

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

SCOTT BINGHAM,)
)
 Plaintiff,)
)
 v.) Civil Action No. 1:05-00475 (PLF)
)
 UNITED STATES DEPARTMENT)
 OF JUSTICE, and FEDERAL)
 BUREAU OF INVESTIGATION,)
)
 Defendants.)

DECLARATION OF JACQUELINE MAGUIRE

I, Jacqueline Maguire, declare as follows:

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI"). I am currently assigned to the Counterterrorism Division of the FBI's Washington Field Office. From October 8, 2001 to June 24, 2005, I was assigned to the Counterterrorism Division at FBI Headquarters ("FBIHQ") as a member of the PENTTBOM Investigative Team. Prior to that assignment, I was assigned to the FBI's New York City Field Office. I held this position, my first position following graduation from the FBI Academy in June 2000, for approximately fifteen (15) months.
2. I was assigned to the PENTTBOM Investigative Team in the Counterterrorism Division at FBIHQ to assist in the investigation into the events of September 11, 2001. Specifically, I was assigned

responsibilities in the investigation into the crash of American Airlines Flight 77 into the Pentagon. The statements contained in this declaration are based upon my personal knowledge, upon information provided to me in my official capacity, and upon conclusions and determinations reached and made in accordance therewith.

3. I am familiar with the above-captioned litigation concerning the FOIA request of Scott A. Hodes on behalf of his client, Scott Bingham.
4. I am also familiar with paragraph 23 of the Declaration of David M. Hardy, dated August 1, 2005. In particular, I am familiar with the second and third sentences of that declaration, which read: "Contact with Special Agent personnel of the Counterterrorism Division at FBIHQ on February 2, 2005, determined that the FBI had one record responsive to plaintiff's FOIA request. The FBI located a CD-ROM that contains copies of two time-lapse recordings made by security cameras located at a Pentagon parking lot." I am the "Special Agent personnel" referenced in that paragraph. This declaration is submitted to provide additional, supporting details concerning the information in that paragraph.
6. On February 2, 2005, a member of the Records Management Division ("RMD") at FBIHQ contacted my supervisor. Following that contact, my supervisor instructed me to respond to inquiries from that individual and other RMD personnel.
7. RMD personnel asked me to determine whether the FBI possessed any

videotapes that may have captured the impact of Flight 77 into the Pentagon on September 11, 2001. RMD personnel advised me that the individual who had requested such videotapes (whom I now know to be Scott A. Hodes on behalf of his client, Scott Bingham) indicated that he believed that the FBI had confiscated videotapes from closed circuit televisions at the Citgo Gas Station and the Sheraton National Hotel, both located in Arlington, Virginia.

8. I responded to RMD personnel that the FBI possessed a videotape from a Pentagon security camera that shows Flight 77 hitting the Pentagon. In addition, I noted that this videotape would be used as evidence in the case of U.S. v. Zacarias Moussaoui, Criminal No. 01-455-A (ED. Va.).
9. On April 4, 2005, my supervisor was again contacted by RMD personnel and I was again instructed to assist RMD personnel with their inquiries. I was asked to determine whether the videotape described in paragraph 8, above, was the only videotape concerning Flight 77 in the possession of the FBI. In particular, I was asked to determine whether the FBI possessed any videotapes from a Citgo Gas Station, or any gas station, or a Sheraton Hotel, or any hotel, that showed Flight 77 on September 11, 2001.
10. On April 6, 2005, I responded to RMD personnel that although the FBI possessed other videotapes that depicted the Pentagon on September 11, 2001, those videotapes depicted only post-impact scenes and,

therefore, did not show the impact of Flight 77 into the Pentagon.

11. In response to follow-up questions from RMD personnel, I subsequently searched a series of FBI evidence databases, including the FBI's Electronic Case File System and the FBI's Investigative Case Management System, and determined that the FBI possessed eighty-five (85) videotapes that might be potentially responsive to plaintiff's FOIA request.¹ This determination was based on videotapes that had been submitted into FBI evidence, sent directly to the FBI laboratory in Quantico, Virginia, and/or obtained by the FBI's Washington Field Office.
12. I next determined, through an examination of the chain of custody and other written supporting documentation associated with each videotape, that fifty-six (56) of these videotapes did not show either the Pentagon building, the Pentagon crash site, or the impact of Flight 77 into the Pentagon on September 11, 2001.
13. I personally viewed the remaining twenty-nine (29) videotapes. I determined that sixteen (16) of these videotapes did not show the Pentagon crash site and did not show the impact of Flight 77 into the Pentagon on September 11, 2001.
14. Out of the remaining thirteen (13) videotapes, which did show the Pentagon crash site, twelve (12) videotapes only showed the Pentagon

¹A description of the Electronic Case File and Investigative Case Management applications of the FBI's Automated Case Support system may be found in Defendant's

after the impact of Flight 77. I determined that only one videotape showed the impact of Flight 77 into the Pentagon on September 11, 2001.

That videotape is the CD-ROM described in paragraph 23 of the Hardy Declaration, dated August 1, 2005.

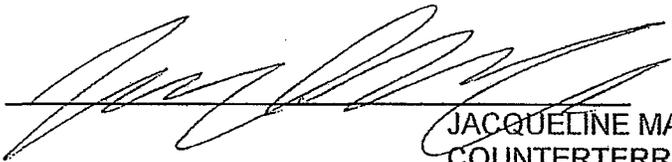
15. Among the eighty-five (85) videotapes described in paragraph 11, above, I located one videotape taken from closed circuit television at the Citgo Gas Station in Arlington, Virginia. Because of its generally poor quality, this tape was taken to the FBI's Forensic Audio-Video Image Analysis Unit ("FAVIAU") by another member of the PENTTBOM Investigative Team. FAVIAU was requested to determine whether the videotape showed the impact of Flight 77 into the Pentagon on September 11, 2001 and, if such evidence existed on the videotape, to develop still photographic images of it. Personnel from FAVIAU assisted personnel from the PENTTBOM Investigative Team to determine that the videotape did not show the impact of Flight 77 into the Pentagon on September 11, 2001.
16. I also conducted a search of the FBI's Electronic Case File system, Investigative Case Management system, and other evidence databases for any videotapes in the possession of the FBI from the Sheraton National Hotel in Arlington, Virginia. I did not locate any such videotape.

Exhibit 1 (Declaration of David M. Hardy, dated August 1, 2005), ¶¶ 14(a) & (b) .

I did locate one videotape taken from a closed circuit television at a Doubletree Hotel in Arlington, Virginia. I determined, however, that the videotape did not show the impact of Flight 77 into the Pentagon on September 11, 2001.

I declare, under penalty of perjury pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this 7th day of September, 2005.

A handwritten signature in black ink, appearing to read 'Jacqueline Maguire', is written over a horizontal line.

JACQUELINE MAGUIRE, SPECIAL AGENT
COUNTERTERRORISM DIVISION
WASHINGTON FIELD OFFICE
FEDERAL BUREAU OF INVESTIGATION