

[NSL p. 677. Insert at the end of Note 9.]

In *United States v. Hasbajrami*, 945 F.3d 641 (2d Cir. 2019), the Second Circuit agreed with the Ninth Circuit in rejecting a Fourth Amendment challenge to collecting intelligence on U.S. persons incident to lawful collection on a non-U.S. based foreign national abroad. However, the Second Circuit remanded the case to the district court because the record below did not show whether the government acted reasonably when it queried its databases for information linked to U.S. person Hasbajrami. Thus, regardless of Section 702 minimization procedures, querying is a separate Fourth Amendment event, and the district court is required to determine whether any search of Section 702-collected data violated the Fourth Amendment.