

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE NANCY G. EDMUNDS

v.

No. 10-CR-20005

UMAR FAROUK ABDULMUTALLAB,

Defendant.

_____ /

JURY TRIAL - VOLUME 4

Tuesday, October 11, 2011

Appearances:

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Ms. Cathleen M. Corken
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On behalf of Plaintiff

Mr. Umar Farouk Abdulmutallab
In Pro Per

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1 Detroit, Michigan
2 Tuesday, October 11, 2011
3 9:05 a.m.

4 - - -

5 **THE CLERK:** Court calls the case, United States
6 versus Umar Farouk Abdulmutallab, 10-20005. Place your
7 appearances on the record, please.

8 **MR. TUKEL:** If it please the Court, Jonathan
9 Tukul, Cathleen Corken and Michael Martin, Assistant United
10 States Attorneys on behalf of the United States.

11 **MR. CHAMBERS:** Good morning, Anthony Chambers
12 along with Mr. Abdulmutallab, who is seated to my left.

13 **THE COURT:** Good morning. We have a couple of
14 motions to take care of before we begin with opening
15 statements and instructions.

16 We have first the government's motion to
17 exclude fact witnesses and to permit the attendance of
18 expert witnesses.

19 **MR. TUKEL:** That is a standard motion under Rule
20 415. As to fact witnesses, we have asked that they will be
21 sequestered. I talked about it with Mr. Chambers last week.
22 He agreed he will be asking for sequestration of the
23 government witnesses.

24 We concur in that, and we similarly ask that
25 the Court exclude the potential defense witnesses who

1 were -- who was identified last week as Kurt Haskell. We
2 also ask that his wife Lori Haskell be excluded. They are
3 both present in the courtroom here.

4 **THE COURT:** Mr. Chambers.

5 **MR. CHAMBERS:** We are asking for a mutual
6 sequestration order, and we believe it is appropriate.

7 **THE COURT:** I'll grant that motion. Mr. Haskell
8 is excluded. Mrs. Haskell is not a witness. I would permit
9 her to stay in the courtroom with a specific order that she
10 not communicate with her husband with respect to any of the
11 testimony that is elicited here in court, anything that is
12 elicited here in court. Where is Mrs. Haskell?

13 **MS. HASKELL:** Right here, Your Honor.

14 **THE COURT:** You can abide by that order?

15 **MS. HASKELL:** Yes, I can, Judge.

16 **THE COURT:** You're not to discuss anything that is
17 presented in court by way of testimony, exhibits, or
18 anything else.

19 **MS. HASKELL:** Okay. No problem, Judge, thank you.

20 **MR. TUKEL:** And then the other aspect of the
21 motion, Your Honor, as to a potential --

22 **THE COURT:** I'm sorry. He can't be in the
23 overflow courtroom either.

24 **MR. TUKEL:** Could we perhaps instruct him of that
25 in the Court's presence?

1 **THE COURT:** Mr. Haskell, you know you can't be in
2 the overflow courtroom either.

3 **MR. HASKELL:** Right. I know, Judge. No problem.

4 **THE COURT:** Thank you.

5 **MR. TUKEL:** And then the other aspect of the
6 motion, Your Honor, was to permit the government's martyrdom
7 expert, Dr. Simon Perry, to be present during the
8 presentation of evidence. The Court has already determined
9 that his testimony as to the practice of martyrdom is
10 admissible evidence, and he has indicated that it could be
11 helpful to him to be present.

12 We've said in the cases set forth that in
13 general expert witnesses are not excluded by virtue of
14 Rule 415. I will indicate, however, that Dr. Perry's
15 statement to me that it would be helpful to be present was
16 predicated on the assumption that the defendant would be
17 participating and delivering the opening statement. That
18 part, obviously, we now know that he will not be, and I
19 don't know what portions if any the defendant may be
20 involved in later on, so I think we could actually probably
21 wait until such time as the defendant indicates that he
22 intends to take an active role.

23 **THE COURT:** I think that would be a good idea. In
24 addition, I mean, I would tend to deny his -- deny the
25 motion to permit him to be present generally without

1 prejudice to the government to raise it later if the issue
2 of the defendant's participation becomes more of an issue.

3 **MR. TUKEL:** That's more than satisfactory, Your
4 Honor.

5 **THE COURT:** Mr. Chambers, you filed two motions as
6 well.

7 **MR. CHAMBERS:** That is correct. There are two
8 motions that are pretty self-explanatory.

9 The first motion which we're requesting or
10 asking the Court to exclude a particular exhibit which shows
11 Mr. Abdulmutallab's genital area. We believe as relates to
12 the injuries and other matters, there's other testimony that
13 will be presented by the government, and as such, there's no
14 necessity for that actual photo. We have identified the
15 photograph from the exhibit book, but we believe that
16 specific photo has no value whatsoever with regard to the
17 jury and should not be allowed.

18 Our second motion is a motion wherein we
19 requested the government not be allowed during the course of
20 the opening or the proceedings to describe the device or to
21 suggest to the jury the device is either an explosive device
22 or it's a bomb, quote-unquote.

23 That is an issue that will be for the jury,
24 that the jury will ultimately have to decide. I believe
25 certainly in closing argument they want to render or offer

1 such statements or such words, then they probably should be
2 allowed to do it at that stage, but during the course of the
3 proceedings in the trial, we're asking the Court to prohibit
4 them from referring to the device as either an explosive
5 device or a bomb.

6 **THE COURT:** I'm going to take the second one first
7 and then I'll let you speak to the first one. I'm going to
8 deny that motion. We have cases all the time where we have
9 guns, drugs, or whatever, and they're referred to as guns,
10 drugs, or whatever the charge is, and it makes no sense to
11 me whatsoever to preclude the government from referring to
12 whatever it was that Mr. Abdulmutallab had with him as a
13 bomb or explosive device.

14 Certainly, the defendant is not precluded
15 from arguing or cross examining witnesses about whether the
16 device in fact had adequate capacity to be a bomb or
17 explosive device, but motion denied.

18 **MR. TUKEL:** The exhibit we're talking about is a
19 single photograph and it depicts the severe burn that
20 defendant received to his thigh and his genitals. There
21 will be testimony from that from University of Michigan
22 Hospital employees, treating nurse Julia Longenecker, who
23 already testified at an evidentiary hearing, and some
24 doctors as well, and there is a single photograph to
25 document that.

1 The photograph depicts the injuries with the
2 defendant's wrist band showing his name and date of birth in
3 order to identify -- and it was taken by the University of
4 Michigan Hospital. It is a standard type of documentation
5 that a hospital does to show the injuries and the treatment
6 that someone receives.

7 **THE COURT:** What's the exhibit number?

8 **MR. TUKEL:** 14, Your Honor.

9 **THE COURT:** I see nothing in that photograph that
10 I find to be unusually prejudicial, certainly not more
11 prejudicial than probative, and I'm going to deny that
12 motion.

13 **MR. CHAMBERS:** I'd like to add, I understand the
14 Court's position, that it will not be disputed that there
15 were burns to that area. The medical records are coming in
16 as well as the testimony.

17 **THE COURT:** Thank you. Any other -- you had a
18 request for a side bar?

19 **MR. CHAMBERS:** Yes, we're asking the Court for a
20 side bar, please.

21 (The following side bar conference was held on the
22 record out of hearing of the jury with all counsel
23 and defendant present:)

24 **THE COURT:** Good morning.

25 **THE DEFENDANT:** Morning. Yeah, I don't want to

1 contest the charges.

2 **THE COURT:** You don't want to contest any of the
3 charges?

4 **THE DEFENDANT:** No.

5 **THE COURT:** Have you discussed this with him?

6 **MR. CHAMBERS:** No, I have not. Can we have a few
7 moments?

8 **THE COURT:** Absolutely.

9 **MR. CHAMBERS:** This is my first discussion on
10 this.

11 **MR. TUKEL:** Can I just clarify? For
12 Mr. Chambers --

13 **THE COURT:** Yes.

14 **MR. TUKEL:** -- I don't know if the defendant
15 understands the difference between a nolo plea and an Alfred
16 plea and a guilty plea. We would need permission for a nolo
17 plea and an Alfred plea, and that would not be forthcoming.

18 **MR. CHAMBERS:** You said would not be forthcoming?

19 **MR. TUKEL:** Would not be, so if that is his
20 intention, it would have to be a guilty plea.

21 **THE COURT:** On all eight charges?

22 **MR. TUKEL:** All charges in the indictment.

23 **THE COURT:** All right. I'll take a recess. You
24 can have whatever time you need. You need to talk to
25 Mr. Chambers about this, all right?

1 **THE DEFENDANT:** Uh-huh.

2 (End of discussion at side bar.)

3 **THE COURT:** Ladies and gentlemen, we need to take
4 a recess. Mr. Abdulmutallab needs to discuss a matter with
5 Mr. Chambers. We'll take about a 10- or 15-minute recess.

6 (Recess taken 9:15 a.m. until 10:26 a.m.)

7

8 **THE COURT:** Be seated.

9 Do we need to do this at side bar?

10 **MR. CHAMBERS:** No, we do not. We're prepared to
11 proceed.

12 **THE COURT:** Prepared to proceed?

13 **MR. CHAMBERS:** Yes.

14 **THE COURT:** All right.

15 (Jury in 10:28 a.m.)

16 **THE COURT:** Good morning. Be seated. Sorry for
17 the delay in getting started. We had a matter that had to
18 be resolved out of your presence, and it just took a little
19 longer than we anticipated. I'll try to avoid having that
20 happen again if possible, but sometimes it's just
21 inevitable, so I do apologize for the delay.

22 And I hope you had a nice weekend, had a
23 chance to get out and enjoy some of the beautiful weather,
24 didn't take the Tigers' losses too hard. But in any event,
25 we are ready to proceed. We need to swear in the new

1 alternate juror.

2 (Juror sworn in by the clerk.)

3 **THE COURT:** Thank you.

4 I have some preliminary instructions to give
5 you before we begin with opening statements. These will
6 just take five or ten minutes, and then we'll move into
7 opening statements.

8 Members of the jury, now that you have been
9 sworn, I will give you some preliminary instructions to
10 guide you in your participation in the trial. It will be
11 your duty to find from the evidence what the facts are. You
12 and you alone will be the judges of the facts. You will
13 then have to apply to those facts the law as the Court will
14 give it to you. You must follow that law whether you agree
15 with it or not.

16 Nothing that I may say or do during the
17 course of the trial is intended to indicate or should
18 take -- be taken by you as indicating what your verdict
19 should be.

20 The evidence from which you will find the
21 facts will consist of the testimony of witnesses, documents,
22 and other things received into the record as exhibits and
23 any facts that the lawyers agree to or stipulate to or that
24 I may instruct you to find.

25 Certain things are not evidence and must not

1 be considered by you. I will list them for you now.
2 Statements, arguments, and questions by lawyers are not
3 evidence.

4 So, for example, each side in this case will
5 give an opening statement. An opening statement is just
6 kind of a road map for you of what the sides believe the
7 evidence will establish. The opening statement itself is
8 not evidence. It's just a guide for you. The evidence is
9 the testimony, the exhibits, and stipulations, or things
10 sometimes I say, you know, you may find that the weather on
11 such and such a date was thus and such. If I tell you that
12 you may find that fact, then you may find that fact.

13 Generally speaking, testimony, exhibits, stipulations.

14 Objections to questions are not evidence.
15 Lawyers have an obligation to their clients to make
16 objections when they believe evidence being offered is
17 improper under the rules of evidence. You should not be
18 influenced by the objection or by my ruling on it. If an
19 objection is sustained, you ignore the question. If it is
20 overruled, treat the answer like any other. If you are
21 instructed that some item of evidence is received for a
22 limited purpose only, you must follow that instruction.

23 For example, it may be that some of the
24 evidence is relevant to one of the eight charges but not the
25 others. I might tell you that, and you have to apply it

1 only to the charge that I tell you that it applies to.

2 Testimony that I exclude or tell you to
3 disregard is not evidence and must not be considered.

4 Anything that you may see or hear outside the courtroom is
5 not evidence and must be disregarded. You are to decide the
6 case solely on the evidence presented here in the courtroom.
7 There are two kinds of evidence; direct and circumstantial.

8 Direct evidence is direct proof of a fact
9 such as testimony of an eyewitness. For example, if
10 somebody came into the courtroom and sat on the witness
11 stand and said, "I was just outside and it's raining," and
12 you believed that witness, that is direct evidence that it's
13 raining outside.

14 Circumstantial evidence is proof of facts
15 from which you may infer or conclude that other facts exist.
16 For example, if that same witness walked into the courtroom
17 wearing a wet raincoat and shaking water off an umbrella and
18 testified that he'd been outside, you could infer from that
19 that it's raining outside. That's circumstantial evidence.

20 I will give you further instructions on these
21 as well as other matters at the end of the case, but keep in
22 mind that you may consider both kinds of evidence. It will
23 be up to you to decide which witnesses to believe, which
24 witnesses not to believe, and how much of any witness'
25 testimony to accept or reject. I will give you some

1 guidelines for determining the credibility of witnesses at
2 the end of the case.

3 As you know, this is a criminal case. There
4 are three basic rules about a criminal case that you must
5 keep in mind. First, the defendant is presumed innocent
6 until proven guilty. The indictment brought by the
7 government against the defendant is only an accusation,
8 nothing more. It is not proof of guilt or anything else.
9 The defendant, therefore, starts out with a clean slate.

10 Second, the burden of proof is on the
11 government until the very end of the case. The defendant
12 has no burden to prove his innocence, nor to present any
13 evidence, nor to testify. Since the defendant has the right
14 to remain silent, the law prohibits you from arriving at
15 your verdict by considering that the defendant may not have
16 testified.

17 Third, the government must prove the
18 defendant's guilt beyond a reasonable doubt. I will give
19 you further instructions on this point later, but bear in
20 mind that in this respect, a criminal case is different from
21 a civil case, and actually I can give you some sense of this
22 right now.

23 In a civil case, a plaintiff need only prove
24 their case by what we call a preponderance of the evidence
25 in the case, so if you think about those scales of justice,

1 all a plaintiff in a civil case need do is to tip those
2 scales ever so slightly in his or her favor. Just a bit.
3 That's a preponderance of the evidence in the case.

4 In a criminal case, the government's burden
5 is to prove every element of every charge beyond a
6 reasonable doubt. That's more than a preponderance. That
7 is, those scales of justice have to weigh considerably more
8 heavily on the side of the government proving its case than
9 they do in a civil case.

10 Now, we don't assign numbers to them or
11 anything like that, but I will tell you that proof beyond a
12 reasonable doubt means proof that convinces you of issues in
13 a way that you would be satisfied in making the most
14 important decision in your own lives. That's proof beyond a
15 reasonable doubt.

16 Now, a few words about your conduct as
17 jurors. First, I instruct you that during the trial you are
18 not to discuss the case with anyone or to permit anyone to
19 discuss it with you. Until you retire to the jury room at
20 the end of the case to deliberate on your verdict, you are
21 simply not to talk about this case even with each other.

22 Second, do not read or listen to anything
23 touching on this case in any way. If anyone tries to talk
24 to you about it, bring it to my attention promptly.

25 That, of course, means, and I've said this

1 many times before and you've been very good about following
2 this instruction, that means no internet, no newspapers, no
3 Google, no Yahoo, no CNN, nothing having to do with this
4 case.

5 Third, do not try to do any research or make
6 any investigation about the case on your own.

7 Finally, do not form any opinion until all
8 the evidence is in. Keep an open mind until you start your
9 deliberations at the end of the case.

10 If you want to take notes during the course
11 of the trial, you may do so, and before we start opening
12 statements we'll pass out note pads and pens to you.
13 However, it is difficult to take notes and pay attention to
14 what the witnesses are saying at the same time. If you do
15 take notes, be sure that your note-taking does not interfere
16 with your listening to and considering all of the evidence.

17 Also, if you do take notes, do not discuss
18 them with anyone before you begin your deliberations. Do
19 not take your notes with you at the end of the day. Be sure
20 to leave them in the jury room.

21 If you choose not to take notes, remember
22 that it is your own individual responsibility to listen
23 carefully to the evidence. You cannot give this
24 responsibility to someone who is taking notes. We depend on
25 the judgment of all members of the jury. You all must

1 remember the evidence in this case.

2 The trial will now begin. First, the
3 government will make an opening statement which, as I
4 mentioned before, is simply an outline to help you
5 understand the evidence as it comes in.

6 Next, the defendant's attorney, standby
7 attorney, Mr. Chambers, I believe will be making an opening
8 statement on behalf of the defendant. Is that correct?

9 **MR. CHAMBERS:** We will be reserving our right to
10 make an opening until a later time.

11 **THE COURT:** All right. So he is reserving the
12 right to make an opening until a later time which is his
13 right to do. As I've told you, he has no obligation to make
14 an opening statement, to present any testimony, evidence,
15 witnesses, et cetera. And he is also allowed under the law
16 to reserve that right until a later time in the trial.

17 Government will then present its witnesses,
18 and counsel for the defendant or standby counsel or
19 defendant himself, since he is representing himself, may
20 cross examine them. Following the government's case, the
21 defendant may, if he wishes, present witnesses whom the
22 government may cross examine.

23 After all the evidence is in, I will give you
24 instructions on the law, and the attorneys will present
25 their closing arguments to summarize and interpret the

1 evidence for you and apply it to the law that I've given you
2 in the instructions.

3 After that, you will retire to deliberate on
4 your verdict.

5 I believe we are ready to proceed. I think I
6 mentioned this before, but use the top sheet as a cover
7 sheet, please. Just put your juror number on it.

8 Mr. Tukel.

9 **MR. TUKEL:** Thank you, Your Honor. Good morning,
10 ladies and gentlemen. Welcome back to United States
11 District Court.

12 In many trials, I would simply say, "Welcome
13 to United States District Court," because in many trials,
14 the jury selection process and the opening statement would
15 take place on the same day, but we all know that the jury
16 selection process in this case started about a month ago
17 when you were called in to fill out jury questionnaires, and
18 then it continued last week when you were all here for at
19 least two days and some jurors were here for three days,
20 although I don't know if any of you were actually called on
21 to be here for three days. And we continued on.

22 And we know that none of you asked to be
23 here, you don't really have a choice as to whether or not to
24 be here, but that is the American justice system. It's a
25 group of everyday citizens such as yourself who are called

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1 on to put aside their everyday routines and commitments and
2 to make those sacrifices in order to be here, and to listen
3 to the evidence and to decide important issues.

4 The process of jury selection that we started
5 last month resulted in Judge Edmunds finding that each and
6 every one of you is fair and objective, and that's why
7 you're here today, to come here, to listen to evidence, and
8 to decide the case solely on the basis of the evidence, and
9 that's the way our constitution has said it's supposed to be
10 for over 200 years now. And while we know that you didn't
11 ask to be here, we thank you for that sacrifice and for your
12 attention and seriousness in the coming days and weeks as
13 you carry out that constitutional responsibility.

14 This is the first time that we're all really
15 here together because of the way the jury selection process
16 worked, except for a couple minutes last Thursday, so let me
17 start back with some introductions.

18 My name is Jonathan Tukel, I'm an assistant
19 United States attorney. Let me introduce my colleagues,
20 Cathleen Corken, who is an assistant United States attorney,
21 and Michael Martin, who is an assistant United States
22 attorney.

23 Directly in front of you is Darlene Secord,
24 who is a paralegal specialist. She's assisting us with
25 running the projector and showing some of our evidence in

1 this case. And then finally in the corner is special agent
2 Theodore Peissig. He is a special agent with the Federal
3 Bureau of Investigation, and he has been in charge of this
4 case since the first day, since December 25 of 2009.

5 So what is it that brings us all here today,
6 what is this case about that has brought you in to be
7 selected as jurors?

8 On December 25, 2009, Christmas, Northwest
9 Delta Flight 253 was flying from Amsterdam in the
10 Netherlands to Detroit, Michigan. Now, you may recall that
11 at that time, Delta and Northwest were two separate airlines
12 and they were going through a merger, and the merger was not
13 yet complete. So the aircraft were all painted Delta, which
14 was the new name that the airline was taking over, but the
15 flight itself was still called Northwest 253. It was still
16 a Northwest flight, and that flight was flying from
17 Amsterdam in the Netherlands, or Holland, to Detroit.

18 And so let's take a look at what that flight
19 was all about. There were approximately 290 people on that
20 flight from Amsterdam to Detroit. There were 279
21 passengers, there were eight flight attendants, and there
22 were three pilots. There was two copilots and one pilot.

23 Let's take a look at the flight path that the
24 plane took on the trip from Amsterdam to Detroit. Every
25 airport in the world has a three- or four-digit code that

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1 denominates what it is. EHAN is Amsterdam. So the flight
2 left Amsterdam and it flew out across Great Britain and then
3 across the Atlantic Ocean to Detroit. The symbol for the
4 Detroit airport is DTW. And that's the route that it took,
5 the blue line across the ocean. The plane was flying in
6 that direction.

7 And here's a slightly more detailed view
8 closer to Detroit. So the plane took off in Amsterdam, and
9 it's flying into Detroit, in that direction, and at that
10 point, the plane had entered Canadian air space and then it
11 flew on and it entered the United States air space just very
12 shortly before it arrived in Detroit.

13 What was the makeup of Flight 253? Of those
14 290 people, they were from 26 different countries because
15 Amsterdam is sort of a crossroads of the world. It's in the
16 northwest part of Europe, so it's as close to the United
17 States as anyplace in Europe, but it's also located
18 centrally for other European countries and for African and
19 Asian countries, so a lot of flights fly through Amsterdam
20 and they connect onto other places.

21 On Flight 253, the largest single country
22 represented was the United States with 130 passengers on the
23 flight. The second largest was the Netherlands with 79
24 people, and the entire air crew and all the pilots were from
25 the United States, they were all American.

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1 They all had one thing in common. They all
2 had plans to be somewhere. Most were connecting through
3 Detroit to other flights.

4 Many were on their way to families for the
5 holidays. Some were coming back from overseas after
6 adopting children overseas, and there were a number of
7 children on Flight 253. Some were U.S. military families
8 who had been overseas for duty and were returning home.

9 Some had been visiting sick family members or
10 were on their way to see sick family members.

11 Some were not Americans but were coming here
12 for the holidays with friends and family. Many of them were
13 spending the time between Christmas and New Year's in the
14 United States, and many planned to do some shopping in the
15 United States.

16 All of those passengers had plans to be
17 somewhere. All of them except for one. This defendant,
18 Umar Farouk Abdulmutallab. He had no plans. He had a
19 mission. His mission was for al-Qaeda, the terrorist
20 organization. His mission, his goal, his sole reason for
21 being on Flight 253 was to blow it up.

22 His only reason for being on Flight 253 was
23 to kill all the other passengers and himself, to keep those
24 other passengers from getting to their destinations.

25 And he thought that by doing that he would

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1 end up somewhere else. He didn't think he would end up at
2 Detroit Metropolitan Airport where Flight 253 was headed,
3 but he thought he would end up in heaven because he would be
4 a martyr.

5 The defendant's mission had only three
6 requirements. He was supposed to blow up an airliner, it
7 had to be a United States airliner, and it had to be blown
8 up over United States soil. All the rest was up to him.

9 In order to do that, the defendant had a bomb
10 concealed in his underwear.

11 On the airplane as the defendant was
12 approaching Detroit on Flight 253, he took a number of trips
13 to the bathroom, and the reason he did that is because he
14 was engaging in rituals. He was preparing to die and enter
15 heaven.

16 On the airplane, he was fasting. He didn't
17 drink, he didn't eat. In the bathroom on the airplane, he
18 purified himself. He washed, he brushed his teeth, he put
19 on perfume. And he was in the bathroom a very long time on
20 the airplane, in fact, too long, that he could have been
21 doing nothing except praying and purifying himself to get
22 ready to die.

23 And after that, the defendant returned to his
24 seat on the airplane. He took a blanket and he pulled the
25 blanket up over his face and over his head and he pushed the

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1 plunger on the bomb and he set the bomb off. And then there
2 was a loud pop. Almost all of the passengers on the plane
3 heard the loud pop. Many described that it sounded like a
4 fire cracker, and then there was smoke and the smoke was
5 coming from where the defendant was sitting. And then there
6 was a fireball, and the fireball was literally on the
7 defendant. It was on his lap, and it was coming out from
8 inside his clothes. And he was enveloped in the fireball.

9 And then the fireball spread and it started a
10 fire of the seat and the carpeting and some of the other
11 areas of the aircraft, and then all hell broke loose.

12 While that fireball was on him, the defendant
13 sat there. He didn't move. He was expressionless. He was
14 completely blank.

15 The aircraft that we're talking about that
16 was Flight 253 is an Airbus A330. There's a picture of it.
17 And I'm going to show you a schematic. This is a schematic
18 of what the seating chart looked like, and it's a little bit
19 small in this angle. We're going to look at it in greater
20 detail, but this is -- the front of the airplane is at the
21 top, and you'll get to see it in a little bit more detail.

22 That's the airplane on the ground, and we're
23 going to be talking about sort of the middle seats, inside
24 the red circle, from roughly row 16 back to row 23 or 24.
25 You can see the plane goes on, there are rows up into the

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1 40s. And that circle where we're talking about in the
2 middle represents roughly those middle windows that we're
3 showing on the photograph right there. That's the area
4 we're mostly talking about.

5 So here's a magnification of that area.
6 We're looking at rows 15 to 22. And the defendant
7 Umar Farouk Abdulmutallab was seated in seat 19A, right
8 there, in a window along the wing. There were a number of
9 other passengers obviously on that flight. In seat 20C,
10 which is one row behind the defendant and across the aisle,
11 was Michael Zantow. Michael Zantow was a more than 20-year
12 veteran of the United States Army. He worked overseas, he's
13 no longer in the Army, and he was returning home to visit
14 his sick mother.

15 He saw the smoke and he helped to try and
16 restrain the defendant.

17 In seat 20B, one row behind and just to the
18 right of the defendant is Linda Lammerts. She is a Dutch
19 citizen, but her sister-in-law lives in the United States,
20 she lives in Michigan, and Linda Lammerts and her husband
21 and her children were on their way to visit her
22 sister-in-law, their aunt, for the holidays.

23 And she observed the defendant smoking and on
24 fire.

25 In seat 17A, two rows in front of the

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1 defendant, directly in front of him was Nicolette Stickler.
2 Nicolette Stickler's husband is in the U.S. Army and they
3 had been overseas where he had been deployed. She was on
4 her way back to the United States for the holidays, she had
5 her 11-month-old daughter on her lap.

6 She saw the smoke, she saw the fire when that
7 happened. To get her daughter away from the smoke and the
8 fire, she moved forward in the plane. We'll talk about that
9 a little bit.

10 In seat 16D was Krista Williams, who lived in
11 Indiana. She and her husband were returning from overseas.
12 They had been in Africa adopting a child, and they were on
13 their way home with that child.

14 In seat 18C was Dominique Vandavelde. As you
15 can probably tell from the name, she's a Dutch citizen. She
16 was sitting right here in 18C. She was on her way to New
17 York. She was connecting through Detroit to New York with
18 her sister and a friend to spend that week between Christmas
19 and New Year's doing shopping in New York.

20 She observed the flames, she had observed the
21 defendant with the perfume that we talked about for the
22 rituals, and she saw what took place.

23 In seat 18G was Azra Rafiq. She is also a
24 Dutch citizen. She and her daughter were also traveling to
25 New York to spend the time between Christmas and New Year's

1 and they were going on a shopping trip.

2 And Azra Rafiq saw the defendant, she saw the
3 smoke, she saw the fire and she saw the defendant sitting
4 literally in a ball of fire.

5 In seat 19G was passenger Pascal Emanuels,
6 also a Dutch citizen. He was traveling also with his
7 girlfriend at the time to New York to spend the holidays
8 there, and he saw the smoke and then he got involved in
9 trying to put out the fire. A number of passengers got
10 involved in trying to put out the fire and trying to control
11 the defendant. And Pascal Emanuels is one.

12 In seat 20J was passenger Jasper Schuringa,
13 also a Dutch citizen. His name in Dutch is actually, the
14 last name is pronounced "Sringha," and that is how many of
15 the Dutch citizens will probably refer to him.
16 Mr. Schuringa also, when he saw what was going on, ran over,
17 helped restrain the defendant and attempted to put out the
18 fire as well.

19 Of course, none of the passengers could be
20 successful in putting out the fire because it was a chemical
21 fire, and you can't put out a chemical fire with your hands,
22 and so what ultimately happened is flight attendants came
23 with fire extinguishers and put out the fire, and that's how
24 the fire was put out. But a number of the passengers tried
25 to put out the fire on their own.

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1 In seat 21J was passenger Demetrius Bessis.
2 He was returning from overseas, home to Atlanta where he
3 lived, and he too got involved in trying to control the fire
4 and to put it out and actually used a hat to try and put out
5 the fire; again, was unsuccessful because you can't put out
6 that type of fire with a hat.

7 So as I said, the defendant was seated in
8 seat 19A, right there. And once the fire began in that
9 circle, there was a lot of action. There were a lot of
10 things going on. I'm going to show you which passengers got
11 involved in attempting to put out the fire. Pascal Emanuels
12 in seat 19G, Jasper Schuringa in seat 20J, Demetrius Bessis
13 in seat 21J, and then over here, closer to the defendant,
14 Michael Zantow in seat 20C all became involved in trying to
15 put out the fire, and some or all of them became involved in
16 trying to restrain the defendant to stop him from what he
17 was doing.

18 And they all ran into that red area to try to
19 put out the fire and to contain what was going on on the
20 plane.

21 Also on that flight, as I mentioned, were a
22 number of flight attendants. One flight attendant was
23 Lamare Mason. He was further away from the defendant
24 because he was walking up and down the aisle doing his job.
25 He was down in row 29, or approximately row 29, so it's not

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1 on that chart, but imagine him further down from row 22.

2 He saw and heard the passengers screaming
3 because there was panic on the plane. Passengers were
4 standing, screaming, people were calling fire. A lot of
5 people couldn't even tell what was going on. But there was
6 a lot going on on the airplane.

7 Mr. Mason came running to see what was going
8 on, saw that there was a fire, ran back and got a fire
9 extinguisher and came back and fought the fire. One of his
10 colleagues, Richard Cho, had been down on the other aisle in
11 approximately row 32, saw the same thing, heard the
12 screaming, came, saw that there was a fire, ran, got a fire
13 extinguisher, came back. And Mr. Mason and Mr. Cho ran into
14 that same area where those other four passengers that I just
15 described were still struggling with the defendant, still
16 trying to restrain him, and they sprayed the fire, they
17 sprayed the defendant, they sprayed whatever other
18 passengers were in there and that's what put the fire out.
19 They got the fire out and they put it out.

20 After the fire was out, Mr. Schuringa and the
21 flight attendant, Richard Cho, took the defendant and they
22 walked him up to the business class section right up in
23 front, and they put him in seat number one. And the reason
24 they did that was because it was easier to watch him there.
25 They wanted to guard him to see what was going to happen.

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1 And this was at the very end of the flight.
2 We looked at those maps, it's an eight-hour flight from
3 Amsterdam, and the bomb was set off just moments before the
4 plane was supposed to land. So there wasn't much time left
5 in the flight.

6 So here is a schematic showing the business
7 class in the front of the airplane. The defendant, as I
8 said, had been here, in seat 19A. After the fire was out,
9 Mr. Schuringa and the flight attendant, Mr. Cho, took the
10 defendant and moved him up here to seat 1G.

11 Let me just tell you, the seats in the
12 business class section up front are lettered a little bit
13 differently. So in the coach section it goes A, B, C, D, E,
14 F, G, H, I, J. It doesn't work like that in the business
15 class, so the seats go A, B, C, G, H, J, so you might see
16 some discrepancies with the letters. That's why.

17 And they took the defendant and they marched
18 him up here, and they sat him down in that seat, 1G. And
19 that was so they could watch him for the rest of the flight.

20 Before they sat him down in that seat, his
21 pants were down around his ankles, and they were down around
22 his ankles as they walked him up the aisle because he had
23 pulled the pants down in order to set off the bomb, to push
24 the plunger and set off the bomb. So those pants were down
25 around his ankles as they walked him up to seat 1G.

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1 When they got up to 1G, they took his pants
2 completely off. All that was left was a bit of the
3 underwear which had contained the bomb, and they took off
4 his shoes as well. And so the defendant then sat in seat 1G
5 for the remainder of the flight, essentially naked from the
6 waist down, with a piece of the underwear that was left that
7 had contained the bomb. He was given a blanket to cover
8 himself, but no pants, no shoes. Just showed an indication
9 between row 13 and 14, by row 13B.

10 As the defendant was being walked from his
11 seat in 19A up to 1G, the explosive, what was left of the
12 explosive that had been in his underwear fell out, and it
13 was found there, the package, behind seat 13B by the FBI
14 when they searched the plane later.

15 That explosive is called PETN, it's an
16 abbreviation for a very long chemical name, and that package
17 was found there, it had fallen out of the defendant's pants
18 as he was taken past that aisle on the way up to 1G.

19 When the defendant got up to business class,
20 there was a passenger named Ramy Guirgis. At the time, Ramy
21 Guirgis was an employee of Delta Airlines, he was a flight
22 instructor, and he was wearing his uniform, but he was on
23 personal travel. Airline employees are allowed to take
24 trips, and he was coming back on a trip.

25 He told the rest of the flight crew, "I work

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1 for Delta. I will sit next to the defendant. I can guard
2 him while you're doing what you need to do." And that's
3 what he did, he sat next to him for the rest of that flight.
4 Right there.

5 During that time, during those few minutes
6 that were left on the flight, they engaged in conversation,
7 and the defendant told Ramy Guirgis that he had ignited the
8 device that he had.

9 There was another flight attendant on that
10 flight that day, her name was -- is Dionne Monroe-Ransom,
11 and she, when the plane was coming in to land, was sitting
12 in what's called a jump seat. It's not a regular seat like
13 the passengers have. It's a fold-down seat that the flight
14 attendants have, and she was seated directly in front of the
15 defendant there.

16 And she, too, during those couple minutes,
17 engaged in a conversation with the defendant. And she said
18 to him, "Are you in pain?" because he had obvious burns.
19 And the defendant didn't answer her. And so she asked him
20 again, "Are you in pain?" And he nodded his head yes.

21 And then she said to him, "What did you have
22 in your pocket?" She assumed that whatever had gone off had
23 been in his pocket, not his underwear, and the defendant did
24 not answer her. So she asked him again, "What did you have
25 in your pocket?" And the defendant said to her that he had

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1 an explosive device.

2 Ramy Guirgis, who I talked about before, the
3 flight instructor who worked for Delta, was sitting in 1C on
4 the other side, and he heard the defendant say to Dionne
5 Monroe-Ransom that he had an explosive device when he was on
6 board Flight 253.

7 And there was another passenger in seat 1J,
8 Melinda Dennis, she's originally from West Branch, Michigan,
9 and she was traveling home from the Middle East where she
10 works and she was passing through, and she was going to see
11 her parents at the airport, and she too heard the defendant
12 tell the flight attendant that he had an explosive device.

13 And then, finally, I talked about Nicolette
14 Stickler who was coming back from Germany where her husband
15 had been in the U.S. Army and she was traveling with her
16 11-month-old daughter on her lap. When the fire and smoke
17 started, she moved up to get away from the smoke and the
18 flames. And she went from seat 17A where she had been
19 seated up to seat 6C because the business class wasn't that
20 crowded that day, there were available seats. And so now
21 she's sitting in seat 6C and it's not that crowded up in
22 business class. And Nicolette Stickler, too, heard the
23 defendant say that he had an explosive device.

24 So what happened on Flight 253 after the fire
25 was extinguished? There was a lot going on throughout the

1 airplane, so you can imagine, many of the passengers didn't
2 even know what had happened, but there's pandemonium, people
3 are screaming, people are scared, and there's a lot going
4 on.

5 The pilots are flying the plane, they didn't
6 see what happened. All they knew about what happened was
7 what they had been told and they had to make adjustments to
8 try and deal with the situation as quickly as they could.

9 They were told that there was fire. There
10 was another flight attendant, the lead flight attendant,
11 whose name just happens to be Elaine Christmas, just like
12 the holiday. It was Christmas Day and her name happens to
13 be Christmas. And she told the pilots through the intercom
14 into the cockpit that there was a fire.

15 Now, fire is about the worst hazard that you
16 can have on an airplane, for a number of reasons. It can
17 burn through the wires, and if it burns through the wires,
18 it causes the pilots to lose the ability to control the
19 airplane. The ability to control the airplane depends on
20 those wires. If the fire burns long enough, they'll lose
21 that control.

22 Fire can ignite the fuel in the fuel tanks
23 and cause an explosion. Smoke in an airplane can overcome
24 the crew and the passengers. And there's a limited number
25 of fire extinguishers in an airplane, so if those run out

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1 and there's no way to fight the fire, the plane will just
2 continue to burn.

3 So the pilots were informed of the fact that
4 there was this fire, and it was the -- one of the copilots,
5 Steve Stewart, who actually was handling the radio
6 communications and received that notice on the telephone
7 from Elaine Christmas who was just outside the cabin, and
8 she said to him, "Fire, fire, fire," and so Steve Stewart
9 turned to the captain who was flying the plane and said,
10 "Can I declare an emergency?" And the captain said, "Yes,
11 declare an emergency."

12 So that all took place, from the time Steve
13 Stewart said, "Can I declare an emergency," until the
14 captain said "yes," less than ten seconds goes by. So then
15 Steve Stewart, the copilot, radios the control tower and
16 declares an emergency.

17 Because there was an emergency, because of
18 the danger that fire poses, it was important to get the
19 plane on the ground as quickly as possible due to the
20 danger. The air traffic controllers understand that, the
21 pilots understand that. When you have a burning aircraft,
22 what you have to do is get it on the ground and get it on
23 the ground quickly.

24 And so as a result, Flight 253 was directed
25 to make a much more quick and steep descent than normally

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1 would have been the case.

2 That was necessary because it was important
3 to get the plane on the ground just as quickly as could be
4 done, but it increased the danger to the flight because
5 they're flying much more sharply down, they're changing
6 course, they're doing a whole bunch of things that increased
7 the danger, but it's a necessary increase in the danger.

8 Let's go through step by step exactly what
9 happened. Okay. We're going to be hearing conversations
10 between air traffic control and the pilots so that you will
11 hear what they were hearing that day, and you will be seeing
12 some of what the air traffic controllers saw, because they
13 use radar scopes that in some ways are very similar to what
14 you see when you watch the weather on TV news. It shows the
15 weather, and it shows the location of different flights, and
16 over time you will see the flights move as they're being
17 directed to different spaces. I will not be showing you the
18 entire video today. I'll be showing you portions of it.

19 Let me show you first what Detroit
20 Metropolitan Airport looks like from the sky. This is the
21 runway configuration. That's runway four left. That is the
22 runway that Northwest 253 was scheduled to land on. Prior
23 to there being an emergency, it was scheduled to land on
24 runway four left. Next to that, runway four right, that is
25 a longer runway than runway four left. And then runways

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1 three left and three right don't really figure into what
2 we're going to be talking about here.

3 Okay. So this is a screen shot of what the
4 air traffic controllers were looking at, and this is not
5 going to move. This is a still shot. That with the red
6 circle is Northwest Flight 253, that's its location at that
7 particular moment. As I say, the planes are moving, and
8 when we show you this in its entirety, it's video, and
9 you'll see them move.

10 And what you see on this display is it
11 toggles between different information. Right now it's
12 showing that 04L on the bottom row, that means it is
13 scheduled to land on runway four left, as I just showed you.
14 And to the right of that, it says the type of aircraft.
15 Every approximately one and-a-half seconds, that information
16 toggles, and it switches to showing the altitude and it
17 shows the heading, the direction on the compass that it's
18 heading.

19 And if you can see those sort of two white
20 dotted lines coming out, that pink circle represents the
21 airport, so those two dotted lines coming out sort of down
22 to the left, the one on the far left is runway four left and
23 the approach to runway four left, and the one on the right
24 is runway four right and the approach to that that we just
25 looked at.

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1 So there were a number of other planes in the
2 sky that day, of course, and that's Southwest Flight 631,
3 and FLG is Flagship Flight 3985. They were ahead of Flight
4 253 in their approaches, they were lined up on that dotted
5 line which is runway four left, scheduled to land on the
6 same runway as Flight 253, and they were lined up to land.
7 And what happens is that the copilot calls into the control
8 tower and declares an emergency for Flight 253.

9 On all of this video there's a continuous
10 running clock which I just showed in the upper left-hand
11 corner with that yellow circle. It says 16:45 and eight
12 seconds. That's called zulu time. It's Greenwich mean time
13 and in the aviation industry they refer to that as zulu
14 time. So it's a standardized time around the world. 16:45
15 zulu time is 11:45 Detroit time, so it was 11:45 in the
16 morning when this particular shot was taken.

17 So the pilots on Flight 253 declare an
18 emergency after they're told of the fire, and the way the
19 pilot says that is he calls the control tower and says, "We
20 need immediate assistance."

21 Now, the one thing to understand about this
22 audio and video from the air traffic controllers, the air
23 traffic controller can hear all of the planes, but not all
24 of the planes can hear each other. So as a result, the
25 planes, the pilots sometimes talk over each other because

1 they can't hear each other, and so sometimes things have to
2 be repeated. And that is actually what occurred here.

3 You will hear the pilot say, "We need
4 immediate assistance," and there's another pilot talking at
5 the same time and it cut off part of the message. And so
6 the air traffic control specialist comes on and says, "Who
7 needs immediate assistance?" And the copilot then repeats,
8 "Northwest 253, there's a report of a fire onboard." Let's
9 listen to that.

10 (Audiotape played.)

11 **MR. TUKEL:** Okay. So there was Northwest 253,
12 there's a report of a fire. That was, as I said, the
13 copilot, Steve Stewart, and he's talking to one of the air
14 traffic controllers, Diedre Hatchard. They will both be
15 witnesses in this trial.

16 And the time where that takes place,
17 according to the video, is 16:44 and 39 seconds zulu time,
18 so it's 11:44 and 39 seconds Detroit time.

19 Why is that important? Because Steve Stewart
20 will tell you that he declared that emergency within ten
21 seconds of being told when the fire started. The fire, of
22 course, started when the defendant set off the bomb. So by
23 going back roughly ten seconds, we can pinpoint precisely
24 where the plane was in its flight when the bomb was set off.

25 And let's look at that approach map as

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1 Flight 253 came towards Detroit. That dotted blue line is
2 the approach route of Flight 253. What I just showed you in
3 the upper right-hand corner is where Flight 253 enters the
4 United States. That yellow and black dotted line is the
5 U.S./Canada border. So for most of the flight, the flight
6 is either over the ocean or over Canadian air space.

7 You can see that it enters U.S. air space at
8 16:38, 11:38 in the morning, and what I just showed you is
9 the approximate point of detonation. That's approximately
10 ten seconds before the pilot says, "We need immediate
11 assistance, Northwest 253." So that's at 16:44, 11:44 in
12 the morning, about six minutes after the plane enters U.S
13 air space. That's the point right there where the pilot
14 says, "We need immediate assistance," and then the plane
15 continues on to the airport and it ends up landing at about
16 16:52, about seven minutes later. We'll talk about those
17 times in a little bit.

18 Okay. Here's another map showing the
19 location. The blue line, again, is the route of
20 Northwest 253. This is where the pilot radios, "We need
21 immediate assistance," and you can see it's superimposed
22 over a map and it shows the location. So they're a little
23 bit northwest over Woodhaven, Michigan. I'm going to show
24 you that in some more detail with some other maps. Again,
25 that's approximately ten seconds before when the bomb is

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1 actually detonated because it takes about ten seconds to
2 declare the emergency.

3 Here is a three-dimensional map. Those blue
4 lines going up and down, and there are some other maps with
5 this type of detail, show the height of the aircraft at
6 different times. So in these types of maps, you will see
7 the lines gradually descend as the plane is coming down.
8 And you can see this is superimposed over the map, and so
9 this is where the pilot says, "We need immediate
10 assistance," and so the time of detonation is approximately
11 there. So they're basically over U.S. 24 or Telegraph Road
12 at that point.

13 And here's another three-dimensional map.
14 This is superimposed over an actual map of the ground
15 showing the ground with the flight information superimposed
16 over it, and there's some landmarks you might recognize,
17 that's I-75 on the right, and the approach comes in and
18 that's U.S. 24, Telegraph Road. This is where the pilot
19 says, "We need immediate assistance," so they're just west
20 of Telegraph Road. And the point of detonation is almost
21 directly over Telegraph Road.

22 Okay. So what happens after the pilots
23 declare that emergency? Well, the air traffic controllers,
24 they don't know what's going on, they're just told there's
25 an emergency and the pilots don't really know what's going

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1 on, they're told there's a fire, that's all anybody knows.

2 And they all know they need to get the plane
3 on the ground as quickly as possible. So what they need to
4 do is clear out the air space so there's no other planes in
5 the vicinity, so Northwest 253 has as much room as it needs,
6 and that's what the air traffic controller immediately
7 starts to do. She immediately starts to clear the entire
8 air space so there's room for Northwest 253.

9 And you will hear, almost immediately when
10 she's told there's an emergency, you can hear the tension in
11 her voice increase. She starts to talk faster, and she
12 starts to talk with a lot more intonation, because it's very
13 stressful, there's a lot of danger going on.

14 On the screen, you'll see on the air traffic
15 control screen, the blip around Northwest 253 turns red and
16 says EM. That's because it's an emergency, and it's
17 declared an emergency and that red EM tells any other air
18 traffic controller that's looking at it, that flight has an
19 emergency going on.

20 And then the pilots have to adjust quickly.
21 They're being given a new flight plan because, remember,
22 they are making a much quicker, steeper descent. I'm going
23 to show you that in detail shortly.

24 As a result of that, they're changing course,
25 and so they have to lay in a new flight plan. That means

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1 they have to update in their computers where they're
2 landing, they have to get out their maps and see where
3 they're going. There's a lot of things they have to do.
4 And again, that increases the danger of the flight, because
5 there's the possibility of mistakes, people are working
6 quickly. It's a much steeper, quicker descent, and as I
7 said, they're working with their maps and planning.

8 And to demonstrate that quick descent and
9 what the pilots were going through, I'm going to show you a
10 comparison between Flight 253 and Flagship Flight 4041 which
11 landed on runway four left 15 minutes before. Recall that
12 runway four left is the runway that Northwest 253 was
13 scheduled to land on, although due to the emergency, they
14 ended up being shifted to runway four right. So
15 Northwest 253 is going to be in blue, and Flagship 4041 is
16 in red. Okay.

17 So in the blue, this should be sort of
18 familiar now, this is where the detonation takes place, on
19 Northwest 253, and that's just to show Flagship 4041 at
20 approximately the same point in the approach, and they're
21 both, you can see, at the same altitude, 9500 feet, Flagship
22 4041 came through 15 minutes before. And then just roughly
23 ten seconds after that is where the Northwest pilot says,
24 "We need immediate assistance," they're at 9,200 feet.

25 And so what happens is they continue to fly,

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1 and they're descending quickly down to 5,800 feet, and then
2 they're going to be told to make a quick, sharp turn and you
3 can see how much shorter and quicker that blue line is where
4 it turns to go back to the airport than is the dotted red
5 line that is Flagship 4041 and I'll explain that in some
6 detail.

7 Northwest~253 descends to about 3,000 feet,
8 and it does that, if you can read that, in the space of one
9 minute, to go from 5,800 feet down to 3,000 feet. And don't
10 worry if you're having trouble seeing some of the small
11 print, you will see all these exhibits up close and you'll
12 have them in your jury room.

13 The key thing to remember is from 5,800 feet
14 down to 3,000 feet takes place in one minute for
15 Northwest 253, and that loop around to turn and head back
16 towards the airport is done over an eight-mile path.

17 Flagship 4041, by comparison, and this was
18 the intended route that Northwest 253 would have taken had
19 it not been an emergency, is that they're at roughly the
20 same altitude, they're at 6,200 feet, and they descend
21 gradually down to 3,000 feet, over a space of about seven
22 miles, and it takes them two and-a-half minutes to get down
23 to 3,000 feet. Two and-a-half minutes for Flagship 4041
24 versus one minute for Northwest 253, two and-a-half times
25 more quickly than was the intended route.

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1 And Flagship 4041 makes that loop all the way
2 around and flies level at 3,000 feet for four minutes. And
3 that entire loop around takes about 24 miles, it's a 24-mile
4 approach, so Flagship 4041 is going 24 miles to make that
5 turn and come into land; Northwest 253 is doing it in eight
6 miles, they're doing it in one-third the distance as
7 Flagship 4041, and they're doing it two and-a-half times
8 faster.

9 Okay. As all that's going on, as the pilots
10 are getting ready for that steep, quick approach and
11 emergency landing, they call the control tower and they say
12 they need fire trucks to back them up for the landing, they
13 have a fire and they don't know if the fire is going to be
14 out of control and they need fire trucks to be there. And
15 in this segment, between the pilot and the air traffic
16 control, you will hear the air traffic control tell
17 Southwest 631 to change course and move out of the air
18 space. That's the air traffic controllers moving those
19 planes out of the air space.

20 And what you'll see while this emergency is
21 going on, within a period of about a minute and-a-half,
22 those other two flights that were lined up to land in front
23 of Northwest~253, they're moved completely out of the
24 picture, they're just gone from the air space, they're
25 pushed way off to the side to give Northwest 253 room to

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1 maneuver, and then you will hear Steve Stewart, the copilot
2 say, "We also need trucks roll for Northwest 253." That's
3 saying he needs the fire truck. Let's listen.

4 (Audiotape played.)

5 **MR. TUKEL:** So Flagship 3985 and Southwest 631
6 that we just heard were instructed to cancel their
7 approaches, move out of the air space. I just talked to you
8 about that.

9 Let me show you an illustration of what they
10 did, because again, this increases the danger for everyone.
11 Planes are being diverted, they're changing their plans,
12 they're being kept in the sky longer than they're intended
13 to be. Flagship 3985 is in red, Southwest 631 is in gold,
14 and the blue, of course, is Northwest 253.

15 So, again, just to repeat, this is where
16 Northwest 253 says, "We need immediate assistance," this is
17 the point of declaring the emergency.

18 This is where Flagship 3985 acknowledges the
19 order from the control tower that says, "Turn left heading
20 330," which is going to take them away from the airport.
21 They're at 4,000 feet, they were getting ready to land,
22 okay, so watch on the red what they do.

23 They fly around in that circle and they loop
24 out of the area and then they're brought back in later, and
25 then they get back on that same approach route, and that's

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1 for runway four left, and they ultimately land on runway
2 four left after Northwest 253 has landed.

3 Southwest 631, it's a similar thing. That's
4 where the Southwest 631 pilot acknowledges the instruction,
5 "Turn left heading 330," and he's at 3,000 feet when he
6 receives that, he's almost ready to land, and he, too, then
7 turns and heads 330 and he's taken out and away from the air
8 space. So you can see how quickly those planes were out of
9 the way of Northwest 253, and then Southwest 631 also loops
10 in and is brought back in and then later lands on runway
11 four left.

12 Okay. So as I said, the pilots are working
13 quickly to get set for that new course to land and the air
14 traffic control comes on and says to them, "Northwest 253, I
15 can get you in as soon as you can get down," meaning, "I can
16 get you into the airport, but I don't want to start to turn
17 you until you tell me you have put the new course in and you
18 are ready to land so that the computers are ready," because
19 if the air traffic control starts to turn the plane too
20 soon, they won't be ready to land, they'll still be too
21 high, and they'll go past the airport, and then they have to
22 go all the way around and waste at least ten minutes, maybe
23 more. So she says to the pilots, essentially, "When you are
24 ready, you tell me and I can get you down," so that the
25 pilots will not go past the airport.

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1 Let's listen. And you will also hear
2 Flagship 3958, being told to alter their course and move out
3 of the way as well.

4 (Audiotape played.)

5 **MR. TUKEL:** By the way, that reference to
6 Northwest 253 heavy, you will hear it referred to, I think,
7 every time they communicate. That's a technical term. It
8 has to do with the size of the aircraft and how much thrust
9 it has. And the reason that's important for the air traffic
10 controllers is because the heavy planes create a lot of
11 turbulence, and they have to keep the smaller planes a
12 certain distance away or it can affect their flying. So
13 they always identify themselves as Northwest 253 heavy.

14 So the air traffic controller, as I said,
15 she's busy clearing the skies to make room for Northwest
16 253, and the pilots are busy preparing that new approach and
17 landing. So none of them are talking about what's going on
18 on Flight 253. They're just dealing with the emergency,
19 they're taking care of what they have to do; and I will tell
20 you, it was fortunate that they were very professional
21 flight attendants who quickly put out the fire, there was
22 very well-trained air traffic controller, and there were
23 very competent and professional and well-trained pilots who
24 all dealt with the emergency extremely well to contain the
25 danger that was going on.

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1 And so as all of that is going on and they're
2 just dealing with the emergency, air traffic control comes
3 back and asks Northwest 253 for an update, "Tell us what's
4 going on that made you declare that emergency," and the
5 pilot says, "We do need the authorities. We have found out
6 that there were some firecrackers that went off in the back
7 of the aircraft, it was on somebody's person back there, and
8 they've got him subdued and we need the authorities."

9 Recall that when I was telling you about the
10 events, said everyone heard a loud pop and many of them
11 thought it sounded like firecrackers, and so that's what was
12 communicated to the lead flight attendant, that's what she
13 told the pilot, there was a pop, people concluded it was a
14 firecracker. So she tells the pilot it was a firecracker,
15 the pilot tells the control tower it was a firecracker.
16 That's all anybody knows. Let's listen.

17 (Audiotape was played.)

18 **MR. TUKEL:** So while the pilots are changing
19 course there's still panic going on on the aircraft, people
20 don't know what's going on, they don't know if the fire is
21 out, there's screaming, there's shouting, there's people
22 trying to figure out what's happening, and people are up,
23 they're looking, they're running, they're moving around.

24 And while that's going on, someone seated
25 towards the back of the aircraft actually turns on their

1 video camera and takes about 20 seconds of video. Now, he
2 is too far back to actually see what's going on, but there's
3 audio on it, and from the audio you get a sense of what's
4 going on immediately after the fire is out.

5 The fire is out by this point, and I can tell
6 you that because Lamare Mason, one of the flight attendants
7 who had ran in with the fire extinguisher and put out the
8 fire, as I was telling you about, is actually on the video,
9 and at one point you see him walking back with a empty fire
10 extinguisher, and then you hear him talking to the
11 passengers.

12 As I said, there is this steep, quick landing
13 that the pilots have to go through to get the plane on the
14 ground, and so the flight attendants need to get everyone
15 seated. People are standing, people have moved around, and
16 in that 20 seconds or so of video, you will hear -- not
17 today, we're not playing it today -- but when you hear it,
18 you will hear one of the flight attendants, one of the
19 women, shouting, "Sit down, sit down, sit down," in the
20 background trying to get the passengers down into their
21 seats, because they're coming in fast and they need to be
22 strapped in.

23 And then Lamare Mason comes on, and he says,
24 "Sit down in any available seat, it doesn't matter where you
25 sit, get down in a seat and strap yourself in because we are

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1 coming in for a very sharp landing," which I just showed
2 you.

3 Okay. And so here's a timeline to talk about
4 everything that we've been talking about. Remember the
5 pilot reported the fire to the tower within about ten
6 seconds of learning of it, when he calls in and he says, "We
7 need immediate assistance." So that takes place at 11:44:39
8 seconds. That conversation we just listened to where the
9 pilot gives the update, he says, "They've got him subdued
10 and we need the authorities," that takes place at 11:47 and
11 22 seconds, less than three minutes later.

12 So what that means, in less than three
13 minutes, the passengers who intervened intervened, the
14 flight attendants ran and got the fire extinguishers, they
15 came back with the fire extinguishers, they put the fire
16 out, they took the defendant out of his seat, they walked
17 him up to seat 1G, and they sat him down in that seat next
18 to Ramy Guirgis, all in less than three minutes.

19 And then the plane lands. And the plane
20 lands at 11:51 and 30 seconds, so only four minutes after
21 the defendant is moved up to 1G, the plane is on the ground,
22 which means from the time the defendant detonated the bomb
23 till the plane gets down on the ground, it's only less than
24 seven minutes. That's how quickly they came down.

25 Okay. Why is that important? That it's

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1 simply four minutes from the time the fire is out and the
2 defendant is moved up to 1G until landing.

3 Well, I talked about the conversations that
4 the defendant was having sitting up there in business class
5 with Ramy Guirgis and Dionne Ransom-Monroe, the Delta flight
6 instructor and the flight attendant. Those conversations
7 were necessarily short because there wasn't any time. There
8 was less than four minutes from the time he got there until
9 the plane was on the ground. So there wasn't time for a lot
10 of detail to be discussed.

11 But what is significant is that those
12 conversations that the defendant had with Ramy Guirgis and
13 Dionne Ransom-Monroe were only the first in a whole series
14 of admissions he made that day on Christmas to people about
15 what he had been doing on Flight 253. From Randy Guirgis
16 and Dionne, through the end of the day, the defendant tells
17 details of what he did to each and every person that he
18 comes in contact with. So let's go through those.

19 Okay. Plane lands. Remember, the pilots
20 don't know any more than what they were told. They thought
21 there were firecrackers on board, that's what they had told
22 the control tower, and they said, "We need the authorities,"
23 so the control tower, of course, says, "We need authorities
24 to go respond to an incident of firecrackers on board
25 Flight 253."

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1 And so Officer Marvin Steigerwald, who is
2 from U.S. Customs and Border Protection and will testify at
3 this trial, comes down to Flight 253 to see what this
4 incident was all about. And again, he had been told about
5 the firecracker incident, so he comes on board, and
6 remember, the defendant has no pants at this point, bit of
7 underwear, a blanket, no shoes.

8 And Officer Steigerwald comes on board and he
9 looks at the burns that the defendant has, and I will tell
10 you, they are serious burns, they were on his thigh and on
11 his genitals, and Officer Steigerwald sees those burns, and
12 he can tell right off the bat those burns were not caused by
13 firecrackers. He knows it's something much more serious.

14 So he takes the defendant off the airplane,
15 and they're walking, again, defendant has no shoes, he's
16 walking barefoot with a blanket wrapped around him, back to
17 the U.S. Customs Office and back to a holding cell that they
18 have at customs. And as they're walking,
19 Officer Steigerwald engages in conversation with him, and
20 Officer Steigerwald asks the defendant, "What is going on?
21 What were your intentions on the flight?" And the defendant
22 tells him, "To bring down the airplane."

23 Officer Steigerwald asks him, "Who are you
24 involved with?" And the defendant says, "Al-Qaeda."

25 Al-Qaeda, of course, being the terrorist

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1 organization that Osama bin Laden founded and ran until he
2 was killed earlier this year by U.S. Navy seals.

3 Officer Steigerwald asks him, "Where did you
4 get the device?" And the defendant tells him, "Yemen, in
5 the Middle East."

6 Officer Steigerwald asks him again, "Who are
7 you involved with?" And the defendant says, "I'm with
8 al-Qaeda."

9 Officer Steigerwald asks the defendant, "What
10 kind of device was it?" And the defendant says, "A bomb."

11 Officer Steigerwald again asks, "What were
12 your intentions?" And the defendant says, "To bring the
13 plane down over U.S. soil."

14 Officer Steigerwald says, "Where did you have
15 the device?" And the defendant says, "In my underwear."

16 And at that point, which is roughly seven
17 minutes after Officer Steigerwald takes him off the plane,
18 paramedics had arrived to treat the burns. Okay. And so
19 Officer Steigerwald's questioning ends, and the defendant
20 departs for the hospital. He's being taken to the
21 University of Michigan Hospital for treatment for his burns.
22 And even though Officer Steigerwald's questioning had
23 stopped, the defendant had continued talking.

24 So the first person he comes in contact with
25 is Jessica Worsley, a paramedic, she will be a witness at

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1 the trial. And she needs to ask him questions for his
2 treatment. There's powder on him. She needs to know what
3 that powder is so she can figure out what sort of treatment
4 he needs and whether it poses any hazards to anyone.

5 So she asks him, "Where's that powder from?"
6 And he tells her that "There was a syringe and they told me
7 to push the syringe in the stitching of my clothing," and
8 she asks him, "Who is they?" And the defendant chooses not
9 to answer and doesn't answer her.

10 And then Jessica Worsley, the paramedic asks
11 him another question, she says, "Were you trying to commit
12 suicide or harm yourself?" That's something medical
13 professionals always ask because they need to know whether
14 they need to take special precautions for someone who might
15 pose a threat to themselves or others. And he answers,
16 "Yes," he was trying to commit suicide or harm himself, and
17 he's taken to the University of Michigan Hospital in Ann
18 Arbor, and they get there around 2:00 on Christmas Day.

19 So, again, they get to the hospital, and the
20 doctors, just as the paramedics did, want to know what that
21 powder is, how it got on the defendant and what it is. They
22 need to know what they're trying to treat, and so Dr. James
23 Pribble is speaking with the defendant and he hears the
24 defendant describe how the bomb worked. The defendant says
25 that he injected a syringe into powder and it triggered an

1 explosion.

2 So then he receives treatment at the
3 University of Michigan Hospital.

4 During his treatment, the nurses were
5 listening to Christmas music. After all, it was Christmas
6 Day. And the defendant asked them to turn the Christmas
7 music off. But they didn't.

8 And after the treatment was completed, the
9 FBI needed to speak to the defendant. Special Agent
10 Peissig, who had already been put in charge of the
11 investigation, and another agent, Timothy Waters, needed to
12 speak to the defendant because they needed to figure out
13 whether there were other attacks being planned for other
14 aircraft that same day, and so they began interviewing the
15 defendant, and that went on for 45 or 50 minutes, and the
16 defendant told them the entire plot.

17 The defendant told them that he went to Yemen
18 to become involved in violent jihad against the United
19 States. Jihad is a word that can have different meanings.
20 It can mean struggle, it can mean an internal struggle or
21 improvement or striving to make oneself better.

22 That's not the defendant's meaning, and that
23 was not the meaning he gave it when he spoke to the FBI on
24 Christmas Day. He uses that word in the same sense that
25 al-Qaeda uses that word.

1 In 1998, Osama bin Laden declared war against
2 the United States on behalf of al-Qaeda, he declared jihad
3 against the United States, and when al-Qaeda says "jihad,"
4 it means violent war against the United States, against the
5 United States citizens and United States airliners. That is
6 the sense that the defendant used it when he spoke to the
7 FBI on Christmas Day.

8 So what else did the defendant say to the
9 FBI? He said that he sought out and found al-Qaeda. He
10 said that he was introduced at a mosque to someone he called
11 Abu-Tarak, an al-Qaeda member.

12 He told the FBI that he and Abu-Tarak spoke
13 daily about jihad and martyrdom and supported al-Qaeda and
14 Osama bin Laden. And martyrdom is, of course, a suicide
15 operation where the person is engaged in jihad, and they
16 carry out an operation, sometimes called suicide bombing,
17 sometimes called martyrdom bombing, where the person intends
18 to kill and to himself die in the act of doing it, and they
19 usually think that they will end up in heaven as a result of
20 doing that.

21 And the defendant said that he and Abu-Tarak
22 spoke daily about ways to attack the United States. Daily.
23 And then in late November of 2009, remember, this interview
24 is taking place on December 25th so he's talking about a
25 month or so earlier, Abu-Tarak suggested to the defendant

1 that he become involved in a plane attack against the United
2 States aircraft. And the defendant agreed to do that. And
3 the plan was that the bomb would be concealed in the
4 defendant's underwear, and Abu-Tarak gave him training in
5 detonating the bomb. And the way the bomb would work is
6 that the defendant would inject liquid into a powder with a
7 syringe and that would cause the explosion.

8 And Abu-Tarak told the defendant that the
9 bomb would not be detected by airport security anywhere in
10 the world. And he said that the bomb maker was a Saudi
11 Arabian individual, and in fact, the defendant told the FBI
12 that he met the bomb maker, he met the Saudi Arabian bomb
13 maker while he was in Yemen. And Abu-Tarak told him that
14 the plane would crash and it would kill everybody on board.

15 And Abu-Tarak gave him the direction.
16 Remember, I said there were only three parts to the plan, he
17 had to blow up a plane, it had to be a U.S. airliner and it
18 had to take place over U.S. soil. Abu-Tarak reported that
19 way, make sure it's a U.S. aircraft, make sure it takes
20 place over the United States.

21 And then the defendant told the FBI that on
22 approximately December 6 or 7 he received the bomb from
23 Abu-Tarak in Yemen. From Yemen, he flew to Africa, to
24 Ethiopia and Ghana to arrange for a plane to the United
25 States. That's what he told the FBI on December 25, 2009.

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1 And recall that the defendant in late
2 November said that in late November, Abu-Tarak proposed an
3 airplane attack, and it makes sense that defendant would be
4 the type of person al-Qaeda would choose for that sort of
5 attack.

6 He is a fluent English speaker, he's an
7 experienced world traveler, he's been all around the world.
8 He had a valid passport and he had a valid U.S. visa to
9 enter the United States. So he had everything that an
10 organization like al-Qaeda would look for in trying to get
11 someone on board a U.S. airliner. He would be able to do
12 that.

13 So the defendant, going back to December 25,
14 he's still not finished talking about the event. There's a
15 nurse at the University of Michigan Hospital called
16 Julia Longenecker, and she will be a witness here at the
17 trial. And prior to the defendant receiving treatment for
18 his burns, he had not been formally admitted to the
19 hospital. He had been brought to the hospital, he was
20 admitted under a false name because he was an FBI prisoner,
21 and so they had admitted him under a false name.

22 As a result, they hadn't filled out all the
23 admissions paperwork they needed to do, so they treated him
24 and then later in the day, Julia Longenecker was ready to
25 fill out the admissions paperwork, and she went through a

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1 series of standard admissions questions with him.

2 One of those questions she asked him, just as
3 the paramedics had done, was if he had ever thought about
4 harming himself or others. And the defendant told her,
5 "No."

6 And so she said to him, "Well, what about
7 what happened on the plane today? Didn't you try to harm
8 yourself or others?" And the defendant said to her, "That
9 was martyrdom."

10 You know, the concept of martyrdom is going
11 to be explained more fully to you during the course of the
12 trial by expert witnesses, but as I said, it's the concept
13 that someone is going to die themselves in an operation.
14 But, therefore, it's not harming himself or others because
15 that's his view, it's religiously justified, it's permitted,
16 it's not harming himself or others.

17 Okay. So let's talk about the trial. Let's
18 talk about what's going to go forward here in the days and
19 weeks of your jury service. There's three parts to the
20 trial. There is the what, what the defendant did on
21 December 25, 2009, there is the why the defendant did what
22 he did, and there is the how defendant did what he did. So
23 it's what, why, and how.

24 Part one, I've already talked about.
25 Everything from when I stood up until now has been the what,

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1 what happened on December 25, 2009?

2 Phase two is going to be why the defendant
3 did what he did, and then phase three, how the defendant did
4 it. So let's go ahead to phase two and talk about the why,
5 talk about the investigation.

6 Defendant's journey to Flight 253 was
7 lengthy. He was born and raised in Nigeria. As I said, he
8 is a fluent English speaker, and he comes from a wealthy and
9 successful family. His father owns a bank in Nigeria, and
10 on a visa application that the defendant filled out to enter
11 the United Kingdom, there was a question which asked what
12 his father's income was. His father said 100,000 pounds.
13 That's about 150,000 U.S. dollars every month.

14 The defendant attended the best schools. He
15 went to a prep school called the British School of Lome in
16 Africa. He went to University College in London where he
17 received an engineering degree, and then he went to graduate
18 school in engineering at a place called the University of
19 Wollongong in Dubai in the United Arab Emirates in the
20 Middle East.

21 So he had the opportunity to do anything he
22 wanted with his life. But instead he began listening to
23 tapes of someone named Anwar al-Awlaki, a radical preacher,
24 and he became committed to jihad, and he left graduate
25 school and he went to Yemen. He wanted jihad and he sought

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1 it out and he found it.

2 So just to give you an idea where Yemen is,
3 here's the United States on a world map, and here is the
4 entire Middle East in pink. So here is Yemen down here.
5 And here's a little bit more detail. The defendant was
6 going to school here in the United Arab Emirates, and he
7 decided to go next-door to Yemen to look for jihad.

8 Okay. Why did the defendant seek out
9 al-Qaeda? Again, he wanted to commit jihad, he wanted to
10 commit martyrdom and that was the best way to do it.

11 Think about jihad and martyrdom because one
12 of the things Judge Edmunds will tell you at the end of the
13 trial is that the defendant's intent is key for criminal
14 charges. What he intended to do, whether he intended to
15 kill, whether he intended to destroy Flight 253. That's,
16 those are key elements of all of the offenses. And those
17 questions of what the defendant's intent was are answered by
18 his desire to engage in jihad and to engage in martyrdom.

19 Before defendant left on his mission for --
20 to destroy Flight 253, he recorded what is called a
21 martyrdom video. That's a video in which he gives his
22 justifications for his actions and understanding why the
23 defendant wanted to engage in jihad and martyrdom and why
24 al-Qaeda is waging war on the U.S. is part of answering that
25 question of the why defendant did what he did.

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1 His martyrdom video, what he records, his
2 statement, is part of a larger al-Qaeda video which is
3 called "America and the Final Trap." Defendant recorded
4 that martyrdom video obviously before he left on his
5 mission, and later al-Qaeda released it to the world.

6 You are going to hear from two expert
7 witnesses in this case. One is named Bruce Reidel. He is a
8 former central intelligence employee for over 30 years.
9 He's now a professor, he's an author, he's been on a
10 presidential commission.

11 Another expert witness, Simon Perry, he's a
12 PhD in criminology. He teaches at a university in Israel,
13 and he studied martyrdom bombers and he's an expert in
14 martyrdom.

15 And Mr. Reidel is an expert in the al-Qaeda
16 organization, and both Dr. Perry and Bruce Reidel will tell
17 you when they come here to testify that the defendant's
18 martyrdom video is an authentic al-Qaeda production and
19 there's a number of ways that they can determine that.

20 So why does a terrorist group like al-Qaeda
21 produce videos? Well, number one, just like the name
22 suggests, they want to terrorize, they want to take credit
23 for the attacks that they're undertaking. They want to
24 terrorize in another way as well. They want to tell the
25 world that more attacks are coming, they want people to be

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1 scared, they want people to react to what they're saying.
2 They do it for propaganda purposes. They want to tell the
3 world and their own supporters, "We are winning, look at
4 what we have done. We have done this attack." And they
5 want to recruit more people to their side. They want to
6 find other people to engage in terrorism.

7 And Bruce Reidel and Simon Perry, the
8 experts, will tell you that al-Qaeda always has a martyr
9 film a video before a mission giving their reasons for why
10 they do it.

11 Why? Same reasons I just gave. They want to
12 terrorize, they want to take credit, they want to recruit
13 new people to do it.

14 Okay. In the al-Qaeda video, al-Qaeda takes
15 credit for the defendant's attack on Flight 253. They talk
16 about how the bomb defeated western security at airports,
17 and it talks about defendant's history and why he turned to
18 jihad. And so then the defendant's martyrdom statement is a
19 portion of the overall video, "America and the Final Trap."

20 Here's an interesting point about that video.
21 Even though the defendant is a fluent English speaker, on
22 the video he speaks in Arabic. He quotes the Koran, and he
23 gives his reasons for -- in part, he quotes the Koran, and
24 he gives his reasons for why he engaged in the attack on
25 Flight 253.

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1 Here's an interesting fact. The video has
2 English subtitles. Those English subtitles were put on by
3 al-Qaeda, not by anyone else. That's the way it was
4 released, in Arabic with English subtitles. Why? Because
5 al-Qaeda wants the western world and the English speaking
6 world to understand exactly what they're saying because they
7 wanted to terrorize, they want the world to know, they want
8 the world to fear additional attacks.

9 And so that video was reviewed by FBI
10 translators who will be -- there will be an FBI translator
11 who will be a witness here at trial and will testify and
12 will tell you, yes, those subtitles correctly translate from
13 Arabic into English what was being said.

14 Okay. Defendant's martyrdom video, as I
15 said, is a portion of the overall video. It's 34 seconds of
16 what al-Qaeda chose to release to the world. Let's review
17 it. As I said, it is a video. I am not showing it to you
18 now in video format. You will see it in video format during
19 the course of the trial. What I'm going to show you now is
20 a screen shot so that we can read the defendant's words
21 together of what he said, and later, you will hear it in
22 video format with the defendant actually speaking and you'll
23 hear his voice.

24 So here is what the defendant says. Up in
25 the right-hand corner, that symbol stands for Al-Malahem

1 Media, it is an al-Qaeda media outlet production, and when
2 Mr. Reidel comes in to testify, the expert witness on
3 al-Qaeda, he will tell you that the fact that that appears
4 shows that it is an authentic al-Qaeda production because
5 al-Qaeda releases things through that media outlet so that
6 the world knows what al-Qaeda's position is.

7 Obviously, that's the defendant in the
8 photograph, and then in the left is an AK47 assault rifle,
9 again, very common in martyrdom videos to reinforce the
10 person who is speaking, their commitment to violent jihad.

11 And so what does the defendant say? In the
12 bottom he says, "Oh, ye who believe, take not the Jews and
13 the Christians for your allies and protectors. They are but
14 allies and protectors to each other and he amongst you that
15 turns to them is of them. Verily, Allah guides not a
16 wrongdoing people."

17 And then the defendant says, "My Muslim
18 brothers in the Arabian Peninsula, you have to answer the
19 call of jihad because the enemy is in your land along with
20 their Jewish and Christian armies. Allah, the most high,"
21 he says, and here he begins quoting the Koran, "unless you
22 go forth," meaning unless you go forth in jihad, "He,"
23 Allah, "will punish you with a grievous penalty and put
24 others in your place. But him," the righteous person who
25 goes forth in jihad, "you would not harm in the least."

1 So that gives the defendant's explanations of
2 the why, why he did that. Jihad and martyrdom.

3 By the way, there was no mention of Flight
4 253 in the martyrdom video. There couldn't be. Recall that
5 he told the FBI that Abu-Tarak gave him the bomb on December
6 6th or 7th. His reservations for Flight 253 were made
7 later.

8 Recall that I said there were three aspects
9 to the defendant's mission. He was told he had to destroy
10 an aircraft, it had to be a U.S. airliner, and it had to be
11 over U.S. territory. He was given complete control over how
12 to identify which flight and which airliner, and that was
13 done much later after he left Yemen. So the filming of that
14 video had to take place before he left so it wouldn't be
15 possible to mention Flight 253.

16 In addition, those types of videos never
17 mention specific flights or dates in case those things
18 change along the way. They're for release afterwards when
19 everyone knows what happened and knows who was involved in
20 it so that they can show the reason why the person was
21 involved in it.

22 So that brings us to the final phase of the
23 three phases of the trial. The what, the why, and the how.
24 Here's phase three, the how. And before we delve into that,
25 let's review a little bit.

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1 In Yemen, the defendant volunteered for the
2 Flight 253 mission. He trained, he practiced with the bomb,
3 he recorded the martyrdom video we just looked at, and he
4 received the bomb. Meaning he received the bomb in the
5 underwear so that he could wear it.

6 He was told he needed to destroy a U.S.
7 airliner and he needed to do it over U.S. soil. And all
8 those other details were left to the defendant.

9 Okay. So he needed to get on a flight to the
10 U.S. That was the next step. And he didn't want to go
11 straight from Yemen because that would be too obvious since
12 al-Qaeda is so active in Yemen.

13 So here's what the defendant did. From
14 Yemen, he flew to Ghana in Africa. From Ghana, he flew to
15 Nigeria, his home country. From Nigeria, he caught a flight
16 to Amsterdam in the Netherlands and in the Netherlands he
17 boarded Flight 253 for Detroit.

18 Why is that important? Because Count 1 of
19 the indictment charges him with conspiring to engage in an
20 act of terrorism transcending, crossing, international
21 boundaries, and so the defendant crossed and recrossed and
22 crossed again international boundaries in carrying out this
23 plan to destroy Flight 253.

24 And in Ghana, Africa, the defendant tried to
25 buy a ticket to the United States. And remember, all he

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1 needs is a U.S. airliner going anywhere in the U.S., so he
2 made numerous reservations for numerous destinations, and
3 then he would cancel and he would redo it. Because again,
4 the destination was unimportant to him. He just needed a
5 U.S. airliner coming to the U.S.

6 So at one point or another he tried to make
7 reservations to Houston, Chicago, California, and other
8 places. He already had the bomb. He had been wearing it
9 since he left Yemen, and he told the travel agencies where
10 he went trying to make these reservations numerous false
11 stories. He told them that he was staying at different
12 hotels than where he was actually staying. He kept the
13 maids from coming into the room to clean up the room because
14 he didn't want them to see the bomb. And ultimately, he
15 secured a reservation from Amsterdam to Detroit on
16 Northwest 253.

17 So he still needed to get to Amsterdam. And
18 at the time, the law in Ghana did not permit a noncitizen to
19 travel from there so he had to go home to Nigeria first. He
20 had to go back to Nigeria so he could fly on to Amsterdam
21 and so he flew to Nigeria and he stayed there a short time
22 and he did fly on to Amsterdam.

23 And of course, he still had the bomb with
24 him. He had been wearing it ever since he left Yemen. Now,
25 I've already talked in the what, the what happened on

1 December 25 segment, about the events on Flight 253, and
2 obviously the bomb did not function as it was intended to.

3 The bomb itself was a specially designed
4 bomb. It had no metal parts, and the reason for that was so
5 that it would bypass metal detectors at the airports. And
6 the defendant, wearing the bomb, got through a series of
7 airports outside the United States.

8 There was a pouch sewn in the underwear to
9 hold the main charge, the main charge is a chemical called
10 PETN. And this is what's left of the underwear, and in the
11 middle, that's the pouch for holding the charge of PETN.
12 And this is what was left of that charge of PETN after the
13 defendant set it off.

14 Remember when I was talking in the beginning
15 how the defendant was taken from his seat in 19A up to 1G
16 after the incident, and he was sat down next to Ramy Guirgis
17 for the last four minutes of the flight and something fell
18 out by seat 13B? This is what fell out by seat 13B. It's
19 the remnants of the PETN which is the main charge of the
20 explosive.

21 And so wearing that bomb, defendant got
22 through airport security in Yemen and in Ghana and in
23 Nigeria, and then finally he arrives in Amsterdam and he has
24 to go through security again. And in Amsterdam, for flights
25 to the United States, they have two levels of security, they

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1 have the scanners, metal detectors, and they also have
2 individual interviews with people, they call them profilers.
3 And he met someone named Jafar Hosseyni whose job was to
4 screen those passengers. And the defendant gave false
5 answers to a whole series of questions that Jafar Hosseyni
6 posed to him. And Jafar Hosseyni will be a witness here.

7 Jafar Hosseyni said to him, "Where have you
8 been?" And the defendant gave an answer, but he left out
9 Yemen, didn't mention Yemen.

10 "Well, what were you doing on your trip?"
11 And he says that he was doing things that didn't involve
12 al-Qaeda.

13 He says, "Did anyone give you anything to
14 take on the flight?" The defendant says, "No," when of
15 course, he had been given the bomb and the underwear to take
16 on Flight 253.

17 "What did you do in Nigeria?" He said he
18 visited his family, when in fact, he was just there a short
19 time.

20 He's asked, "Why are you going to the U.S.?"
21 He says, "To visit old high school friends."

22 Says, "Where are you going in the U.S.?" And
23 he didn't really have an answer. He was asked for his
24 contact information and he didn't have it. But he wrote
25 down an email address that he said were for the friends he

1 was going to visit and that email address was a made-up
2 email address, it's not registered to anyone.

3 And so by telling that series of false
4 statements to Jafar Hosseyni, the defendant gets through and
5 he boards Flight 253, he's wearing the bomb in the
6 underwear, and he's now ready to fly on to the United
7 States.

8 Let's talk a little bit about how the bomb
9 was designed to work. There are three parts to the bomb and
10 I can tell you, you will get this in a lot more detail from
11 an explosives expert, Michael Leone, from the FBI
12 laboratory, but basically there were three parts to the
13 bomb.

14 There was the syringe, and the syringe was
15 designed to cause a fire. That fire would ignite another
16 chemical. There's a small amount of a chemical called TATP.
17 The syringe would be pushed, that would set the TATP on
18 fire, that TATP would explode. Think of that as the first
19 explosion. And that explosion of TATP would then trigger
20 the main charge, the PETN, for the second explosion. So it
21 would be fire, small explosion, big explosion.

22 The fire is caused by mixing two chemicals,
23 potassium permanganate and ethylene glycol, in a syringe.
24 Those are common chemicals. Ethylene glycol is in
25 antifreeze, and potassium permanganate is also a common

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1 chemical, and it's easily available. And when those two
2 chemicals are mixed together, they bubble, and then they
3 smoke and then they burst into flames, just as the
4 passengers on Flight 253 saw. When they mix together, they
5 cause that type of fire.

6 Okay. This was recovered on Flight 253, that
7 is actually what is left of the syringe, and it's wrapped in
8 a lot of tape. There was a lot of tape holding the syringe
9 and the other portions together to keep them together.
10 Well, at the FBI laboratory, the lab analyst took that apart
11 and removed the tape, and this is what it looks like. You
12 can see very clearly that with the tape removed, it is what
13 is left of a syringe. It burned because that fire from the
14 chemicals burned it and caused it to melt, but it was a
15 syringe.

16 Okay. If all that science seems a little too
17 complicated, think of it as a doughnut, and I'm not
18 suggesting it looked like a doughnut or was shaped like a
19 doughnut, but if you think of a doughnut, and the doughnut
20 is made out of PETN, that's the main charge. In the hole
21 would be the syringe. It goes in the middle, and then if
22 there's some jelly inside the hole, that's the small
23 explosion, and then it sets off the big outside to the main
24 explosion. It's three parts, just like that.

25 For some the reason, the bomb failed to

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1 explode, explode in the way the defendant thought, but the
2 PETN burned. The bomb did actually explode, the TATP did
3 explode, that first charge, but obviously the PETN didn't
4 have the big explosion that they expected to bring the plane
5 down, and the PETN burned. Some of it burned, some of it
6 didn't. That package that was recovered by seat 13B is the
7 part that didn't burn.

8 So that fire from the syringe and the burning
9 PETN were the reason that defendant was burned so severely
10 and why he needed to go to the University of Michigan
11 Hospital for treatment on Christmas of 2009.

12 And I will tell you that you will see one
13 photo of the burns to identify the defendant. Obviously,
14 the defendant is charged with having a bomb in his
15 underwear. One way of proving that he had a bomb in his
16 underwear is to show that he had the injuries that resulted
17 from that. The photographs are somewhat explicit. You can
18 see the defendant's burns, you can see his genitals.

19 But most importantly, you can see his
20 wristband with his name and birth date identifying him as
21 the person who received those burns. That photograph was
22 taken by a nurse, Julia Longenecker, who I talked about at
23 the University of Michigan Hospital, and it's the type of
24 photograph that hospitals routinely take to document
25 injuries and treatment that someone receives.

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1 Okay. Some components of the bomb were
2 recovered by the FBI after the plane landed. So they were
3 then analyzed by the FBI lab. What do we know about the
4 bomb? Defendant did not build the bomb. How do we know
5 that? Well, number one, he says so. In his statement to
6 the FBI and to Special Agent Peissig on Christmas he
7 admitted that it was a Saudi Arabian bomb maker who made it,
8 and he even met the Saudi Arabian bomb maker. And then the
9 evidence -- he also admitted that the bomb maker trained him
10 on it.

11 And then the evidence at trial will also be
12 that there is fingerprint evidence. Remember I showed you
13 the syringe and it had a bunch of tape that was taken off by
14 the FBI lab. Well, there's tape on other parts of the bomb
15 as well, and when the FBI took that tape off, they found
16 fingerprints on the inside, on the sticky part in a place
17 where only the person who made the bomb could have done it
18 because it was wrapped around and around building the bomb.

19 Those fingerprints were analyzed and those
20 are not the defendant's fingerprints. Those fingerprints
21 were left by someone else, and that could have only been the
22 bomb maker.

23 Why is that important? Well, because, as I
24 said before, the defendant is charged with conspiracy. At
25 the conclusion of the trial, Judge Edmunds will give you

Government's Opening

1 complete instructions about the law and some of these
2 definitions, but I will tell you that conspiracy is a
3 criminal agreement between two or more people, and so the
4 fact that the defendant had a bomb, to go bomb Flight 253
5 which was built by someone else shows that he had conspired
6 or agreed with at least one other person to do it because
7 someone else made the bomb for him.

8 What else did we learn by having the FBI
9 analyze the components of the bomb which survived? There
10 were about 76 grams of PETN, that's the main charge, that's
11 the doughnut part of it if you think of it the doughnut way.
12 That's about three ounces of powder which survived, which
13 did not burn off.

14 And so what the FBI did was create a model
15 from the surviving components. I showed you the remnants of
16 the underwear that was left, and so they took that and they
17 took the pouch and they measured it and they extrapolated
18 what it would have looked like when it was complete, and
19 then they took PETN and filled it to determine how big it
20 was before it burned when the defendant was wearing it
21 before it was set off.

22 And what they learned was that the actual
23 device was approximately 200 grams. It was about seven
24 ounces of explosive. And as part of the proofs at this
25 trial, we are going to show you demonstrations of the three

Government's Opening

1 components that we -- well, two of the components that we
2 talked about, the syringe chemicals, the potassium
3 permanganate and the ethylene glycol that get injected and
4 cause the fire. We will show you demonstrations by
5 videotape of that being done in a laboratory, not with a
6 syringe, but just being poured together, and you will see
7 they bubble, they smoke, and then burst into fire.

8 We can't show you the TATP demonstration
9 because it's too dangerous to do that in a laboratory, it's
10 too unstable, but the only point of the TATP exploding was
11 to create that first explosion because that first explosion
12 is what sets off the second larger explosion, and so you
13 will see demonstrations of that second larger explosion
14 being done in ways in the laboratory which were -- or in an
15 open field by the laboratory, in a safe way.

16 And see you'll see the PETN being set off in
17 two different amounts, the 76 grams that was actually
18 recovered plus the 200 grams which was the size of the
19 device the defendant was wearing. And so what you will
20 learn through that is that when those elements are combined,
21 they become an explosive bomb.

22 The legal term for that is a destructive
23 device, and you heard the charges last week and you may
24 recall that destructive device was discussed. Of the eight
25 charges, destructive device figures into four of them, and

Government's Opening

1 the destructive device is simply this: An explosive bomb or
2 a combination of parts designed or intended for use in
3 converting a device into an explosive bomb and from which
4 you can quickly and readily assemble an explosive bomb.

5 So it's either the assembled bomb or it's all
6 the parts that you need to put together into a bomb that
7 haven't been quite put together yet.

8 So obviously the bomb itself was an explosive
9 bomb. But in addition, the TATP and the syringe were
10 themselves an explosive bomb, all by themselves. And that's
11 because when you combine the fire from the syringe with the
12 TATP, it explodes, so those two things just by themselves
13 were an explosive bomb and, therefore, a destructive device,
14 and then all three components together were a combination of
15 parts designed and intended to make that PETN into an
16 explosive bomb.

17 So what that means is that there were really
18 two explosive bombs in what defendant was wearing in his
19 underwear plus the components, three different ways of
20 showing the destructive device. There were multiple
21 destructive devices that he was wearing.

22 There's a little bit of additional evidence
23 from the FBI laboratory. You will recall that when the
24 defendant left Flight 253 with Officer Steigerwald from
25 Customs and Border Protection, in addition to not having

Government's Opening

1 pants on, he had a blanket around him, he was barefoot. His
2 shoes were off and were left on the airplane. Those shoes
3 were analyzed, everything was analyzed by the FBI lab.

4 And when the FBI lab was going through those
5 shoes, they found a slip of paper. On that slip of paper
6 was a code. It's an encryption code. It's an encryption
7 code that al-Qaeda in a magazine tells people who want to
8 communicate it, to communicate with al-Qaeda to use.

9 We'll show you as part of the evidence in the
10 trial that article that tells people who want to communicate
11 with al-Qaeda, use this software, communicate with us that
12 way.

13 That slip of paper that the defendant had in
14 his shoe was a password to use that encryption software that
15 al-Qaeda have. He must have been communicating or planning
16 to communicate with someone before he boarded Flight 253.
17 Why is that important? Because it's more evidence of
18 conspiracy. If he's communicating with someone else,
19 there's obviously others who were involved with him in the
20 whole plot. Why else would he have any need to communicate
21 secretly in a way which can't be decoded unless he was
22 communicating with someone else who was involved in the
23 plot? So you will see that slip of paper as well.

24 Okay. So I'm about to wrap up. That was an
25 overview of what the evidence in the trial will be. That's

1 the what, that's the why, and that's the how. Okay. Judge
2 Edmunds has told you, you learned this during your jury
3 selection process last week, you heard it again today, the
4 defendant has full constitutional rights, and one of the
5 rights he's chosen to exercise is the right to participate
6 in his defense himself. If he chooses to, he can question
7 witnesses during the trial just as if he was an attorney.
8 That is his constitutional right. We don't know what if
9 anything he will choose to do as that goes on. I'm simply
10 telling you that he might at some point decide to do that.

11 So let's talk briefly about what the charges
12 are in this case. There are eight charges in the
13 indictment, and you will hear about this in much more detail
14 toward the end of the trial and you will have a copy of the
15 indictment with you when you go to the jury room to
16 deliberate.

17 Count 1 charges defendant with a conspiracy
18 to commit an act of terrorism transcending national
19 boundaries.

20 Count 2 charges him with possession of a
21 destructive device, that's the bomb, and I just talked about
22 the bomb and why the bomb was a destructive device. Count 2
23 charges him with possessing a destructive device in
24 furtherance of that terrorism charge.

25 Count 3 charges the defendant with attempted

1 murder in an aircraft.

2 Count 4 charges the defendant with carrying a
3 destructive device in relation to the attempted murder
4 charge, the destructive device, again, being the bomb.

5 Count 5 charges the defendant with placing a
6 destructive device in an aircraft which was likely to
7 endanger the safety of the aircraft.

8 Count 6 charges him with possession of a
9 destructive device in furtherance of what's charged in
10 Count 5.

11 Count 7 charges him with attempted use of a
12 weapon of mass destruction. That is the bomb.

13 And then Count 8 is the final charge, charges
14 him with attempting to wreck and destroy an aircraft, that's
15 obviously Flight 253.

16 So as I said, Judge Edmunds will give you
17 full instructions about the law at the end of trial and
18 somewhat -- she will define all of the terms for you. There
19 are certain important terms along the way for you to think
20 about as you hear the evidence. They're all important, but
21 in particular, we've already talked about conspiracy and
22 destructive device.

23 And as I said, the charges will turn on
24 defendant's intent, and the defendant's intent really is the
25 why part of the trial, that middle part of why the defendant

1 did what he did. And his intent will be key when you
2 deliberate on the terrorism charges, the attempted murder
3 charge, the endangering an aircraft charge, attempting to
4 detonate a weapon of mass destruction charge and attempting
5 to wreck and destroy an aircraft.

6 So please pay particular attention to the
7 evidence showing his intent.

8 When the trial wraps up, after all the
9 evidence is complete and after Judge Edmunds has given you
10 instructions on the law, my colleague, Cathleen Corken, will
11 have an opportunity to give closing argument to you. At
12 that time, she'll review the evidence, she'll review the
13 instructions on the law, and she will ask you to return the
14 only verdict which the evidence will support which is that
15 the defendant is guilty as to all eight of those charges.

16 **THE COURT:** Thank you, Mr. Tukul.

17 Mr. Chambers, are you reserving at this time?

18 **MR. CHAMBERS:** We are reserving at this time.

19 **THE COURT:** All right. Then let's call the first
20 witness, please.

21 **MR. TUKEL:** Your Honor, could we have a break? We
22 need to change the equipment just briefly for the first
23 witness to testify.

24 **THE COURT:** Let's take a short break, comfort
25 break.

1 (Recess taken 12:15 p.m. until 12:32 p.m.)

2 **THE COURT:** I understand you want to preadmit some
3 exhibits.

4 **MR. TUKEL:** We do, Your Honor, and we had agreed
5 on that before the side bar, and then I lost track on that.
6 I've discussed this with Mr. Chambers, and we've agreed to
7 the admission of the following exhibits --

8 **MR. CHAMBERS:** I cannot agree to the admission of
9 exhibits at this stage because I have not had a chance to
10 speak with Mr. Abdulmutallab.

11 **THE COURT:** Okay. All right. Can you do that
12 before we start tomorrow?

13 **MR. CHAMBERS:** Sure.

14 **MR. TUKEL:** Okay. We'll hold that until they've
15 had a chance. The conversation was between myself and
16 Mr. Chambers.

17 **THE COURT:** All right. Obviously, you need to
18 consult with Mr. Abdulmutallab about this.

19 We also do need to break at 1:00. At least
20 one juror mentioned to Carol they need to stop at 1:00, so
21 we'll do that.

22 Let's go.

23 **MS. CORKEN:** Your Honor, the government calls
24 Mike Zantow.

25 (Jury in 12:37 p.m.)

1 Q. How many kids do you have?

2 A. Five.

3 Q. Do you have grandkids?

4 A. Two grandkids.

5 Q. And, sir, do you work now?

6 A. No, I'm semi-retired.

7 Q. And when did you retire?

8 A. June of last year.

9 Q. What did you do before you retired?

10 A. I was working for a company in the Middle East, since
11 August of 2000.

12 Q. And what did you do for that company?

13 A. I was a maintenance supervisor, supervising repair of
14 U.S. Air Force equipment.

15 Q. Where was that U.S. Air Force equipment used?

16 A. It was being used in Iraq and Afghanistan.

17 Q. Mr. Zantow what was the name of that company?

18 A. DynCorp International.

19 Q. Were you in the military before you worked for DynCorp?

20 A. Yes, ma'am.

21 Q. How long were you in the military?

22 A. Approximately 26 years.

23 Q. And which branch was that?

24 A. The U.S. Army.

25 Q. What was your rank at the time that you left the Army?

1 A. I was a Chief Warrant Officer 3.

2 Q. And what was your job in the Army?

3 A. Basically, same thing, only supervising repair of all
4 types of engineer equipment.

5 Q. Mr. Zantow, were you a passenger on Flight 253 on
6 December 25 of 2009?

7 A. Yes, I was.

8 Q. What was the departure point of that flight?

9 A. We had left Amsterdam.

10 Q. And is that in the Netherlands?

11 A. Yes, ma'am.

12 Q. Is the Netherlands also known as Holland?

13 A. Yes.

14 Q. What was the destination of that flight?

15 A. We were going to Detroit.

16 Q. And where were you living at that time on December 25
17 of 2009?

18 A. At that time, I was still living in the Middle East.

19 Q. Okay. And had you traveled from your home in the
20 Middle East to Amsterdam to catch Flight 253?

21 A. Yes.

22 Q. Why were you flying on Christmas to Detroit?

23 A. Well, it was a last minute trip. My mother was very
24 ill, and my brother suggested that I come home, it might be
25 the last Christmas, so --

1 Q. To see your mother?

2 A. To see my mother, yes.

3 Q. Where was your mother living?

4 A. In Wisconsin.

5 Q. Were you traveling alone?

6 A. Yes.

7 Q. Do you remember, sir, what your assigned seat was on
8 that flight?

9 A. Yes, I was 20A, window seat.

10 Q. And is that the seat that you remained in during the
11 flight?

12 A. No, ma'am.

13 Q. And what happened that you weren't sitting in 20A
14 throughout the flight?

15 A. Well, prior to takeoff, I noticed the lady sitting next
16 to me was talking across the aisle to another girl, and I
17 assumed they were traveling together, so I asked them if
18 they would like to switch seats so they could be seated
19 together and I could get a aisle seat, and they agreed, so
20 we switched.

21 Q. Okay. So where did you end up sitting?

22 A. I ended up in 20C.

23 Q. Sir, did an incident occur on that flight involving
24 another passenger?

25 A. Yes.

1 Q. And where was that passenger sitting during the flight?

2 A. He was in the seat that I -- the seat directly in front
3 of the seat I had been originally assigned. It would have
4 been 19A.

5 Q. Was that a window seat or an aisle seat?

6 A. That was a window seat.

7 Q. Do you see that passenger here in the courtroom today,
8 Mr. Zantow?

9 A. Yes, ma'am.

10 Q. And can you identify him, please, by where he is and an
11 item of clothing that he's wearing?

12 A. Yeah, seated at this table.

13 MS. CORKEN: Your Honor, may the record reflect an
14 identification of the defendant?

15 THE COURT: Yes, the record will so reflect.

16 MS. CORKEN: Your Honor, may I approach the
17 witness?

18 THE COURT: You may.

19 BY MS. CORKEN

20 Q. Mr. Zantow, I'm handing you what's been marked
21 Government Exhibit 2.1 for identification. Do you recognize
22 that, sir?

23 A. Yes, ma'am.

24 Q. What is that?

25 A. That looks like the seating arrangement of the

1 aircraft.

2 Q. Of Flight 253?

3 A. Yes, ma'am.

4 Q. Does it appear to be accurate to you?

5 A. Yes.

6 MS. CORKEN: Your Honor, we would ask that
7 Government Exhibit 2-- excuse me, can I approach again, Your
8 Honor?

9 THE COURT: Sure.

10 MS. CORKEN: I beg your pardon. 2.1, ask that it
11 be admitted at this time, Your Honor.

12 MR. CHAMBERS: No objection to 2.1.

13 THE COURT: Received.

14 (Government's Exhibit Number 2.1 was received.)

15 MS. CORKEN: And may we publish that exhibit,
16 please?

17 BY MS. CORKEN

18 Q. Mr. Zantow, on Government Exhibit 2.1, is there an
19 indication where you were sitting, sir?

20 A. Yes, ma'am, the green square was my seat on the aisle.

21 Q. Okay. And that is seat 20C is indicated there?

22 A. Yes, ma'am.

23 Q. Okay. And do you see on Government Exhibit 2.1 an
24 indication of where the defendant was sitting?

25 A. That would be the red square, 19A.

1 Q. And that was also by the window?

2 A. Right.

3 Q. Mr. Zantow, can you generally describe for us the
4 interior of the plane?

5 A. Yes, ma'am. As indicated on the chart, it was a
6 two-four-two seating arrangement. I was in Row 20 which was
7 toward the front of the coach class over the wing. And
8 that's about it.

9 Q. Was there a first class section on that plane?

10 A. Yes, our bulk, before our bulkhead was the -- a
11 bathroom, and then the first class section.

12 Q. Was that first class section forward of you or behind
13 you?

14 A. That was forward of us.

15 Q. And behind you, was there another section of that --

16 A. Yes.

17 Q. -- plane?

18 A. Yes, our section went back to another bathroom, and
19 then behind that was another section of coach class.

20 Q. Okay. So there were two sections of coach class?

21 A. Yes, ma'am.

22 Q. And you were in the first coach section?

23 A. Yes, ma'am.

24 **MS. CORKEN:** May I approach, Your Honor?

25 **THE COURT:** You may.

1 **BY MS. CORKEN**

2 **Q.** Mr. Zantow, I'm handing you what's been marked for
3 identification purposes as Government Exhibit 3. Take a
4 look at that, please, and can you tell us -- tell me, do you
5 recognize that, sir?

6 **A.** Yes, ma'am.

7 **Q.** And what is that?

8 **A.** That looks like the entire seating arrangement of the
9 aircraft.

10 **Q.** Okay. Does it appear to be -- is it a diagram, sir?

11 **A.** Yes, a seating diagram.

12 **Q.** Does it appear to be accurate?

13 **A.** The best of my recollection, yep, this is how we were
14 set up.

15 **MS. CORKEN:** Your Honor, I would ask that
16 Government Exhibit 3 be admitted at this time.

17 **MR. CHAMBERS:** Can I just briefly voir dire, a
18 couple quick questions?

19 **THE COURT:** Yes.

20 (12:45 p.m.)

21 **VOIR DIRE EXAMINATION**

22 **BY MR. CHAMBERS**

23 **Q.** Sir, as it relates to the diagram, the exhibit you
24 have, Number 3?

25 **A.** Yes, sir.

1 Q. That is not a diagram that you drafted, is it?

2 A. No.

3 Q. And you have not personally inspected that plane so
4 that you can determine the contents of it or how it was put
5 together by its seating arrangement, am I correct?

6 A. I know this is accurate.

7 Q. Okay.

8 A. I've flown that flight about 35 times in the last 10
9 years.

10 Q. Okay. And you believe that to be the plane you were
11 on?

12 A. I remember it was a two-four-two.

13 Q. Okay. But the dimensions, et cetera, of the plane, you
14 don't know if it's properly to scale or otherwise, is that
15 fair?

16 A. Well, I know coach class went to the door, and in front
17 of that was first class, and behind us was the second coach.

18 Q. You're identifying the diagram based on it being a
19 first class and two coach sections, correct?

20 A. And the seating arrangement, yes.

21 **THE COURT:** Any objection?

22 **MR. CHAMBERS:** Yes, we object to the admission.

23 **THE COURT:** Overruled. It may be admitted.

24 (Government's Exhibit Number 3 was received.)

25 **MS. CORKEN:** Your Honor, may I approach?

1 **THE COURT:** You may.

2 **RESUMING DIRECT EXAMINATION**

3 **BY MS. CORKEN**

4 **Q.** Mr. Zantow, I'm handing you this laser, and I'd ask
5 that you look at Government Exhibit 3, if you would, and
6 with the laser, sir, could you indicate where on that
7 diagram you were seated?

8 **A.** Yes, ma'am. I was seated right there, 20C.

9 **Q.** Okay. And if you would indicate where the defendant
10 was seated.

11 **A.** Yes, that would be 19A.

12 **Q.** And I believe you indicated that the seat where the
13 defendant was was by the wing. Do you see the wing
14 designated there?

15 **A.** Yes, ma'am, this designates the wing area and I --
16 well, I was about mid section of the wing, and defendant
17 would be in 19A, along the window.

18 **MS. CORKEN:** Your Honor, may I approach?

19 **THE COURT:** You may.

20 **BY MS. CORKEN**

21 **Q.** Mr. Zantow, I'm handing you what's been marked for
22 identification purposes Government 6.1. Do you recognize
23 that, sir?

24 **A.** Yes, ma'am.

25 **Q.** What is that?

1 **A.** That's the -- looks like the interior of the aircraft.

2 **MS. CORKEN:** We would ask that Government
3 Exhibit 6.1 be admitted at this time.

4 **MR. CHAMBERS:** No objection to 6.1.

5 **THE COURT:** Received.

6 (Government's Exhibit Number 6.1 was received.)

7 **BY MS. CORKEN**

8 **Q.** And, sir, looking at that photograph, I believe you
9 have made reference to a, is it a two-four-two seating?

10 **A.** Yes, ma'am.

11 **Q.** What is that, sir?

12 **A.** The number of seats in each row; two along the window,
13 then aisle, then four in the middle, and then aisle, and two
14 other by the windows.

15 **Q.** And so does -- in this photograph, does it depict two
16 seats along the window?

17 **A.** Yes, ma'am.

18 **Q.** And can you tell us, is the photograph looking toward
19 the back of the plane, or towards the front of the plane?

20 **A.** That's looking directly towards the back.

21 **Q.** Okay. And does that appear to be the middle section
22 where you were seated?

23 **A.** Yes, ma'am, it does.

24 **MS. CORKEN:** Your Honor, may I approach?

25 **THE COURT:** You may.

1 **BY MS. CORKEN**

2 **Q.** I'm handing you now what's been marked for
3 identification purposes Government Exhibit 6.2. Do you
4 recognize that?

5 **A.** Yes, ma'am.

6 **Q.** What's that?

7 **A.** Looks like basically the same view but looking back
8 towards from the other aisle, right aisle of the aircraft.

9 **Q.** Does it appear to be an accurate photo?

10 **A.** Yes, it shows the four seats in the middle of the
11 photograph.

12 **MS. CORKEN:** Your Honor, we would ask Government
13 Exhibit 6.2 be admitted at this time.

14 **MR. CHAMBERS:** There's no objection to 6.2.

15 **THE COURT:** Received.

16 (Government's Exhibit Number 6.2 was received.)

17 **BY MS. CORKEN**

18 **Q.** And, sir, I believe you stated that this photograph was
19 taken from a different angle?

20 **A.** Yes, ma'am. It looks like basically from the same
21 position of the aircraft only looking to the right.

22 **Q.** Okay. And so the defendant was seated where in
23 relationship on this photograph?

24 **A.** Well, I'd have to guesstimate on the seat, actual seat
25 numbers, but it would be somewhere in this area would be,

1 I'm assuming, the area we were in.

2 Q. Okay. Mr. Zantow, did there come a time during the
3 flight where you saw the defendant get up from his seat?

4 A. Yes, ma'am.

5 Q. Can you tell us what you saw at that time?

6 A. The captain had announced that we had about an hour to
7 landing and that the entertainment systems and stuff would
8 be turned off, get ready for landing, and shortly
9 thereafter, I noticed him get up out of his seat and make
10 his way to the restrooms in the rear.

11 Q. Did he do anything before he made his way to the
12 restroom?

13 A. Yes, ma'am, he stopped and went into the overhead
14 compartment which was directly over my seat, and took a
15 carry-on bag out, laid it on the floor which was right next
16 to my seat, and I noticed he removed a, like a Ziploc
17 plastic bag type thing with like toiletries in it, and
18 placed the overhead bag back in the overhead compartment and
19 moved to the rear of the aircraft.

20 Q. And the restrooms were located in that direction?

21 A. Yes, ma'am.

22 Q. Did there come a time where you saw the defendant
23 return to his seat?

24 A. Yes, ma'am.

25 Q. And about how much time had passed -- how much time

1 passed between the time he left and the time he came back?

2 **A.** I would estimate 10 to 15 minutes. I know it wasn't a
3 real quick trip but -- as a matter of fact, I kind of forgot
4 he went back there. So I saw him return, and so that's why
5 it struck me he'd been gone for 10, 15 minutes.

6 **Q.** Did that appear to you to be a long time, or no?

7 **A.** Well, it did to me if you were just going to use the
8 restroom, but I saw him take his toiletries, so I just
9 thought he was freshening up, getting ready for arrival in
10 Detroit. Didn't think too much of it.

11 **Q.** And was this at the beginning of the flight, or the end
12 of the flight?

13 **A.** Well, we had less than an hour to go in the flight.

14 **Q.** And do you know where the plane was, approximately, at
15 the time the defendant went to the bathroom?

16 **A.** Yes, ma'am. Well, I knew where we were when he came
17 back from the restroom.

18 **Q.** Okay.

19 **A.** Because I had turned my entertainment center off. I
20 was just watching the aircraft map showing us where we were.

21 **Q.** Did you have a monitor?

22 **A.** Yes, I did. So that's what I'm staring at, hoping to
23 get home on time, just staring at the aircraft. And I
24 noticed we were flying over Lake St. Clair, which is just
25 northeast of Detroit.

1 Q. And when you saw the defendant return, did he go back
2 to his seat?

3 A. Yes, ma'am.

4 Q. Did he sit down?

5 A. Yes, ma'am.

6 Q. And what did he do after he sat down? What did you
7 see?

8 A. I didn't notice him at first until one of the flight
9 attendants came down the aisle checking seat backs and
10 tables and seat belts, and she asked the man sitting next to
11 the guy if he was okay, because he put a blanket up over his
12 head.

13 Q. Did you see the defendant at that time?

14 A. Yes, well, I noticed him putting the blanket over his
15 head a few minutes earlier.

16 Q. Tell us about that, what you had seen a few minutes
17 earlier.

18 A. He come back from the restroom, sat there for just a
19 minute or two, and the next thing I know, he was pulling --
20 I saw movement, and I noticed he was putting one of the
21 airplane blankets over his head.

22 Q. Completely over his head?

23 A. Yes, over his head and shoulders.

24 Q. And then, sir, what is it that you saw or heard next?

25 A. Well, then the flight attendant came and asked if he

1 was okay, what was going on, and the gentleman sitting next
2 to the defendant said, yeah, he didn't feel good, he was
3 just going to try and get some sleep the rest of the flight.

4 Q. What happened after that, Mr. Zantow?

5 A. Well, it wasn't four or five minutes later is when we
6 heard a large pop.

7 Q. And what did this noise sound like you to?

8 A. Sounded very much like a large firecracker.

9 Q. Was it loud?

10 A. Yes.

11 Q. And could you tell from where on the plane the noise
12 came from?

13 A. I knew it was relatively close to my left side, but I
14 couldn't tell exactly where, I couldn't pinpoint it.

15 Q. And what happened after you heard this loud pop?

16 A. Well, after the pop, the plane got really more quiet
17 than it was, and everyone kind of looked around. It was
18 about 30 seconds to a minute before I heard one of the other
19 passengers yell out something.

20 Q. What did the other passenger yell out?

21 A. Words to the effect, "Hey, man," or, "Hey, dude, your
22 pants are on fire."

23 Q. And do you know which passenger it was who said that?

24 A. No, it was the one directly next to the defendant, it's
25 19B, assume it's B.

1 Q. Did you have any trouble hearing that?

2 A. No.

3 Q. Was he saying it in a loud voice?

4 A. He was saying it loud enough so that the rest of us
5 could hear.

6 Q. And after this -- and could you tell who this passenger
7 was speaking to?

8 A. Oh, yes, ma'am, he was turned towards 19A.

9 Q. Okay. And what happened after that passenger said,
10 "Hey, man," or, "Dude, your pants are on fire"?

11 A. He repeated it twice, maybe three times, he repeated
12 exactly the same words.

13 Q. Did you hear any response from the defendant after the
14 first time --

15 A. Nothing.

16 Q. -- the passenger said that?

17 A. Nothing.

18 Q. Did you hear any response from the defendant the second
19 time the passenger said it?

20 A. No, no.

21 Q. How about that third time?

22 A. I never heard any response at all.

23 Q. Okay. What happened after that, sir?

24 A. Well, at this time, the steward came up and asked what
25 was going on, and the guy says, "This guy's pants are on

1 fire," and then things really happened after that.

2 Passengers came from the front and rear of the airplane to
3 see what was going on, and I stood up to see what was going
4 on.

5 **Q.** When you stood up, Mr. Zantow, what did you see?

6 **A.** I saw smoke coming from the floor area, lap area of
7 19A.

8 **Q.** And when you say the lap area, what do you mean the lap
9 area?

10 **A.** Well, I was looking over the individual's shoulder, and
11 there was just smoke rising.

12 **Q.** There was smoke rising from which seat?

13 **A.** 19A.

14 **Q.** Okay. And was the defendant seated in that seat --

15 **A.** Yes.

16 **Q.** -- when you saw the smoke?

17 **A.** Yes, ma'am.

18 **Q.** And where was the smoke coming from?

19 **A.** Directly, his lap area between his legs.

20 **Q.** Okay. And how much smoke was coming from his lap area?

21 **A.** Good enough that it was plainly visible. Not
22 overwhelming amount, but it was plainly visible.

23 **Q.** And could you tell how tall it was, how far it was
24 rising?

25 **A.** It was going up to the, up to the overhead.

1 Q. Was the defendant standing or seated when you saw the
2 smoke?

3 A. Still seated.

4 Q. Okay. And did you see if the defendant reacted to the
5 fact that he had smoke coming from his lap?

6 A. No, ma'am, I never saw any reaction at all.

7 Q. Was he saying anything at that time?

8 A. I heard him say nothing, no.

9 Q. Did he yell for help?

10 A. No.

11 Q. What happened after you saw the smoke rising from his
12 lap?

13 A. Well, some other passengers saw it also, I assume,
14 because two people came from the front, other passengers,
15 two came from the rear. I stood up. They removed the
16 blankets. I heard one of them yell, you know, "Get his seat
17 belt off." And I noticed they were trying to get his pants
18 down to see what was going on.

19 Then the two in the front took him on his knees,
20 two from the back, reached over the seat and lifted him up
21 out of the seat and laid him on the floor of the aircraft.

22 **MS. CORKEN:** Could we have Government Exhibit 3
23 again, please?

24 **BY MS. CORKEN**

25 Q. Mr. Zantow, I'd like you to take a look at Government

1 Exhibit 3, and with that laser pointer, if you would, you
2 mentioned there were some passengers who came from the
3 front. Can you -- it's a little small, but can you indicate
4 on there where those passengers went?

5 **A.** Yes, ma'am.

6 **Q.** The ones that you saw come from the front?

7 **A.** The ones in the front came from this area across and
8 back to the 19A area, and then I noticed out of the corner
9 of my eye, two came from the rear here, I'm not sure exactly
10 where, but they came up the aisle from the rear.

11 **Q.** Okay.

12 **A.** And I was standing here in the aisle.

13 **Q.** Okay. Did any of those passengers that you saw, did
14 they go into the, to where the defendant was seated?

15 **A.** Yes, ma'am, ones from the front went into the seat.

16 **Q.** And the ones from the back, where did they go?

17 **A.** They reached over from the seat back.

18 **Q.** Okay. So were they in the seat that is 20?

19 **A.** Yes, ma'am, I believe 20.

20 **Q.** And they reached over. What did they do when they
21 reached over?

22 **A.** I believe it was one of those that yelled to remove his
23 seat belt because I think they were trying to pull him out
24 of the seat, and he wouldn't move.

25 **Q.** Okay. And then what did you see happen at that point?

1 **A.** Well, the rest of the -- okay. So after I heard him,
2 you know, say, "Remove the seat belt," one of the persons
3 remove the seat belt, they pushed the blanket to the floor.
4 I noticed that they had gotten his belt undone and then
5 lifted him by the knees and shoulder out of the seat, and
6 laid him on the floor right next to where I was standing, or
7 right where I was standing. That's when I got his left --
8 or his right arm, and helped guide him to the floor.

9 **Q.** And as he was there on the floor, was he lying down,
10 was he sitting?

11 **A.** Straight on his back.

12 **Q.** And how far were you from him at that time?

13 **A.** Well, once we laid him on the floor, I sat back down on
14 my seat, so he'd be like lying right next to me.

15 **Q.** When the defendant was put into the aisle, did you see
16 whether he was clothed at that time?

17 **A.** Yes, ma'am.

18 **Q.** How was he clothed?

19 **A.** I remember his pants. I believe he had a t-shirt or a
20 polo type shirt, but I remember he had jean type cargo pants
21 which were down about to his knees, and underwear that
22 resembled something I hadn't seen before.

23 **Q.** And what do you mean by that, underwear that resembled
24 something you hadn't seen before?

25 **A.** They were bulky, they reminded me of my son's Pull-Ups

1 when he was little. I assume they looked like adult
2 Pampers. I don't know what they were, but they were bulky
3 and they were burning.

4 **THE COURT:** I think we need to stop.

5 **MS. CORKEN:** Okay.

6 **THE COURT:** We'll continue tomorrow at 9:00.

7 Thank you very much, ladies and gentlemen. Again, sorry
8 that it took awhile to get started this morning. We'll see
9 you in the morning. Have a pleasant evening.

10 (Jury out 1:00 p.m.)

11 **THE COURT:** All right. Let's try to expedite the
12 admission of exhibits by going over them this afternoon, if
13 possible, and let's meet at, say, 20 of 9:00 tomorrow to
14 hear any objections to the exhibits so that we can get them
15 preadmitted to the extent possible.

16 **MR. CHAMBERS:** That's fine.

17 **THE COURT:** Thank you, counsel.

18 (Proceedings adjourned 1:00 p.m.)

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C E R T I F I C A T I O N

I, Suzanne Jacques, official court reporter for the United States District Court, Eastern District of Michigan, Southern Division, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript has been prepared by me or under my direction.

s/ Suzanne Jacques
Suzanne Jacques
Official Court Reporter

10/11/2011
Date

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