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Bout’s Past May Figure in Trial

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WASHINGTON — A U.S. judge ruled Tuesday that suspected Russian arms merchant Viktor Bout will go on trial in New York in October, dismissing defense motions even as prosecutors suggested that the former Soviet military officer sought a missile system deal in Libya before his 2008 arrest.

U.S. District Judge Shira A. Scheindlin dismissed four remaining defense motions to prevent Bout's trial and ruled that the government's charges against him for conspiracy to kill U.S. officials and aid a terrorist organization are strong enough to go forward.

In documents separate from the ruling, prosecutors sketched the outlines of their case against Bout. They asked the judge to allow evidence showing he had engaged in a pattern of arms deals for years in Africa even though he never faced criminal charges over them.

Prosecutors would not comment Tuesday on the ruling or their request to broaden evidence against Bout. But in their documents they suggested that Bout had a history of arms trading in Africa, including using a series of Skype computer messages in 2008 to pursue a deal that would have delivered a Russian-made anti-tank system to a client in Libya.

Such "evidence of Bout's prior engagement in the arms business," prosecutors said, is "intertwined with the evidence of the charged conduct and necessary to complete the story of the charged offenses."

Bout's defense lawyer, Albert Y. Dayan, belittled the government's new evidence, saying, "It doesn't matter how they stack it up — Mr. Bout's version is the truth." Dayan also said Bout was anxious to go to trial and dispute the charges.

"It will become very clear this was a created sting operation and Mr. Bout never had any intentions of transferring arms to anyone," Dayan said.

According to government documents filed with the court last week, Bout exchanged a series of Skype messages with an unidentified collaborator in March 2008, just before his arrest, laying plans for an apparent deal to sell a Russian Kornet missile system to a client in Libya.

The documents do not say whether he completed the deal, but Bout asked the collaborator "when you will be going to Libya." The collaborator responded: "Today I was with customer, and they have requirement for kornet, i will get it and send to u." Prosecutors noted that the reference was to the Russian-made anti-tank weapon.

Prosecutors did not speculate on the identity of the client, but in 2008, the now-embattled regime of Libyan dictator Moammar Gadhafi was still firmly in control over all aspects of the country's military affairs.

Although Gadhafi at the time had begun to seek U.S. weaponry, American officials never provided them, and he remained a client of the Russian arms industry. An April 8, 2008, U.S. diplomatic memorandum described Libyan officials as eager to win new weapons agreements from then-Russian President Vladimir Putin on a planned visit.

Russian diplomats informed their U.S. counterparts that "military equipment sales will likely feature prominently in discussions." U.S. officials also said "conventional arms sales would be a prominent issue for discussions between Putin and Gadhafi."

Bout's involvement in any weapons deals with Libya in 2008 would not have been illegal, whether he was acting as a private dealer or working in concert with the Russian government. But prosecutors say such evidence of his familiarity with the weapons trade, along with his involvement in running military equipment to African warlords and militants in the late 1990s, would show his seriousness in pursuing the 2008 arms deal in Thailand that turned out to be a sting operation.

Bout was arrested by Thai police and U.S. Drug Enforcement Administration agents in Bangkok in March 2008 as he allegedly put the finishing touches on the arms deal with undercover informants posing as members of the Revolutionary Armed Forces of Colombia, also known by its Spanish acronym, FARC. Bout is accused of offering to provide surface-to-air missiles, armor-piercing rockets and machine guns, and training to target U.S. pilots and officials.

If the judge agrees, prosecutors said they would introduce evidence of weapons deals Bout arranged in the late 1990s for rebels in Angola and the Democratic Republic of the Congo.

Officials said Bout often relied on parachutes to drop weapons from his massive private fleet of Russian aircraft, which were also used to transport legal cargo shipments worldwide.

Bout was later accused of violating United Nations arms embargoes in both African countries, prompting financial sanctions by the UN and U.S. Treasury Department. In one conversation cited by prosecutors, Andrew Smulian, a former Bout aide-turned-federal witness, said the Russian complained that U.S. sanctions had frozen the movement of his $6 billion fortune.

Prosecutors said they would also offer proof of Bout's efforts to clinch arms deals with the governments of Tanzania and Kenya in 2007 and 2008, and would show his close relationship with Smulian, who will be the main witness against Bout at trial. The U.S. named one of Bout's primary arms suppliers, Peter Mirchev, a Russian who allegedly would have supplied the anti-aircraft missiles that were promised to the phony terrorist leaders.

Dayan said Tuesday that he hoped to produce testimony by two Russian witnesses who would poke holes in government evidence, but declined to name them or detail their accounts. The judge has to yet to rule on either side's planned trial evidence.

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