
EXHIBIT “I”

of access to two sealed documents, that there was no less reasonable alternative to sealing, and that the public gained as much access to these documents as could be made public without compromising legitimately classified national security information.

Statement Of The Case

A superseding indictment returned on September 29, 2005 (A-68)³ charged Yassin Muhiddin Aref ("Aref") and Mohammed Mosharref Hossain ("Hossain") with the following offenses:

³ The Government has filed three appendices; one unclassified, cited as "GA#," and two classified, cited as "C#" (classified at the Secret level), and "TS#;" (classified at the Top Secret level). The Government is also filing Secret and Top Secret Memoranda. The Top Secret Memorandum has attachments identified in this brief as "Tab___." That brief with its attachments and the Top Secret appendix will be maintained by the CIPA Court Security Officer and will be made available to the panel judges upon request. Finally, the Government has filed a Special Appendix with applicable statutes and rules. Citations to Aref's Appendix are in the form "A-#;" citations to the NYCLU's Appendix are in the form, "IA-#;" citations to the NYCLU's Supplemental Appendix are in the form "I-SPA#."

to tell you, you support the terrorism, and that's enough for them . . ." GA563.

On February 3, 2004, the CW told Hossain, "Those missiles and stuff, there is a code word for that right? . . . We call it 'chaudhry.' 'Chaudhry.' You understand, right?" GA590. Then, referring to President Musharraf of Pakistan, the CW told Hossain, "We're going to teach [the ambassador from Pakistan] a lesson . . . So next week I have to give the chaudhry to him, to the ambassador." *Id.*

On February 12, 2004, the CW warned Aref and Hossain that "there was an attack coming to New York City, a missile attack coming there." GA173-74. The CW also told Aref that he would use the word "chaudhry" as a code word for missile. GA237-38, 241.

On June 10, 2004, after Aref had asked the CW to contribute money as his partner in purchasing Hossain's pizzeria, the CW told Aref, "If I could give [defendant Hossain] fifty thousand, I can certainly give you fifty thousand dollars, too, you know? I can, that is, that's not even a problem. Because my business comes from selling ammunitions, you know? [Aref: Mm-hmm.] Chaudrys, we do that, that's where the business money comes from. I, I import them, I sell them, and they give me money. We I, I was expecting some money to come, but it has gone to the next week, uh, next month." GA617.

coming there." GA173-74 (emphasis added). Shaar testified that Aref reacted by accusing the CW of taping him, and searched the CW for a tape recorder. GA174-75. The CW's warning "scared" Shaar, GA174, until after the CW left, when Aref told Shaar that the CW was joking. GA177-79. Also at this meeting, the CW identified "chaudhry" as the code word for missile when all three (the CW, Aref and Hossain) were together. GA237-38, 241.¹²

14. Hossain Gives The CW A "Rapid"

On February 13, 2004, the CW went to Hossain's pizzeria, and while there, Hossain went directly to the bank and purchased a \$6,000 bank check, payable to Hays Distributors, with cash the CW had given him the night before. GA623. The cash did not even go through Hossain's checking account. GA375-76. This delivery of a check was an act of money laundering and is charged in Count 5.

Since Aref and Hossain had both been told that the CW worked for JEM, and that a missile attack was imminent, delivery of the check also constituted an act of concealment, which is charged in Count 13, and of

¹²No audio recording was made of this meeting because the CW's body recorder had fallen off when the meeting location changed and the CW drove to Aref's house. GA162.

On February 12, 2004, when the CW warned Aref that a missile attack was coming to New York, he also told Aref that the code word for missile was chaudhry. GA237-38, 241. On June 10, 2004, responding to Aref's request that the CW become his partner and put up money to buy Hossain's pizzeria, the CW told Aref he could give him \$50,000 "Because my business comes from selling ammunitions, you know? . . . Chaudhrys, we do that, that's where the business money comes from. I, I import them, I sell them, and they give me money." GA617; *see also* GA620 (CW explaining that he will need to leave the country for two months when the "chaudhry" is used in New York). That evidence was sufficient for a jury to conclude that Aref knew the transactions he was facilitating involved the proceeds of the sale of an imported missile for use in an attack.

The jury reasonably rejected Aref's testimony that he had never heard "missile" GA329; *see* GA332, 335-36, 347, in light of the recorded conversations, the dinner guest, Kassim Shaar, who heard the CW say missile in Aref's presence, GA173-74, and the note with the word "missile" in Aref's own handwriting, on a sheet of paper he used to write down English words so that he would remember them. GA354-55.

Regarding "ammunitions," Aref claimed (inconsistently) that (a) he didn't hear "ammunitions," GA330-31, (b) if he did hear it, he didn't know what ammunitions meant, GA344, and (c) the CW told him