

Exhibit 5

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
Civil Action No. 2:15-CV-286-JLQ

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SULEIMAN ABDULLAH SALIM, MOHAMED
AHMED BEN SOUD, OBAID ULLAH (AS
PERSONAL REPRESENTATIVE OF GUL
RAHMAN),

Plaintiffs,

vs.

JAMES ELMER MITCHELL and JOHN
"BRUCE" JESSEN,

Defendants.

-----)

DEPOSITION OF OBAIDULLAH

New York, New York

January 31, 2017

Reported by:

Linda Salzman, RPR

Job No. 17896

1
2 THE VIDEOGRAPHER: This begins
3 media unit No. 1 in the video
4 deposition of Obaidullah, in the
5 matter of Suleiman Abdullah Salim, et
6 al., versus James Elmer Mitchell, et
7 al., before the United States District
8 Court for the Eastern District of
9 Washington, Civil Action No.
10 2:15-CV-286-JLQ.

11 This deposition is being held at
12 the American Civil Liberties Union
13 Foundation, New York, New York, on
14 Tuesday, January 31, 2017. The time
15 is approximately 12:19 p.m.

16 My name is Lou Chiodo, a
17 certified legal video specialist. The
18 court reporter is Linda Salzman. We
19 are both from the firm of TransPerfect
20 Legal Solutions.

21 Will counsel and all present
22 please state your name and whom you
23 represent, followed by the court
24 reporter swearing in the witness.

25 MR. PASZAMANT: I'll start. My

1 THE INTERPRETER: Okay.

2 MR. LADIN: Can you please
3 translate what he said.

4 THE INTERPRETER: He said I know
5 who you are and who you're
6 representing me, too.

7 MR. LADIN: And I am with the
8 American Civil Liberties Union.

9 MR. LUSTBERG: Lawrence S.
10 Lustberg, from Gibbons PC, on behalf
11 of plaintiff. Let me do it this way.
12 With me are Daniel McGrady and Kate
13 Janukowicz, also from Gibbons.

14 MR. SIDDIQI: My name is Kyce
15 Siddiqi. I am actually not a party to
16 any of this.

17 MR. PASZAMANT: It's my
18 understanding that Mr. Siddiqi is an
19 informal translator here today, and
20 that's why he's in attendance.

21 THE INTERPRETER: He said I
22 understand that Kyce is a translator.

23 Z A R L A S H T G H O L A M,
24 called as the interpreter in this
25

1 name is Brian Paszamant. I am with
2 the law firm of Blank Rome LLP. I
3 represent the defendants in this
4 action.

5 Good morning, Mr. Obaidullah.

6 THE WITNESS: My name is
7 Obaidullah, and I'm here representing
8 the family of Gul Rahman.

9 MR. LADIN: My name is Dror
10 Ladin, and I'm here representing
11 plaintiffs, and I'm with the American
12 Civil Liberties Union.

13 THE INTERPRETER: Do I have
14 to --

15 MR. LUSTBERG: Yeah, you should
16 interpret everything.

17 MR. LADIN: My name is Dror
18 Ladin. I represent the plaintiffs in
19 this matter.

20 THE INTERPRETER: I'm sorry. I
21 don't know what does it mean,
22 "plaintiffs." I don't want --

23 MR. LADIN: The party that is
24 suing.
25

1 matter, was first duly sworn to
2 faithfully and accurately translate
3 the questions propounded to the
4 witness from English to Dari, and the
5 answers given by the witness from
6 Dari to English;

7 O B A I D U L L A H,

8 called as a witness, having been duly
9 sworn by a Notary Public, was examined
10 and testified through the Interpreter
11 as follows:

12 MR. PASZAMANT: May I begin?

13 COURT REPORTER: Of course.

14 EXAMINATION BY

15 MR. PASZAMANT:

16 Q. Good morning, Mr. Obaidullah.

17 My name is Brian Paszamant.

18 A. Thank you so much. Nice to meet
19 you, and good afternoon.

20 MR. PASZAMANT: Before we get
21 started, I'd like to put an
22 understanding, a stipulation on the
23 record. This morning we had an
24 inappropriate translator here for the
25

1 Obaidullah
2 with Al Qaeda.
3 Q. I have two exhibits, Exhibit 2
4 and Exhibit 5. Both of them are in front
5 of you. Each of them says your uncle
6 supported or was affiliated with Al Qaeda,
7 correct?
8 A. Yes.
9 Q. And you told me earlier that you
10 believe that when an investigation is
11 performed, what's said in the
12 investigation report is accurate, correct?
13 A. I didn't say that my uncle is Al
14 Qaeda. I agreed that this report was
15 arranged or created by CIA and might be
16 accurate.
17 Q. So my question to you, sir,
18 is --
19 MR. LADIN: He says the
20 translation was mostly accurate.
21 THE INTERPRETER: Mostly, yeah.
22 BY MR. PASZAMANT:
23 Q. How do we know what's accurate
24 and what's not in these two investigative
25 reports that I showed you?

1 Obaidullah
2 MR. LADIN: I'm going to object.
3 You can answer.
4 A. When they arrested my uncle or
5 when they are writing report, they must
6 have a reason, that's why they have
7 created this report. If they're writing
8 that he was from Al Qaeda, I want to find
9 out which part of Al Qaeda. Which group
10 of Al Qaeda he was related to.
11 Second, I say that he was
12 Hekmatyar's bodyguard. I was somehow,
13 most of the people in Afghanistan was
14 working in different groups or Hesbs in
15 Afghanistan.
16 MR. SIDDIQI: At that time.
17 THE INTERPRETER: At that time,
18 yeah.
19 A. It cannot be the reason that CIA
20 could kill him. It cannot -- it can't be
21 the reason, it cannot be the reason that
22 they can come and kill the whole people
23 back there in the country.
24 Q. Are you done?
25 A. Yes.

1 Obaidullah
2 MR. PASZAMANT: I will move to
3 strike that answer as nonresponsive.
4 Can you please read my question
5 back?
6 MR. LUSTBERG: What do you mean,
7 strike the answer as not responsive?
8 It's part of the record. You can't
9 just strike it.
10 For the record, he could do
11 that.
12 (Whereupon, the requested
13 portion was read back by the court
14 reporter.)
15 MR. LADIN: I'm going to object
16 again. He can answer.
17 A. As I said earlier, this report
18 has been written for a reason. I say that
19 most of this reports are correct,
20 accurate. When they are saying my uncle
21 was related to Al Qaeda, do they have a
22 reason. Do they have a proof I could say
23 he was involved in Al Qaeda? But if they
24 do not have any proof, that's a
25 misunderstanding of them that they had

1 Obaidullah
2 wrote it there.
3 Q. Sir, my question is a little
4 different. My question to you is simple.
5 How do we know what within these
6 reports that I've showed you marked as
7 Exhibits 2 and 5, we should accept as
8 true, versus what we don't think is true,
9 how should we know?
10 MR. LADIN: Objection.
11 You can answer.
12 A. Majority of the report is based
13 on the facts that my uncle was working
14 with Gulbidin, G-U-L-B-I-D-I-N. I accept
15 he was working. I can't accept that he
16 was working with Al Qaeda.
17 Q. But you have no idea, one way or
18 another, sitting here today, do you?
19 MR. LADIN: I will object.
20 You can answer.
21 A. No, I don't.
22 Q. Okay.
23 MR. PASZAMANT: The court
24 reporter asked for a break. Now would
25 be a good time.

1
2 STATE OF _____)
3) :ss
4 COUNTY OF _____)
5
6
7 I, OBAIDULLAH, the witness
8 herein, having read the foregoing
9 testimony of the pages of this deposition,
10 do hereby certify it to be a true and
11 correct transcript, subject to the
12 corrections, if any, shown on the attached
13 page.
14
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16
17 _____
18 OBAIDULLAH
19
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1
2 ----- I N D E X -----
3 WITNESS EXAMINATION BY PAGE
4 OBAIDULLAH MR. PASZAMANT 9, 201
5 MR. LADIN 198
6
7 DOCUMENT REQUEST: PAGE
8 1) Engagement letter 97
9
10 ----- EXHIBITS -----
11 OBAIDULLAH FOR ID.
12 Exhibit 1 Senate Committee Report 40
13 Exhibit 2 CIA investigation report 59
14 Exhibit 3 Interrogatory Responses 93
15 Exhibit 4 Document 94
16 Exhibit 5 Document 117
17 Exhibit 6 Document 182
18 Exhibit 7 Document 182
19 Exhibit 8 Article dated 9/5/16 191
20
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1
2 C E R T I F I C A T E
3 STATE OF NEW YORK)
4 : ss.
5 COUNTY OF NEW YORK)
6
7 I, Linda Salzman, a Notary
8 Public within and for the State of
9 New York, do hereby certify:
10 That OBAIDULLAH, the witness
11 whose deposition is hereinbefore set
12 forth, was duly sworn by me and that
13 such deposition is a true record of
14 the testimony given by the witness.
15 I further certify that I am not
16 related to any of the parties to
17 this action by blood or marriage,
18 and that I am in no way interested
19 in the outcome of this matter.
20 IN WITNESS WHEREOF, I have
21 hereunto set my hand this 7th day of
22 February, 2017.
23
24 _____
25 Linda Salzman

1
2 I N S T R U C T I O N S T O W I T N E S S
3 Please read your deposition over
4 carefully and make any necessary
5 corrections. You should state the reason
6 in the appropriate space on the errata
7 sheet for any corrections that are made.
8 After doing so, please sign the
9 errata sheet and date it.
10 You are signing same subject to
11 the changes you have noted on the errata
12 sheet, which will be attached to your
13 deposition.
14 It is imperative that you return
15 the original errata sheet to the deposing
16 attorney within thirty (30) days of
17 receipt of the deposition transcript by
18 you. If you fail to do so, the deposition
19 transcript may be deemed to be accurate
20 and may be used in court.
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ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Salim v. Mitchel

Dep. Date: January 31, 2017

Deponent: OBAIDULLAH

Pg. Ln. Now Reads Should Read Reason

Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS DAY OF _____, 2017.

(Notary Public) MY COMMISSION

EXPIRES: _____