

MINH QUANG PHAM: FBI CONTINUES CREATING TERROR STORIES ASSISTED BY UNRECORDED INTERVIEWS

Minh Quang Pham, whom I dubbed AQAP's "graphic artist of mass destruction" because he was busted for providing graphic design skills to AQAP, got sentenced today; neither FBI nor SDNY have announced his sentence but it will be between 30 and 50 years in prison.

The government, as it tends to do, has submitted a bunch of documents as part of the sentencing process to inflate the magnitude of Pham's acts, which largely consist of carrying a Kalashnikov he wasn't really trained to use and helping Samir Khan make Inspire look prettier. With the documents, DOJ suggests Pham might have attacked Heathrow if he hadn't been stopped when he was. Materials submitted as part of the sentencing process include:

- FBI 302s for four interviews (February 26, February 27, February 28, March 1, 2015), all of them conducted after he waived his rights to a lawyer
- Pham's own statement
- A January 12, 2012 interview with Ahmed Warsame substantially about Pham

The FBI 302s have the most detail, including that Awlaki gave Pham a "clean" computer that, as described, was not clean at all (a forensics report that is sealed in the docket reportedly

found it had shared data with a computer that Warsame had been caught with) and the claim that Awlaki gave Pham a phone and an email account to contact him with – or to provide to new AQAP recruits (the story varies) – in the future. One 302 provides the rather incredible detail that “the email account AULAQI provided might have been a Hotmail account.”

We’re to believe that Awlaki, a guy who learned he was being wiretapped in November 2009, had been pursued using all resources of the US government for a year and a half, and who otherwise had a sophisticated understanding of US surveillance, was still using a Hotmail account in June 2011.

The final 302 (I don’t think the previous 3 include start and stop times, which is a telling omission) provides details of what Scott Shane has described as proof Anwar Awlaki was acting as a bomb making trainer close to the end of his life, based on the description of him teaching Pham, in a single day, “how to mix chemicals to make an explosive powder” that Pham used to detonate a tin can that “generated enough force to launch the tin can away from PHAM and into the air.” This was the training, the FBI implies, that AQAP gave Pham to prepare him to attack Heathrow Airport.

Here’s the thing, though: FBI didn’t record any of those interviews, in spite of an explicit policy presuming FBI will record custodial interviews that went into effect on July 11, 2014. There are exceptions FBI might, in a stretch, be claiming here (that because Pham was not yet in a formal detention center, he was not in custody, or that it was a national intelligence collecting interview that is nevertheless being used against him in sentencing; I’ve got an email in with the FBI to find out what their explanation is). But this seems like a clear-cut case, where, for their own credibility, FBI should have recorded the interviews.

Especially since Pham says they’re inaccurate.

For four days I have willfully sat with the agents to confess my association with AL-QAIDA + to make an appeal to the government for compassion. Brian said: "we are the best representatives to the government for you."

[snip]

The agent [sic] had the opportunity to take recording but for some reason they did not do so. I only receive the FBI statements around couple months after my interviews. I then realize that they have omitted possibly 30 - 40% of what I've said, misunderstood many points + added some information I did not say. Had there been a recording, it would have shown a different picture. Had they been sincere in what they said about being "the best representatives to the government," they would have shown me the draft of the statement for any needed correction before publishing it or have the interview recorded which would have revealed all the questions + answers.

Initially I didn't want to tell them about the airport plot because it was something occurred in YEMEN which I never intended to do. I only want to leave YEMEN + had to accept a foreign operation. I told them that Imam ANWAR AL-AWLAQI (who was killed in a drone strike in Sept 2011) wanted me to do. The reason why I told the agents is because I felt pressured due to MATT posing the same question for 4 days, + on the 4th day he said: "Is there something they told you to do but decided not to?"

[snip]

Later at the 5th interview, the prosecutor asks me if I intended to carry out the plot, Matt intervene +

said "at that point did you accept it? I made it clear that I did not intended [sic] it but I only accept it + was willing to accept any plot to go home.

The expression I got from the was that, they were trying to paint a picture oof me of intending to return to carry out the plot + had I not been arrested, I would have carried out a suicide operation at Heathrow Airport.

Obviously Pham has good reason to want to insinuate he would never have conducted the plot (but then, he was free in the UK for 5 months and didn't take any steps to do so, not even obtaining acetone from his sister's nail salon). Then again, obviously the FBI has good reason to want to claim that Pham was more than the graphic artist who was never really trained in fighting that the other records show him to be.

The thing is, there's no evidence in the record that makes this Heathrow attack look credible. There are some other really funny details about this story that I hope to return to. But I'm sure the story worked to ensure Pham would spend most of the rest of his life in a US SuperMax.

Update: I guess this is why they didn't announce Pham's sentence: Judge Alison Nathan delayed sentencing because of conflicting stories over whether Pham really intended to attack Heathrow, or whether he used that as a way to get out of Yemen (though she reportedly is inclined to side with the government). I think this is a sound result: the government actually hasn't proven this attack was real (again, I have questions about whether even Awlaki designed it to be real). Moreover, Pham will get 30 years in any case.

The FBI might have a more (or less – who knows!!) credible case had they taped these interviews. Now they have to make their case in court.