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of, NSC: Records

Folder Title: Terrorism: Individuals: Fawaz Yunis
Trial – February 1988 (1)

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Ronald Reagan Library

Collection Name COUNTERTERRORISM AND NARCOTICS, NSC:
RECORDS

Withdrawer

SMF 5/13/2010

File Folder TERRORISM: INDIVIDUALS: FAWAZ YUNIS TRIAL-
FEBRUARY 1988 (1)

FOIA

F97-082/4

Box Number 92270 RAC Box 3

WILLS

7

ID Doc Type	Document Description	No of Pages	Doc Date	Restrictions
91259 MEMO	ROSTOW TO DONLEY RE US VS FAWAZ YUNIS	2	2/4/1988	B1 B3
91260 MEMO	ROSTOW TO KELLY/MCNAMARA RE US VS FAWAZ YUNIS	2	2/5/1988	B1
91261 MEMO	PRETRIAL MEMORANDUM	7	1/25/1988	B6 B7(C)
91262 MEMO	ROSTOW TO MORRISSETTE RE US V FAWAZ YUNIS	1	2/2/1988	B1
91263 MEMO	DUPLICATE OF 91260	2	2/5/1988	B1
91264 MEMO	DUPLICATE OF 91261	7	1/25/1988	B6 B7(C)
91265 MEMO	DUPLICATE OF 91262	1	2/2/1988	B1
91266 NOTE	RE MEETING	1	ND	B1

The above documents were not referred for declassification review at time of processing

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

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ROUTING

To	Name and Address	Date	Initials
1	<i>B. Kelly</i>		
2	<i>McNamara</i>		
3			
4			
5			
6			

ACTION	FILE SECRET
APPROVAL	☒ INFORMATION
COMMENT	PREPARE REPLY
CONCURRENCE	RECOMMENDATION
DIRECT REPLY	RETURN
DISPATCH	SIGNATURE

REMARKS:

2/5/88

~~TOP SECRET~~ CODEWORD

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ENCLOSURE(S)
smf 5/13/10

*Fanning
trial*

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COPY NO. 1 OF 2

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NSC INTELLIGENCE DOCUMENT

Warning Notice

Intelligence Sources and Methods Involved

NATIONAL SECURITY INFORMATION

Unauthorized Disclosure Subject to Criminal Sanctions

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Washington, D.C. 20530

JAN 26 1988

Mr. Nicholas Rostow
Special Assistant to the President
and Legal Adviser
National Security Affairs
Old Executive Office Building, Rm. 368
Washington, D.C. 20506

Dear Mr. Rostow:

As you can see, the attached order in the Yunis case requires the government to produce an index of all government documents pertaining to the case. This would include all NSC and White House documents. Please provide your views as soon as possible.

Thank you.

Sincerely,

LAWRENCE LIPPE, Chief
General Litigation and
Legal Advice Section
Criminal Division

By: *Karen A. Morrisette /p*
KAREN A. MORRISSETTE
Senior Legal Advisor
for Terrorism Matters

Enclosure

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91261	MEMO PRETRIAL MEMORANDUM	7	1/25/1988	B6 B7(C)

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91262	MEMO ROSTOW TO MORRISSETTE RE US V FAWAZ YUNIS	1	2/2/1988	B1

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Washington, D.C. 20530

HAND DELIVERED JANUARY 29, 1988

Mr. Nicholas Rostow
Special Assistant to the President
and Legal Adviser
The White House
Washington, D.C.

Re: United States v. Fawaz Yunis

Dear Mr. Rostow:

As you know, on January 25, 1988, Judge Barrington Parker issued a forthwith order for the in camera production of several indices of documents. I provided you a copy of that order on January 26, 1988.

The order was issued for forthwith production even though, to our knowledge, none of the required indices exist. We informed the Court of that fact. We further advised the Court that production of the indices would be an extremely burdensome task and, therefore, asked the Court to narrow the scope of its order. However, neither the forthwith nature of the order nor its scope have been amended.

In order to advise the Court expeditiously concerning why we have not yet complied with its order, I will need information concerning the volume, nature, and classification level of the documents which exist in your agency's files. Because of other accountability deadlines established by the Court, it is absolutely necessary that you provide this information to me, in writing, by Tuesday morning, February 2, 1988.

Thank you for your assistance in this very important counter-terrorism effort.

Sincerely,

LAWRENCE LIPPE, Chief
General Litigation and
Legal Advice Section
Criminal Division

By: *Karen A. Morrisette*

KAREN A. MORRISSETTE
Senior Legal Advisor
for Terrorism Matters

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America,) December 22, 1987
) 6th Floor
) Courtroom 19
vs.) U.S. Court House
) Washington, D.C.
Fawaz Yunis, a/k/a Nazeeh,) Criminal Action No.
Defendant.) 87-0377

Before the Honorable Barrington D. Parker,
United States District Judge, commencing at
2:40 p.m.

Reported by:

Alfred A. Betz

DAWN COPELAND, Official Reporter
Room 6810, United States Court House
3rd and Constitution Avenue, N.W.
Washington, D.C. 20001

(202) 535-3482

 Betz & Strouse, Inc.

A P P E A R A N C E S

On behalf of the United States:

J. Ramsey Johnson, Esquire

Karen A. Morrisette, Esquire

Jennifer E. Gold, Esquire

On behalf of the Defendant:

Francis D. Carter, Esquire

1 on the pending motion.

2 MR. CARTER: Fine, your Honor.

3 May counsel approach the bench, please,
4 your Honor?

5 THE COURT: Surely.

6 (At the bench:)

7 MR. CARTER: Your Honor, just for the
8 record purposes, I have orally notified Mr. Johnson
9 and am for the record notifying the Court that
10 independent of whatever discovery the Government has
11 given me, I have learned that there was a finding by
12 the President of the United States authorizing the
13 Central Intelligence Agency to seek out, locate and
14 perhaps apprehend "terrorists". I do not have and
15 am seeking to obtain the exact wording of that
16 finding and am also seeking to obtain its connection,
17 if at all, to this case.

18 Now, perhaps the issue is not aligned to
19 the facts before the Court. But I am advising the
20 Court of this only because if it comes to my
21 attention that there is something there that should
22 be brought to the Court's attention or challenged by
23 the defense, that that likewise would go to
24 jurisdiction and would be another aspect that I
25 bring to the Court.

1 But it is not something the Court needs to
2 rule on. It is mere notice at this point.

3 THE COURT: Was this a CIA finding or
4 Security Council finding?

5 MR. CARTER: It was a Presidential finding
6 authorizing the CIA to "go get them, fellows."

7 THE COURT: What's the problem?

8 MS. MORRISSETTE: As I understand it,
9 defense counsel has not placed this issue in the
10 posture of a problem, your Honor. I haven't heard
11 of a discovery request.

12 THE COURT: In a what?

13 MS. MORRISSETTE: As an issue before this
14 Court. As I understand Mr. Carter, he's advising
15 the Court that he's somehow vaguely interested in
16 this. I haven't received a discovery request or a
17 demand or --

18 THE COURT: Mr. Carter, as a matter of
19 fact, you called chambers relative to this.

20 MR. CARTER: That's correct.

21 THE COURT: Have you taken it up with the
22 Government?

23 MR. CARTER: I'm sorry, I did not have
24 Miss Morrissatte's number and did not call her. I
25 did speak to Mr. Johnson, who at that point told me

1 he had no personal knowledge of the finding nor of
2 its connection with this case. And again I told him,
3 well, I intend to try to find out if it was
4 connected and just again put him on notice that I
5 have just learned of it. And this was I believe
6 last week, perhaps Thursday or Friday.

7 But, again, if it's necessary, I assure
8 you I will put it in writing to the Government, a
9 demand. I suppose a response will come back under a
10 CEPA document.

11 THE COURT: What about your CEPA motion,
12 Mr. Johnson? You indicated you were going to file
13 some papers with the Court.

14 MR. JOHNSON: Yes, they're going to be
15 coming in shortly.

16 THE COURT: Yes, but when? How shortly?
17 I understood they were coming in last Friday.

18 MS. MORRISSETTE: Yes, your Honor. That
19 was the intention. I apologize for the delay. We
20 have had to locate the head of a U.S. Government
21 agency to obtain his signature and with holidays and
22 travel, that is the reason for the --

23 THE COURT: When will it be presented?

24 MS. MORRISSETTE: I've been told that it
25 will hopefully be signed tomorrow. Now I realize

1 that that makes it the eve of the Christmas holidays.
2 I understand that the court is closed on Thursday.
3 I don't know if your Honor would be prepared to
4 personally receive the document or not.

5 THE COURT: I plan to come down here some
6 day during the holiday, some days during the holiday.
7 But I would be here tomorrow, not too long tomorrow.
8 I'd be here tomorrow. I'm going to leave early
9 afternoon.

10 MS. MORRISSETTE: Yes, sir. Perhaps I
11 could have the Court security officer query your
12 secretary or clerk as to when you would like to see
13 it, when you would be available after it is signed.

14 THE COURT: I'd be in a better position to
15 say what day I'll be in later on tomorrow afternoon.

16 MS. MORRISSETTE: Okay. I will call you,
17 then.

18 THE COURT: What about this Presidential
19 finding matter?

20 MS. MORRISSETTE: Well, quite frankly, the
21 document that we intend to submit to the Court does
22 not address it because it didn't occur to me.
23 That's the reason.

24 THE COURT: Well, this is what I'm going
25 to direct you to do. You look into the matter. And

1 if there is a question of in camera review, I will
2 take a look at it. And if I decide after the in
3 camera review that Mr. Carter is entitled to it,
4 he's going to see it. But I won't make that
5 decision. I will proceed cautiously, but I think
6 he's entitled to get as much information as he can
7 that will help him to successfully and vigorously to
8 defend this case.

9 MR. JOHNSON: We don't take issue with
10 that, your Honor.

11 MR. CARTER: Your Honor understands why I
12 was hesitant to just automatically provide something
13 to the Court in regard to speedy trial. I keep
14 looking under the rocks and keep finding mushrooms.
15 I told Mr. Johnson one day I may find a truckful and
16 that will obviate the need for this and obviate the
17 need for prosecution of this entire case.

18 THE COURT: Do you know anything about
19 mushrooms?

20 MR. JOHNSON: Toadstools.

21 THE COURT: All right. Mr. Carter, in a
22 pedestrian narcotics case I find myself having to
23 enter or at least importuning counsel to get
24 something in on speedy trial. Don't be upset
25 because of that. That doesn't mean that the case is

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91263	MEMO DUPLICATE OF 91260	2	2/5/1988	B1

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TAB

I



U.S. Department of Justice

Washington, D.C. 20530

JAN 26 1988

Mr. Nicholas Rostow
Special Assistant to the President
and Legal Adviser
National Security Affairs
Old Executive Office Building, Rm. 368
Washington, D.C. 20506

Dear Mr. Rostow:

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Thank you.

Sincerely,

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91265 MEMO

1 2/2/1988 B1

DUPLICATE OF 91262

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Thank you for your assistance in this very important counter-terrorism effort.

Sincerely,

LAWRENCE LIPPE, Chief
General Litigation and
Legal Advice Section
Criminal Division

By: *Karen A. Morrisette*

KAREN A. MORRISSETTE
Senior Legal Advisor
for Terrorism Matters

TAB

III

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America,) December 22, 1987
) 6th Floor
) Courtroom 19
vs.) U.S. Court House
) Washington, D.C.
Fawaz Yunis, a/k/a Nazeeh,) Criminal Action No.
Defendant.) 87-0377

Before the Honorable Barrington D. Parker,
United States District Judge, commencing at
2:40 p.m.

Reported by:

Alfred A. Betz

DAWN COPELAND, Official Reporter
Room 6810, United States Court House
3rd and Constitution Avenue, N.W.
Washington, D.C. 20001

(202) 535-3482

 Betz & Strouse, Inc.

A P P E A R A N C E S

On behalf of the United States:

J. Ramsey Johnson, Esquire

Karen A. Morrisette, Esquire

Jennifer E. Gold, Esquire

On behalf of the Defendant:

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1 on the pending motion.

2 MR. CARTER: Fine, your Honor.

3 May counsel approach the bench, please,
4 your Honor?

5 THE COURT: Surely.

6 (At the bench:)

7 MR. CARTER: Your Honor, just for the
8 record purposes, I have orally notified Mr. Johnson
9 and am for the record notifying the Court that
10 independent of whatever discovery the Government has
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7 But, again, if it's necessary, I assure
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11 THE COURT: What about your CEPA motion,
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16 THE COURT: Yes, but when? How shortly?
17 I understood they were coming in last Friday.

18 MS. MORRISSETTE: Yes, your Honor. That
19 was the intention. I apologize for the delay. We
20 have had to locate the head of a U.S. Government
21 agency to obtain his signature and with holidays and
22 travel, that is the reason for the --

23 THE COURT: When will it be presented?

24 MS. MORRISSETTE: I've been told that it
25 will hopefully be signed tomorrow. Now I realize

1 that that makes it the eve of the Christmas holidays.
2 I understand that the court is closed on Thursday.
3 I don't know if your Honor would be prepared to
4 personally receive the document or not.

5 THE COURT: I plan to come down here some
6 day during the holiday, some days during the holiday.
7 But I would be here tomorrow, not too long tomorrow.
8 I'd be here tomorrow. I'm going to leave early
9 afternoon.

10 MS. MORRISSETTE: Yes, sir. Perhaps I
11 could have the Court security officer query your
12 secretary or clerk as to when you would like to see
13 it, when you would be available after it is signed.

14 THE COURT: I'd be in a better position to
15 say what day I'll be in later on tomorrow afternoon.

16 MS. MORRISSETTE: Okay. I will call you,
17 then.

18 THE COURT: What about this Presidential
19 finding matter?

20 MS. MORRISSETTE: Well, quite frankly, the
21 document that we intend to submit to the Court does
22 not address it because it didn't occur to me.
23 That's the reason.

24 THE COURT: Well, this is what I'm going
25 to direct you to do. You look into the matter. And

1 if there is a question of in camera review, I will
2 take a look at it. And if I decide after the in
3 camera review that Mr. Carter is entitled to it,
4 he's going to see it. But I won't make that
5 decision. I will proceed cautiously, but I think
6 he's entitled to get as much information as he can
7 that will help him to successfully and vigorously to
8 defend this case.

9 MR. JOHNSON: We don't take issue with
10 that, your Honor.

11 MR. CARTER: Your Honor understands why I
12 was hesitant to just automatically provide something
13 to the Court in regard to speedy trial. I keep
14 looking under the rocks and keep finding mushrooms.
15 I told Mr. Johnson one day I may find a truckful and
16 that will obviate the need for this and obviate the
17 need for prosecution of this entire case.

18 THE COURT: Do you know anything about
19 mushrooms?

20 MR. JOHNSON: Toadstools.

21 THE COURT: All right. Mr. Carter, in a
22 pedestrian narcotics case I find myself having to
23 enter or at least importuning counsel to get
24 something in on speedy trial. Don't be upset
25 because of that. That doesn't mean that the case is

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