7 Q. This is on -- well, I'm sorry. No. On the -- I'm sorry.
8 Bates 22.

9 A. Bates 22 on which document?

10 Q. Whatever Bates 22 is.

11 A. It's not on the transcript. Bates 22? I don't see a page
12 22 here, Counselor.

13 Q. I'll get it for you. That was my fault. I thought I had
14 given it to you before.

15 A. Okay. No problem.

16 Q. Tell us what this is and then we'll go from there.

17 A. This is a 302, which is a report, FBI report, dated April
18 20, 2013. And it was an interview of Mr. Matanov.

19 Q. The first interview?

20 A. Again, I didn't participate in the interviews of him at
21 all, so I'll take your word for it, that this was the first
22 one. But I don't know that for sure. I've not been involved
23 in this.

24 Q. Okay. Look at Bates 22.

25 A. Okay.

1 Q. Matanov did tell the FBI that time that he saw Tamerlan
2 often?

3 A. Yes.

4 Q. And on Bates 24, he called Tamerlan often?

5 A. Yes.

6 Q. And Tamerlan at one time drove him to get his driver's
7 license?

8 A. I'm not seeing that part. I'm sure it's here. Could you
9 point me to it?

10 Q. 24.

11 A. Page 24. About the license?

12 Q. Right.

13 A. Yes, I see that. Yes.

14 Q. Okay. And that he also told the FBI that he -- Matanov
15 would often invite Tamerlan to go to the Man-O-Salwa
16 restaurant?

17 A. Yes.

18 Q. He admits to going to Tamerlan's house?

19 A. Yes.

20 Q. He admits that he met Tamerlan's parents?

21 A. Yes.

22 Q. And that he Skyped with Tamerlan when Tamerlan was in
23 Russia?

24 A. Is that on 24 as well, the Skyping?

25 Q. 26. I'm sorry.

1 A. 26? Yes, the top of the page.

2 Q. Do you have Bates 36 there? I should just --

3 A. No, I do not.

4 Q. I should just give you everything.

5 THE COURT: And the government has a copy, I take it,
6 in front of them?

7 MR. GARLAND: Yes, your Honor.

8 THE COURT: It might help me to have a copy.

9 THE WITNESS: Yes. This is another 302.

10 BY MR. HAYDEN:

11 Q. And that's from the next interview on April 24th?

12 A. Okay. It's dated April 24th, 2013.

13 Q. And that's the first time that Matanov finally uses the
14 word "friendship," on Bates 36?

15 A. Okay. I don't know that for sure. I have not read --

16 Q. That's okay. Just look at Bates 36.

17 A. But you're making the claim that it's the very first time.
18 I haven't read all of these 302s.

19 Q. Oh, I see what you're saying. All right. So he may have
20 said "friend" even earlier than that?

21 A. I'm not sure.

22 Q. All right.

23 A. So on Bates 36?

24 Q. Right.

25 A. Yes.

1 Q. Okay.

2 A. He qualifies his relationship as a friendship --

3 Q. Okay.

4 A. -- with Tamerlan.

5 Q. Right. Now, go back to the indictment, Paragraph 32.

6 A. Okay.

7 Q. And he -- Matanov told Detective Heslam that he didn't
8 know whether Tamerlan lived with his wife and daughter?

9 A. Okay. It says here that he told a detective -- or the
10 detective. I don't know if that's the same detective he's
11 referring -- if it's Heslam, the same one you're referring to.

12 Q. Okay.

13 A. He said that he knew Tamerlan Tsarnaev had a wife and
14 daughter but claimed he did not know whether they lived with
15 Tamerlan.

16 Q. All right. Now, going back to the transcript, Bates No.
17 12.

18 A. Bates No. 12? Okay.

19 Q. But he does tell the detective that he's not sure where
20 the daughter and wife lived right now.

21 A. That's correct. That's what he said.

22 Q. And this is after Tamerlan had already been killed?

23 A. That's correct.

24 Q. And on April 24th -- going back to that April 24th
25 interview -- it's Number 34 again.

1 A. April 24th. Bates-stamped 34?

2 Q. Right.

3 A. Okay.

4 Q. He does tell the FBI that he saw the wife and daughter in
5 Tamerlan's residence.

6 A. It says, "Matanov never saw anyone in Tamerlan's home
7 other than Tamerlan, his wife and their daughter."

8 Q. Okay. All right. Fair enough.

9 A. And Dzhokhar.

10 Q. Okay. Now, on April 24th, that was the day that Matanov
11 consented to a search of his car.

12 A. Again, I don't have documentation --

13 Q. 33. Page 33.

14 A. 33 of?

15 Q. Bates. Bates.

16 A. Bates stamp 33?

17 Q. Yeah.

18 A. I've got 29 -- I don't think I have 33.

19 Q. I thought I gave you everything.

20 A. I have one that begins at 34 and one that begins -- 22
21 through 29, and then I have one that begins at 34 and concludes
22 at 45.

23 Q. I thought I gave you 33.

24 A. This is another FD-302 dated 4/24 -- it's dated 4/27, but
25 on the 24th -- it's a consent search of Mr. Matanov's vehicle.

1 Q. And he also consented to a search of his residence?

2 A. Yes, he did.

3 Q. And his cell phones?

4 A. Yes.

5 Q. And his electronic equipment?

6 A. Yes.

7 Q. And as far as you know, that's the first time the FBI
8 asked him to consent to any searches.

9 A. As far as I know, yes.

10 Q. All right. And, I mean, that must have saved the FBI some
11 time in not having to get a search warrant.

12 A. Sure. Yes.

13 Q. Now, on Friday of that week it's alleged that Mr. Matanov
14 deleted information from his computer.

15 THE COURT: The date, for the record?

16 MR. HAYDEN: On Friday, the 19th.

17 THE WITNESS: Okay. Are you referring to a particular
18 document?

19 BY MR. HAYDEN:

20 Q. Well, do you agree with me or do you need to check it out?

21 A. Well, I just would like to see the date.

22 Q. Paragraph No. 40 of the indictment.

23 A. Okay.

24 Q. And that computer was seized on Saturday.

25 A. Again, I don't -- here it said on the 24th. The document

1 you're showing me, Exhibit 33 --

2 Q. Oh, I'm sorry. I made a mistake. It was the 24th, which
3 was a Wednesday, I believe?

4 A. I'll take your word for it.

5 Q. Okay. But in any event, the FBI was able to recover the
6 deleted files from that computer.

7 A. Again, I'm not an expert in the computer -- downloading of
8 information or anything like that. I'm not trained in that. I
9 don't know what they were able to recover and what they
10 weren't.

11 Q. Well, look at page 9 of that indictment, Paragraph 40.

12 A. Okay.

13 Q. And it indicates that he deleted videos posted by the FBI.

14 A. Okay.

15 Q. Agreed?

16 A. Yes.

17 Q. All right. And he deleted photos of the Tsarnaev brothers
18 that had been posted by the FBI.

19 A. Yes.

20 Q. And he deleted a photograph of Officer Sean Collier that
21 had been posted by the FBI.

22 A. That's what the indictment states, yes.

23 Q. Okay. And it also says on Paragraph 42 that he deleted
24 violent videos.

25 A. Yes, that's what it says.

1 Q. And you don't know what those videos depicted?

2 A. I do not. I've never viewed any of those.

3 Q. And you have no idea whether or not those videos may have
4 shown the Tsarnaev brothers.

5 A. I don't know what was on those videos.

6 Q. Or Matanov.

7 A. Correct.

8 Q. Now, on the -- he admitted going to Tamerlan's house on
9 Wednesday.

10 A. Where are you referring to, Counselor?

11 Q. It was the April 20th interview. I don't even have a
12 Bates number for it, so...

13 A. Okay. The April 20th interview. Okay.

14 Q. He admitted going to Tamerlan's house.

15 A. Where -- where in -- you don't have a Bates stamp for it?

16 Q. No, I don't.

17 Well, let me put it this way: I mean, you'd agree -- you
18 know something about this case.

19 A. Sure.

20 Q. At some point he admitted going to Tamerlan's house.

21 A. Yes, that's what I heard.

22 Q. Okay. I mean, he didn't withhold that information.

23 A. No.

24 Q. And during that week after the bombing, subsequent to
25 Monday --

1 A. Okay.

2 Q. -- Matanov made some comments to his roommate concerning
3 the bombings.

4 A. That's my understanding, yes.

5 Q. But he made those to the roommate, not to the FBI.

6 Agreed?

7 A. Agreed.

8 Q. Okay. Not to any law enforcement.

9 A. Not that I'm aware of.

10 Q. Do you know, when did the FBI speak to the roommate?

11 A. I don't know.

12 Q. And on April 19th, the Friday, in Paragraph 23 of the
13 indictment --

14 A. Okay.

15 Q. -- it's alleged that Matanov told the roommate that he did
16 not know whether Tamerlan had any extremist views.

17 MR. GARLAND: Objection, your Honor. Just for
18 clarification, it states, I believe, that he told Witness 1
19 that he did not know whether he had any extremist views.

20 THE COURT: All right.

21 BY MR. HAYDEN:

22 Q. All right. We'll say -- instead of "roommate," "Witness
23 1" --

24 A. Okay.

25 Q. -- all right?

1 A. That's what it states, yes.

2 Q. Again, he was talking to Witness 1.

3 A. Correct.

4 Q. He wasn't talking to the FBI.

5 A. No.

6 Q. On the 19th he was in his cab with someone identified as
7 Witness 2.

8 A. Yes.

9 Q. All right. And this is Paragraph 24.

10 A. Okay.

11 Q. And he told Witness 2 that it had been a while since he
12 was at Tamerlan's apartment.

13 A. Right. Well, it says "at that address," whatever that
14 address was.

15 Q. Okay.

16 A. Right.

17 Q. Okay. But the whole thing's referring to Tamerlan's
18 apartment, so...

19 But again, he was talking to Witness 2.

20 A. Correct.

21 Q. He wasn't talking to the FBI.

22 A. That's correct.

23 Q. And it was during that cab ride when they heard something
24 on the radio that he told Witness 2 that he recognized the
25 apartment as belonging to a friend.

1 A. Correct.

2 Q. I want to talk about the cell phones. I mean, are you
3 aware of there's sort of a scam where cell phones are shipped
4 to other countries?

5 A. Not personally, no.

6 Q. Okay. But you'd agree with me that it would be a
7 lucrative business to send cell phones from this country to
8 other countries?

9 A. Potentially, yes.

10 Q. All right. I mean, if cell phones are stolen here, that's
11 illegal.

12 A. Sure.

13 Q. And it's a crime.

14 A. I would imagine so, yes.

15 Q. Even if it has nothing to do with terrorism.

16 A. Correct.

17 Q. On April 19th Matanov asked Witness 3 to take some cell
18 phones from him. That's Paragraph 25.

19 A. Yes.

20 Q. Matanov never said that the phones had anything to do with
21 the Tsarnaevs.

22 A. No.

23 Q. Or with terrorism.

24 A. No.

25 Q. Or with the marathon bombings.

1 A. No. What he said is that -- "Matanov said they were
2 illegal and they might be found if the FBI searched his
3 apartment."

4 Q. And -- because he knew the FBI was coming by Friday.

5 A. Sure.

6 Q. Because Heslam had told him that.

7 A. Right. But it said, "The witness refused to take
8 Matanov's cell phones."

9 Q. Okay. But what I'm saying is what Matanov did, he tried
10 to get the witness to take it.

11 A. Right.

12 Q. Because he knew the FBI was coming.

13 A. Correct.

14 Q. And on April 24th he told the FBI that he ships the phones
15 to his family overseas.

16 A. Where --

17 Q. And that is on Bates 42.

18 A. Bates 42? Yes, that's what it said. That's what that
19 document said.

20 Q. Okay. On April 19th, around noon, he asked Witness 1 to
21 keep one or two of his cell phones.

22 A. What paragraph are you referring to?

23 Q. 37.

24 A. 37? Yes, that's what it...

25 Q. And again, you don't know if there's anything on those

1 cell phones related to the bombings.

2 A. I do not.

3 Q. When he met with the FBI on April 20th, that Saturday, he
4 didn't have a lawyer with him.

5 A. Is there a 302 on that that you're referring to?

6 Q. Well, I have Paragraph 24. I don't have the 302. I don't
7 know, but...

8 A. Paragraph 24? Do you have a Bates -- a Bates for me?

9 Q. No, I don't. I'm sorry. It's the Saturday interview.

10 THE COURT: All right. Give the witness a moment to
11 look through the documents.

12 (Pause.)

13 THE WITNESS: Do you have one in your hands that maybe
14 we could take a look at to --

15 BY MR. HAYDEN:

16 Q. No, it's not that important. I'll withdraw the question.
17 It's not that important whether or not he had a lawyer.

18 He -- on that day, that April 20th interview, he admitted
19 that he called Tamerlan shortly after the bombings.

20 A. Yes.

21 Q. Okay. And this was before his phone was ever seized.

22 A. Correct.

23 Q. Before it was analyzed.

24 A. Correct.

25 Q. And you'd agree with me this is information that the FBI

1 would have had sooner if they interviewed him on Friday.

2 A. Potentially.

3 Q. On that April 20th interview he told you that he was at a
4 restaurant with the Tsarnaevs on Monday night.

5 A. Do you have a reference to that particular statement?

6 Q. Oh, Paragraph -- page 11, Paragraph B.

7 A. Page 11. This is from the 20th?

8 Q. That is from the --

9 A. There's only six pages.

10 Q. No, the indictment.

11 A. Oh, the indictment?

12 Q. Yeah.

13 A. Okay. What paragraph?

14 Q. Page 11, Paragraph B.

15 A. Okay.

16 Q. And he told the FBI that he had -- he was at the
17 restaurant with the Tsarnaev brothers Monday night.

18 A. Yes.

19 Q. And --

20 A. He said that the brothers had walked in.

21 Q. I'm sorry?

22 A. He said that the brothers had walked in to the restaurant.

23 Q. All right. I'll get to that in a second.

24 But you'd agree with me that if you had interviewed him on
25 Friday, you would have had that information 24 hours earlier?

1 A. Potentially, if he said those things when he was
2 interviewed initially, yes.

3 Q. And that's the interview that he didn't say that he drove
4 the Tsarnaevs there.

5 A. No, he said that they walked in to the restaurant.

6 Q. Now, the affidavit said -- I'm sorry, not the
7 affidavit -- the indictment said that they discussed the
8 bombings at the restaurant.

9 A. What paragraph is this, Counselor?

10 Q. I think this is the last time I'm going to have to give
11 you something.

12 (Pause.)

13 BY MR. HAYDEN:

14 Q. Count 2.

15 A. Okay. Count 2.

16 Okay. This is the counts listed in the indictment, Count
17 1 and Count 2.

18 Q. And it says that they discussed the bombings at the
19 restaurant.

20 A. At the bottom of that page, which is page 16, it says,
21 "Drove the Tsarnaevs on the way to and from the restaurant and
22 discussed the bombings with the Tsarnaevs while at the
23 restaurant."

24 Q. You'd agree with me that everyone in Massachusetts was
25 discussing the bombings that night.

1 A. Yes.

2 Q. All right. And there's nothing that would indicate that
3 Matanov knew that those two were the bombers on Monday night?

4 A. There's nothing that says that, no.

5 Q. On May 3rd -- he was interviewed May 3rd.

6 Page -- Paragraph 46B.

7 A. May 3rd? Okay. What's the Bates stamp?

8 Q. No, this is the indictment.

9 A. Oh.

10 Q. Page 12, Paragraph 46B.

11 A. 46B? Okay.

12 Q. In that May 3rd interview he said that he thought that the
13 Tsarnaevs were involved after hearing a police officer at the
14 Quincy Adams T stop say that it was Chechnyan brothers who did
15 it.

16 A. That's what it says here in the indictment, yes.

17 Q. And that he overheard this -- supposedly overheard this at
18 the T stop on Friday morning, the 19th.

19 A. That's what it says, yes.

20 Q. But you think he saw the Tsarnaev photographs on the
21 website.

22 A. Yes.

23 Q. But in any event, he goes to the Braintree Police Station
24 within hours.

25 A. Correct.

1 Q. During the interview on July 8th he said that he had not
2 watched videos on the computer. Page 14, Paragraph 47B.

3 A. Okay.

4 Q. He said that he had not watched videos on the computer,
5 correct?

6 A. That's what it says here, yes.

7 Q. And a forensic analysis showed that he had, in fact,
8 watched videos in January of 2013.

9 A. Correct.

10 Q. Three or four months before the bombings.

11 A. Correct. That's what it says, yes.

12 Q. And you don't know -- you don't have any idea what those
13 videos were?

14 A. No, I do not.

15 Q. Now, he was interviewed April 19th by the Braintree
16 police, right?

17 A. Yes.

18 Q. April 20th by the FBI?

19 A. Yes.

20 Q. April 24th by the FBI?

21 A. Yes.

22 Q. May 3rd by the FBI?

23 A. Yes.

24 Q. May 31st?

25 A. I don't see -- do you have a 302 on that, on the 31st?

1 Q. I believe that's at the -- well, the 31st is July
2 8th [sic] -- would that be the indictment?

3 A. I'm sorry. What part?

4 Q. His last interview was July 8th.

5 A. July 8th of 2000 --

6 Q. '13?

7 A. -- '13?

8 Okay. It lists that date on page 13 of the indictment
9 that there was an interview July 8th with Matanov.

10 Q. And you don't know if he had any other interviews
11 subsequent to that?

12 A. I do not know that.

13 Q. But in any event, we do know that he was interviewed like
14 six times?

15 A. Multiple times, yes.

16 Q. And he wasn't in custody.

17 A. No, he was not.

18 Q. He was living in the apartment in Quincy.

19 A. Correct.

20 Q. When you wanted him to come in for an interview, you'd
21 either call him or call his lawyer.

22 A. Again, I was not party to any of the interviews or any of
23 that process, but it did not appear that he gave any sort of
24 problem with coming in.

25 Q. And he was under surveillance at least part of the summer.

1 A. Certainly.

2 Q. And do you know -- I mean, can you say when that
3 surveillance ended?

4 A. I can't say. I don't know.

5 Q. But the only thing he did wrong was sort of drive
6 recklessly.

7 A. Again, during the surveillance operations, those were the
8 things that were piquing the interest of the people that were
9 involved in the surveillance. They were concerned about that,
10 yes.

11 Q. And once he was told to knock it off, he did?

12 A. That's what it appears to be, yes.

13 Q. Let me just briefly talk about the money and then I'm
14 done.

15 Those records the prosecutor introduced, \$71,385 that he
16 transferred overseas other than the one in the United States.

17 A. Correct.

18 Q. All right. Would you agree that's over a four-year
19 period?

20 A. It says here between 2010 and 2013. So close to it, yes.

21 Q. I mean, without doing the math, it's about \$17,000 a year?

22 A. Okay.

23 Q. And some of those records indicate he was using an alias
24 to send that money?

25 A. That's what it says, yes.

1 Q. And you'd agree with me that there are reasons for using
2 an alias sending money that have nothing to do with terrorism.

3 A. Sure. That's a possibility, yes.

4 Q. And the family members -- his family members received
5 \$56,590 over that four-year period.

6 A. Yes.

7 Q. And the FBI figured out his family members -- anyone with
8 the name "Matanov" that received money, correct?

9 A. Yes.

10 Q. Or "Mataeva."

11 A. Correct.

12 Q. But if he has a relative that just happens to have a
13 different last name, you wouldn't have picked it up?

14 A. Again, that's logical. But, again, I didn't participate
15 in that personally. But, yes, that's a possibility.

16 MR. HAYDEN: I have no other questions.

17 THE COURT: Redirect?

18 MR. GARLAND: Yes, please, your Honor.

19 REDIRECT EXAMINATION

20 BY MR. GARLAND:

21 Q. Special Agent McElroy, Mr. Hayden asked you a lot of
22 questions about what the FBI would have learned if it had
23 interviewed Mr. Matanov on April 19th after talking to
24 Detective Heslam. If you could turn to Paragraph 34 of the
25 indictment. Do you have that still in front of you?

1 A. Yes.

2 Q. Does it say in that paragraph that Mr. -- that any
3 discussion whether Matanov should contact the FBI himself,
4 Matanov said that his information would not assist the FBI in
5 conducting their investigation which he knew, he said, because
6 he had studied law?

7 A. Yes, that's what it says.

8 Q. Having reviewed the indictment before this and throughout
9 this hearing, is Mr. Matanov charged with lying every single
10 time in every single sentence to the FBI and to other
11 investigators?

12 A. No, he is not.

13 Q. Did the grand jury find probable cause to believe that
14 beginning on the morning of April 19th, before he had gone in
15 to the Braintree police, that Mr. Matanov knew or expected that
16 the FBI would come talk to him and want to search through his
17 things?

18 MR. HAYDEN: Objection.

19 THE COURT: Overruled.

20 If you can answer.

21 THE WITNESS: Yes.

22 BY MR. GARLAND:

23 Q. Does the indictment also charge that Mr. Matanov did make
24 various false statements -- that are not necessarily charged
25 but that were alleged -- to Witness 1 and to others, as well as

1 civilians, and to Detective Heslam?

2 A. Yes.

3 Q. And does it allege -- as well did the grand jury find
4 probable cause to believe that during the various times that he
5 was interviewed by the FBI, he told changing stories and
6 various lies to the FBI during those interviews?

7 MR. HAYDEN: Objection, Judge.

8 THE COURT: Overruled.

9 THE WITNESS: Yes.

10 BY MR. GARLAND:

11 Q. And are those set out in the indictment, and more
12 specifically, in Counts 2 through 4?

13 A. Yes, they are.

14 MR. GARLAND: Your Honor, may I take a moment to
15 confer with co-counsel?

16 THE COURT: You may.

17 (Counsel confer.)

18 MR. GARLAND: No further questions.

19 THE COURT: Any recross on that limited area?

20 MR. HAYDEN: No recross, your Honor.

21 THE COURT: You may step down.

22 (The witness is excused.)

23 THE COURT: Further witnesses for the government?

24 MR. GARLAND: No further witnesses.

25 THE COURT: Witnesses for the defendant?

1 MR. HAYDEN: No witnesses.

2 THE COURT: All right. I'll hear argument.

3 MR. GARLAND: Thank you, your Honor.

4 Your Honor, Mr. Matanov poses a serious risk of
5 flight, and no set of conditions will reasonably assure his
6 appearance in court on these charges. He has serious
7 incentives to flee the community: He faces eight years on each
8 of the three false statement charges; he faces 20 years of
9 imprisonment on the obstruction charge; and because of his
10 status, he is likely to be deported after conviction.

11 Nothing significant will tie Mr. Matanov to this
12 community. He's young --

13 THE COURT: He cannot be deported to his home country,
14 is that correct, because of his asylum status?

15 MR. GARLAND: Yes, that is -- yes.

16 He's young. He hasn't been in this country long.
17 He's not a U.S. citizen. He has no family in this country, no
18 evidence of other people who would support him. He has no real
19 property in this district or -- he has no significant personal
20 property. You've heard there's very little money. Even his
21 taxicab is leased. He doesn't have a job at this point. It's
22 unclear whether he can even support himself or afford a place
23 to live.

24 So the only thing that's going to tie him to this
25 community, if he were let out on conditions, would be his

1 promise to appear in court. But that promise would have to be
2 enforced by federal authorities, by pretrial. And the grand
3 jury found probable cause to believe that Mr. Matanov
4 repeatedly deceived federal authorities. And here I refer to
5 the allegations in the indictment. That he laid the groundwork
6 with telling various pieces of misinformation to civilians in
7 the Braintree P.D., and then he told federal authorities lies
8 and changing stories on multiple occasions and for a long
9 period, mid-April through July 8th, about two and a half
10 months, over a variety of topics.

11 The grand jury also found that he hid evidence, or
12 probable cause to believe that he hid evidence from federal
13 authorities, and elicited the help of other people to do so.

14 Now, this pattern of deceit was also buttressed, I'd
15 say, in Exhibits 3 through 5, the financial transactions, which
16 show that Mr. Matanov also conducted a variety of financial
17 transactions in aliases.

18 Now, all of this risk of flight that Mr. Matanov poses
19 might possibly be theoretical except for the fact that we're
20 arguing that it is actual because he has the ability to flee.
21 He has significant ties to outside the country. He has many
22 family members outside the United States. He has friends and
23 associates outside the United States. He maintains those ties
24 by sending money -- significant sums of money over a long
25 period. He sent money to 15 different people. And it went to

1 people in six different countries, not just his home country of
2 Kyrgyzstan, but also Egypt, Uzbekistan, Jordan, Turkey and
3 Greece.

4 Now, having the ability to go to people in those
5 countries is also made easier by the fact that, as you heard
6 testimony about, Mr. Matanov has the ability to speak seven
7 different languages. What this all means is that he has the
8 ability to either tap resources or tap other people in other
9 countries, and he has the ability to function over there
10 because of his wide range of language skills.

11 And if you're likely to be deported after a conviction
12 anyhow, and you have the ability to go overseas, why not do so
13 now and avoid imprisonment?

14 So what you have here is you have Mr. Matanov who
15 would have to promise to show up. You have evidence that he's
16 likely to break that promise. He's deceived federal
17 authorities in the past, who would need to enforce that
18 promise. And he has the ability and gross incentive, serious
19 incentive, to go overseas to avoid trial and imprisonment on
20 these charges.

21 And for those reasons we argue no set of conditions
22 would assure his reasonable appearance before these charges
23 before this Court. We ask you to detain him.

24 THE COURT: Thank you, Mr. Garland.

25 Mr. Hayden?

1 MR. HAYDEN: Judge, at this point I can't object to
2 him being detained. I've tried, but I've not been able to find
3 anyplace for him to go. I mean, if in the unlikely event your
4 Honor were to simply release him right now, there's no place
5 for him to go and, you know, to live around here. And
6 he's not --

7 THE COURT: So shall I enter an order of voluntary
8 detention without prejudice at this time?

9 MR. HAYDEN: Okay. That would be fine. And with your
10 Honor's permission, I would like to argue the strength or
11 weakness of the government's case at that time.

12 THE COURT: At that time should you wish to reopen it.
13 All right. So that will enter.

14 Are you ready to proceed with arraignment?

15 MR. HAYDEN: Yes, your Honor.

16 THE COURT: Have you reviewed the indictment with your
17 client?

18 MR. HAYDEN: Yes, your Honor.

19 THE COURT: And have you explained the nature of it to
20 him?

21 MR. HAYDEN: Yes.

22 THE COURT: And does he understand it?

23 MR. HAYDEN: Yes.

24 THE COURT: And is he prepared to be arraigned here
25 today?

1 MR. HAYDEN: Yes.

2 THE COURT: And may I have the maximum penalties,
3 please?

4 MR. GARLAND: Yes, your Honor. Mr. Matanov faces
5 eight years of imprisonment on each of the false statement
6 charges, a fine of \$250,000, three years of supervised release,
7 and a fine of \$250,000, but also a special assessment of \$100
8 per count. On Count 1, which is 18 U.S.C. 1519, obstruction,
9 he faces 20 years of imprisonment, three years of supervised
10 release, a \$250,000 fine and a \$100 mandatory special
11 assessment.

12 THE COURT: Thank you.

13 Will the defendant please stand.

14 (The defendant stands.)

15 THE CLERK: Mr. Matanov, as to Count 1 of the
16 indictment charged in violation of Title 18, United States
17 Code, Section 1519, charging you with destruction, alteration
18 and falsification of records, documents and tangible objects in
19 a federal investigation, how do you plead, guilty or not
20 guilty?

21 THE DEFENDANT: Not guilty.

22 THE COURT: Please speak up for the record.

23 THE DEFENDANT: Not guilty.

24 THE CLERK: As to Counts 2 through 4 of the indictment
25 charging you with making a materially false, fictitious and

1 fraudulent statement in a federal investigation involving
2 international and domestic terrorism in violation of Title 18,
3 United States Code, Section 1001(a)(2), how do you plead,
4 guilty or not guilty?

5 THE DEFENDANT: Not guilty.

6 THE COURT: All right. You may be seated.

7 How many witnesses does the government intend to call
8 and what's the probable length of trial?

9 MR. GARLAND: Twenty to 30, your Honor. And trial is
10 expected to take two to three weeks.

11 THE COURT: All right. I note that this case is
12 assigned to Judge Young. And he will conduct the initial
13 status conference on July 15th at 2 p.m.

14 Now, Mr. Hayden, for the record, I don't believe you
15 delivered Defendant's Exhibit 1 to the clerk.

16 MR. HAYDEN: Oh, I will do that.

17 THE COURT: And are there any other documents that you
18 referred to that you wish to make part of the record?

19 MR. HAYDEN: No, I don't think that's necessary,
20 Judge.

21 THE COURT: All right.

22 Mr. Hayden, I would like to remind you pursuant to
23 Local Rule 83.2 about the release of information by attorneys.
24 I know that you did have a press conference after the initial
25 appearance and there were several statements made regarding

1 material that was in the pretrial services report. That is not
2 a public document and I remind you of that. And the nature of
3 this type of case, I just remind you to be cognizant of the
4 local rule and cautious about your statements to the press.

5 Any other matters counsel wish to bring to my
6 attention at this time?

7 MR. GARLAND: Nothing for the government, your Honor.

8 MR. HAYDEN: Nothing, your Honor.

9 THE COURT: All right. The defendant is remanded to
10 the custody of the United States Marshals.

11 THE CLERK: All rise.

12 THE COURT: We stand in recess.

13 (The Court exits the courtroom at 12:27 p.m.)

14 THE CLERK: Court's in recess.

15 (The proceedings adjourned at 12:27 p.m.)
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C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 14-10159, United States of America v. Khairullozhon Matanov.

/s/ Marcia G. Patrisso
MARCIA G. PATRISSO, RMR, CRR
Official Court Reporter

Date: 6/20/14