

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Cr. No. 11-191 (MJD/FLN)

UNITED STATES OF AMERICA,)
)
 Plaintiff,) PLEA AGREEMENT AND
) SENTENCING STIPULATIONS
)
 v.)
)
 AHMED HUSSEIN MAHAMUD,)
)
 Defendant.)

The United States of America and Ahmed Hussein Mahamud (hereinafter referred to as "the defendant") agree to resolve this case on the terms and conditions that follow. This plea agreement binds only the defendant and the United States Attorney's Office for the District of Minnesota (the "USAO"). This agreement does not bind any other United States Attorney's Office or any other federal or state agency. The government agrees not to bring further charges against the defendant for his participation in criminal activity that he has disclosed to the government as of the date of this agreement.

PLEA AGREEMENT

1. **Charge.** The defendant agrees to plead guilty to Count 3 of the Indictment, which charges the defendant with conspiracy to provide material support and resources, namely, providing money to *al Shabaab* and personnel to work under *al Shabaab's* direction and control, knowing that *al Shabaab* had been designated as a foreign terrorist organization, all in violation of Title 18, United States Code, Section 2339B.

2. **Factual Basis and Stipulated Facts.** The parties agree on the following factual basis for the plea agreement:

Beginning in 2008 and continuing until February 2011, the defendant conspired with several individuals both in the United States and elsewhere to provide material support and resources, namely, money to *al Shabaab* and personnel to work under *al Shabaab's* direction and control, knowing that the U.S. Secretary of State had designated *al Shabaab* as a foreign terrorist organization since on or about February 26, 2008. The defendant knew the money and individuals provided would support *al Shabaab's* actions against the internationally-recognized Somali Transitional Federal Government and Ethiopian government forces. In furtherance of the conspiracy, the defendant and his co-conspirators took the following actions, among others:

(a) In the summer of 2008, the defendant and his co-conspirators raised money from the Somali-American community in Minnesota under false pretenses to pay for men in Minnesota to travel to Somalia to join *al Shabaab*. In so doing, the defendant and his co-conspirators claimed that the money collected would be used for a local mosque or to help orphans in Somalia. In fact, and as the defendant and his co-conspirators well knew, the money collected would be used to purchase airline tickets and for other expenses needed for members of the conspiracy to travel to Somalia

to join *al Shabaab*. The defendant and his co-conspirators raised as much as \$1,500.00 through these fund-raising efforts.

(b) Following the departure of many of his co-conspirators from Minnesota to Somalia to join *al Shabaab* in August and November 2008, one co-conspirator ("co-conspirator A")(charged elsewhere) contacted the defendant and requested the defendant send him money. In response to these requests, the defendant did the following in support of co-conspirator A knowing that co-conspirator A was in Somalia fighting on behalf of *al Shabaab*: (1) On or about April 20, 2009, the defendant provided co-conspirator A with \$50.00 by means a wire transfer from the United States to Somalia to assist co-conspirator A with purchasing a firearm. (2) On or about July 27, 2009, the defendant provided co-conspirator A with \$50.00 by means a wire transfer from the United States to Somalia to assist co-conspirator A with expenses. (3) On or about April 14, 2010, the defendant, using coded language, asked another co-conspirator ("co-Conspirator B")(charged elsewhere) for assistance with providing \$100 to co-conspirator A. The defendant and co-conspirator B knew co-conspirator A needed the money to purchase a firearm.

3. **Waiver of Pretrial Motions.** The defendant understands and agrees that he has certain rights to file pre-trial motions in this case. As part of this plea agreement, and based upon the concessions of the United States within this plea agreement, the

defendant knowingly, willingly, and voluntarily waives his right to file any motions in this case.

4. **Statutory Penalties.** The parties agree that Count 3 of the Indictment carries maximum statutory penalties of:

- a. fifteen (15) years' imprisonment;
- b. a supervised release term of life;
- c. a criminal fine of \$250,000; and
- d. a mandatory special assessment of \$100, which is payable to the Clerk of Court prior to sentencing.

5. **Revocation of Supervised Release.** The defendant understands that, if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment pursuant 18 U.S.C. § 3583(e).

6. **Guideline Sentencing Stipulations.** The defendant agrees to be sentenced in accordance with the Federal Sentencing Act, 18 U.S.C. § 3551, *et seq.*, with reference to the applicable United States Sentencing Guidelines ("U.S.S.G."). The parties believe that the Guidelines Manual incorporating amendments effective November 1, 2009, applies in this case. The parties agree that the following calculations regarding the Guidelines will ultimately be determined by the Court.

- a. **Base Offense Level.**
Count 3. The parties agree that the applicable guideline section is section U.S.S.G. § 2M5.3(a), which provides a base offense level of 26.

- b. Specific Offense Characteristics. The parties agree that a 2-level enhancement may be applicable pursuant to U.S.S.G. § 2M5.3(b)(1)(D).
- c. Chapter 3 Adjustments. The government reserves its right to argue for the applicability of the 12-level Terrorism adjustment described at U.S.S.G. § 3A1.4(a). The defendant reserves his right to argue against the applicability of this adjustment and to argue that the defendant's role in the offense justifies a 2-level reduction for "minor role" under U.S.S.G. § 3B1.2(b).
- d. Acceptance of Responsibility. The parties agree that if the defendant (1) provides full, complete and truthful disclosures to the United States Probation Office, including providing complete, accurate and truthful financial information; (2) complies with all conditions of release; (3) testifies truthfully during the change of plea and sentencing hearings; (4) complies with this Agreement; and (5) undertakes no act inconsistent with acceptance of responsibility before the time of sentencing, the government agrees to recommend that the defendant receive a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a), and to move for an additional one-level reduction under § 3E1.1(b). Whether there will be a reduction for acceptance of responsibility shall be determined by the Court in its discretion.
- e. Total Offense Level. The parties believe (should the 12-level Terrorism adjustment under § 3A1.4(a) apply) the total offense level could be as high as 40, minus 3 points for acceptance of responsibility, if applicable, which would result in an adjusted offense level of 37. Alternatively, the parties believe (should the 12-level Terrorism adjustment NOT apply) the total offense level could be as low as 26, minus 3 points for acceptance of responsibility, and minus 2 points for minor role, if applicable, for an adjusted offense level of 21. Again, the Court will make the final determination of the total offense level.
- f. Criminal History Category. The parties agree that if the § 3A1.4(a) enhancement is applied, the defendant has a criminal history category of VI. If the enhancement is not applied, the parties believe that the defendant's criminal history category could be as high as II.

- g. Guidelines Range. The parties agree that, if the adjusted offense level for Count 3 is 37 and the defendant's criminal history category is VI, then the guidelines range for Count 3 is 360 months' to life imprisonment. However, because the statutory maximum is 15 years, the effective guidelines range would be 180 months' imprisonment. The parties agree that if the adjusted offense level for Count 3 is 21 and the defendant's criminal history category is II, then the guidelines range for Count 3 is 41-51 months' imprisonment.
- h. Fine Range. The parties agree that, if the adjusted offense level is 37, the fine range is \$20,000 to \$200,000. U.S.S.G. § 5E1.2. The parties agree that, if the adjusted offense level is 21, the fine range is \$7,500 to \$75,000. U.S.S.G. § 5E1.2. There is no agreement as to the imposition of a fine or, if one is imposed, the amount of any such fine.
- i. Supervised Release. The parties agree that the Sentencing Guidelines specify that, if a term of supervised release is ordered, the term of supervised release is 2 years to life. U.S.S.G. §§ 5D1.2(a)(2), 5D1.2(b)(1).
- j. Departures: The parties agree that the defense reserves its right to argue additional grounds for a downward departure or variance from the ultimate guideline determination in this case.
- k. Further Offense Characteristics: The parties agree that the facts of this case support no other specific offense characteristics or chapter three adjustments.

7. Discretion of the Court. The foregoing stipulations are binding on the parties, but do not bind the Court. The parties understand that the Sentencing Guidelines are advisory and their application is a matter that falls solely within the Court's discretion. The Court may make its own determinations regarding the applicable guideline factors and the applicable criminal history category. The Court may also depart from the applicable guidelines. If the Court determines that the applicable guideline calculations or the defendant's criminal history category is

different from that stated above, the parties may not withdraw from this Agreement and the defendant will be sentenced pursuant to the Court's determinations.

8. **Special Assessment**. The Guidelines require payment of a special assessment in the amount of \$100 for each felony count of which the defendant is convicted. U.S.S.G. § 5E1.3. In this case, the defendant stands convicted of one count and is required to pay \$100.

8. **Forfeiture**. The government reserves its right to proceed against any of the defendant's assets if said assets represent real or personal property involved in violations of the laws of the United States or are proceeds traceable to such property.

9. Complete Agreement. The foregoing sets forth the full extent of the Plea Agreement and Sentencing Stipulations in the above-captioned case. There are no other agreements, promises, representations or understandings.

Dated: February __, 2012

B. TODD JONES
United States Attorney

BY: CHARLES J. KOVATS, JR.
Assistant U.S. Attorney
District of Minnesota

WILLIAM M. NARUS
Trial Attorney
Department of Justice

Dated: February __, 2012

AHMED HUSSEIN MAHAMUD
Defendant

Dated: February __, 2012

RICK MATTOX, Esq.
Attorney for Defendant