

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 13-222 (MJD)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	GOVERNMENT’S POSITION
v.	)	WITH RESPECT TO SENTENCING
	)	
SAYNAB ABDIRASHID HUSSEIN,	)	
	)	
Defendant.	)	

The United States of America, by and through its attorneys John R. Marti, Acting United States Attorney for the District of Minnesota, Assistant United States Attorneys LeeAnn K. Bell and Charles J. Kovats, Jr., and Department of Justice Trial Attorney William M. Narus hereby submits its position with respect to sentencing of defendant Saynab Abdirashid Hussein (“Saynab Hussein” or “defendant”).

**I. BACKGROUND ON SOMALIA.**

At Common Appendix I, the government presents a factual background on Somalia that is relevant to the sentencing proceedings in this case.

**II. A MINNESOTA PIPELINE OF SUPPORT TO SOMALIA.**

At Common Appendix II, the government submits the description of the offenses, defendants, and facts and circumstances describing the nature of the investigation.

### **III. THE CASE AGAINST THIS DEFENDANT, SAYNAB ABDIRASHID HUSSEIN**

#### **A. The Charge of Conviction**

On August 29, 2013, defendant Saynab Hussein pleaded guilty to Perjury, in violation of 18 U.S.C. § 1623(a). This offense carries a statutory maximum sentence of 5 years' imprisonment, a three-year term of supervised release of life, a \$250,000 fine, and a \$100 special assessment.

#### **B. The Defendant's Relevant Conduct**

##### ***1. The Factual Basis in the Plea Agreement***

The parties agreed to the following factual basis in the plea agreement:

On June 16, 2009, in the State and District of Minnesota, the defendant testified before the Grand Jury and was placed under oath and required to testify truthfully. During her testimony, the defendant was asked whether she knew of anyone raising money for any individuals who traveled from Minnesota to Somalia to fight against Ethiopian troops who had entered Somalia to support the Transitional Federal Government of Somalia. In response to this question, the defendant falsely stated to the Grand Jury that she did not know of anyone who raised money for the individuals who left Minnesota to fight the Ethiopians. The defendant agrees that this statement was false because, as she then well knew, she herself was asked to send money to these men who left Minnesota to go to Somalia to fight the Ethiopians and personally participated with others, both known and unknown to the Grand Jury, in fund raising for them.

##### ***2. The Facts Described in the PSR***

The defendant's offense conduct is not limited to the false testimony she provided, under oath, to the federal grand jury on June 16, 2009. She had been untruthful in a proffer before her grand jury testimony, and she continued to be untruthful to authorities in August 2012, despite the protections of a proffer agreement. (PSR ¶ 61). Ultimately, the

defendant admitted that she was aware of individuals traveling to Somalia to fight the Ethiopians prior to their travel, that she participated in fund raising money to send at least one traveler to Somalia, and that she had communicated with various individuals in Somalia about their participation in fighting the Ethiopians. (PSR ¶¶ 61, 62).

**3. *The Pertinent Guideline Calculations Agreed to By the Parties***

In the plea agreement, the parties agreed that because the offense involved perjury the applicable Guideline section is U.S.S.G. § 2J1.3. The parties agreed that there is a cross reference to U.S.S.G. § 2X3.1 (Accessory After the Fact) because the perjury was with respect to a criminal offense. (U.S.S.G. § 2J1.38). Pursuant to Section 2X3.1, the base offense level is six (6) levels lower than the offense level for the underlying offense. The United States believes the underlying offense in this case is Conspiracy to Commit Murder, in violation of 18 U.S.C. § 956, which has a base offense level of thirty-three (33). (U.S.S.G. § 2A1.5.) Accordingly, the United States submits that the base offense level is twenty-seven (27). Defendant disagreed with the United States as to the applicable underlying offense, but did not specify any particular offense.

Further, the government reserved the right to argue that a 12-level adjustment under § 3A1.4(a) applies because the defendant's conviction is a Felony Involving or Promoting a Crime of Terrorism. The defendant reserved her right to argue that this section did not apply.

Finally, the United States believed that if the adjustment under § 3A1.4(a) applies, the defendant’s Criminal History Category would be VI. Otherwise, the parties believed the defendant would be in Category I.

**IV. THE PSR’s CALCULATIONS AND RECOMMENDATIONS.**

On or about November 19, 2013, the United States Probation Office disclosed the PSR in this case. The PSR calculates defendant’s applicable guideline range at 60 months’ imprisonment, based on a total offense level of 36, criminal history category VI, and a statutory maximum sentence of 5 years’ imprisonment. (PSR ¶ 105).

The PSR guideline calculations are summarized as follows:

<b>Base Offense Level, § 2X.3.1(a)(1):</b>	27	(PSR ¶ 69)
<b>Victim Related Adjustments:</b>		
Felony involving/promoting crime of terrorism § 3A1.4(a):	+12	(PSR ¶ 71)
Acceptance of responsibility, §§ 3E1.1(a), (b):	-3	(PSR ¶ 76,77)
<b>Total Offense Level:</b>	36	(PSR ¶ 78)
Criminal History Category:	VI	(PSR ¶ 84)
Guideline Range:	60 months	(PSR ¶ 105)
Supervised Release:	Up to 3 years	(PSR ¶ 107)
Fine:	\$20,000-\$200,000	(PSR ¶ 113)

The PSR also indicates that the information provided does not constitute a recommendation by the USPO for a departure or a variance.

**V. GOVERNMENT’S RESPONSE TO THE PSR.**

**A. Objections to the PSR**

The government has no objections to the PSR and asks that the Court adopt both the factual assertions and the applicable advisory Guidelines.

**B. The Government’s Guideline Calculations**

The government agrees with the guideline calculations in the PSR. The government does not believe any other Specific Offense Characteristics or Victim-Related Adjustments are appropriate. The government also concurs that the appropriate guideline range is 60 months’ imprisonment based on Total Offense Level of 36 and a Criminal History Category of VI.

**VI. ABSENT ANY ADDITIONAL MOTIONS, THE COURT SHOULD SENTENCE THE DEFENDANT TO A GUIDELINE SENTENCE.**

In *Gall v. United States*, 552 U.S. 38 (2007), the Supreme Court set forth the appropriate sentencing methodology: the district court calculates the advisory Guidelines range and, after hearing from the parties, considers the 18 U.S.C. § 3553(a) factors to determine an appropriate sentence. 552 U.S. at 49-50; *United States v. Ruvalcava-Perez*, 561 F.3d 883, 886 (8th Cir. 2009) (“In sentencing a defendant, the district court should first determine the appropriate Guidelines range, then evaluate whether a traditional departure is warranted, and finally decide whether or not to impose a guideline sentence after considering all the § 3553(a) sentencing factors”).

The district court may not assume that the Guidelines range is reasonable, but instead “must make an individualized assessment based on the facts presented.” *Id.* at 50.

If the court determines that a sentence outside of the Guidelines is called for, it “must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance.” *Id.* Section 3553(a) requires the Court to analyze a number of factors, including, “the nature and circumstances of the offense,” “the history and characteristics of the defendant,” “the need for the sentence to reflect the seriousness of the offense,” “the need for deterrence,” “the need to protect the public from further crimes of the defendant,” and “the need to avoid unwarranted disparities.” 18 U.S.C. § 3553(a).

**A. Nature and Circumstances of the Offense.**

As described in the plea agreement and PSR, the defendant lied to a federal grand jury investigating a conspiracy of men who traveled to Somalia to kill. The nature and seriousness of both the defendant’s crime and her relevant conduct (supporting a conspiracy that endeavors to someone to kill Somali government officials and Ethiopian soldiers) weigh strongly in favor of a Guidelines sentence in this case. *See* 18 U.S.C. § 3553(a)(1) and (a)(2)(A).

The defendant lied about raising money for Mohamed Abdullahi Hassan,<sup>1</sup> also known as “Miski” to travel to Somalia to fight the Ethiopians. As the Court is aware, Miski was a leader among the 2008 travelers and was seen at the al-Shabbab training camp by Kamal Hassan. (PSR ¶ 55).

---

<sup>1</sup> For the Court’s reference, Mohamed Abdullahi Hassani is Traveler 10 on Government Trial Exhibit 17 in United States v. Muhammad Said Omar.

**B. History and Characteristics of Defendant.**

The defendant was born in Mogadishu, Somalia, in 1989; left Mogadishu at age 1 to escape the civil war and lived in a refugee camp in Kenya with her parents and siblings until 1999 when she entered the United States and settled in Minneapolis. (PSR ¶¶ 89, 90). The defendant has no criminal history. (PSR ¶¶ 80-82).

When first approached by the government to determine what she might know about the travel of men from Minnesota to Somalia to fight, the defendant failed to disclose what she knew. The defendant maintained these lies to the grand jury. In so doing, the defendant demonstrated that she cared more about preserving the conspiracy than doing the right thing. To her credit, once the government learned the nature and extent of the defendant's lies, and confronted the defendant with them, the defendant did accept responsibility for her criminal actions by pleading guilty well short of trial.

**C. The Need for the Sentence Imposed to Reflect the Seriousness of the Offense, to Promote Respect for the Law, and to Provide Just Punishment for the Offense.**

The defendant committed a very serious crime when she knowingly provided false testimony to a grand jury. No less serious an offense was her provision of money to Miski knowing he was going to Somalia to unlawfully kill others. Considering the seriousness of this crime, promoting respect for the law and providing just punishment are important factors in this case.

Further, although the defendant has no appreciable criminal history and this offense represents her first criminal conviction, her participation in this criminal conspiracy cannot

be viewed as a discrete event occurring at a singular place and time. Her provision of money, lies to the grand jury, and loyalty to the members of the conspiracy encompass a period of time of more than two years. The government respectfully submits that the Court consider the seriousness of the offense warrants a substantial term of imprisonment to reflect the seriousness of the offense and to promote respect for the law.

**D. The Need for the Sentence to Afford Adequate Deterrence to Criminal Conduct, and the Need for the Sentence Imposed to Protect the Public from Future Crimes of This Defendant.**

In this case, there is a need for both individualized and general deterrence. Individualized deterrence is that which discourages a defendant from ever committing such a crime again. General deterrence is the public response necessary to deter other people from committing similar crimes. “Congress specifically made general deterrence an appropriate consideration . . . , and we have described it as ‘one of the key purposes of sentencing.’” *Ferguson v. United States*, 623 F.3d 627, 632 (8th Cir. 2010) (quoting *United States v. Medearis*, 451 F.3d 918, 920 (8th Cir. 2006)).

Terrorists and terrorist organizations rely upon support from individuals for their success in carrying out specific attacks, as well as their continued existence. The sentence imposed in this case needs to deter individuals from believing that they can sit at a safe distance, lend support to the violent aims of terrorists and terrorist organizations, and be free from detection or punishment. The sentence also must inform the community that attempts to frustrate the continuing investigation into the travels of young men to Somalia will not be tolerated. In the District and State of Minnesota, which has seen a proliferation



of cases involving young men traveling to join al Shabaab, this is no small interest. To date, neither the designation of al Shabaab as a foreign terrorist organization nor prosecution of the men who joined al Shabaab and those who have supported them, have completely stemmed the flow of support to the foreign terrorist organization from Minnesota. The government respectfully requests the Court strongly consider the impact on both this defendant and the broader community when imposing an appropriate sentence.

Further, the harm that those who finance international terrorism cause is of grave concern. *Humanitarian Law Project*, 130 S.Ct. at 2724 (upholding the constitutionality of §2339B: “the Government’s interest in combating terrorism is an urgent objective of the highest order.”). A substantial sentence is necessary to deter individuals, like the defendant, from believing that simply because they do not pick up a gun or attend a training camp, they do not facilitate terrorism. As the Supreme Court has recognized:

‘Material support’ is a valuable resource by definition. Such support frees up other resources within the organization that may be put to violent ends. It also importantly helps lend legitimacy to foreign terrorist groups – legitimacy that makes it easier for those groups to persist, to recruit members, and to raise funds – all of which facilitate more terrorist attacks.

*Id.* at 2725.

A Guidelines sentence in this case would appropriately send a message to the community at large that the United States does not tolerate such abhorrent criminal conduct. Given the compelling need to deter the continued threat that home-grown terrorists and those that support them pose to the United States and our allies, a Guidelines

sentence would send a clear message that such conduct is not tolerated by the U.S. government.

**E. The Kinds of Sentences Available, the Need to Avoid Disparities and the Sentencing Guidelines and Related Policy Statements.**

Within the last three years, numerous defendants have been sentenced in federal district court for providing, or attempting to provide, material support to a conspiracy to kill, or support to al Shabaab, or related offenses. Most directly relevant are those cases which have charged perjury or obstruction of justice related to investigation.

Adarus Abdulle Ali, Docket 0:09CR00317-001(MJD) pled guilty to Perjury, in violation of 18 U.S.C. § 1623(a). Like the defendant, Ali also lied to a grand jury about his knowledge of the individuals traveling to Somalia to fight the Ethiopians, including lying about the fact that he had attending at least one meeting discussing the travel and that he drove travelers to the airport. On May 16, 2013, Ali was sentenced to 24 months imprisonment followed by 3 years of supervised release by this Court.

Abdow Munye Abdow, Docket 0:09CR00292-001(MJD), pled guilty to Obstruction of Justice, in violation of 18 U.S.C. § 1512(c)(2). Abdow lied to the FBI about the fact that he drove with four other men from Minneapolis to San Diego, California after planning their departure was planned in advance and over the course of two meetings. On July 16, 2010, Abdow was sentenced by Judge Rosenbaum to 120 days imprisonment

followed by 3 years supervised release with a special condition requiring 120 days home confinement with electronic monitoring.<sup>2</sup>

The Guideline sentencing range for the offense to which the defendant pleaded guilty would be 324-405 months' imprisonment but for the limitation provided by the 60-month statutory maximum. Absent any motion from the government related to the defendant's sentence, the government believes that a sentence within the Guideline range is appropriate and necessary to satisfy the factors described in 18 U.S.C. § 3553(a).

Dated: December 13, 2013

Respectfully Submitted,

JOHN R. MARTI  
Acting United States Attorney

*s/ Charles J. Kovats, Jr.*

CHARLES J. KOVATS, JR.  
LEEANN K. BELL  
Assistant United States Attorneys

*s/ Charles J. Kovats, Jr.*

for \_\_\_\_\_  
WILLIAM M. NARUS  
Trial Attorney  
U.S. Department of Justice

---

<sup>2</sup> In the plea agreement, the parties agreed that defendant Abdow's offense was not a felony involving or promoting crime of terrorism, therefore the adjustment under § 3A1.4(a) did not apply. The Court agreed.

## COMMON APPENDIX II

### I. A MINNESOTA PIPELINE OF SUPPORT TO SOMALIA

Among those who have joined al Shabaab are more than 20 young men from Minneapolis, home to the largest Somali diaspora in the United States. The United States has been conducting a long-running, international investigation into the pipeline that supplies men from Minneapolis to al Shabaab. In Somalia, the men were trained by, and fought with, al Shabaab against the internationally-supported Transitional Federal Government (“TFG”) of Somalia, the Ethiopian Army and African Union soldiers supporting the fledgling government, the United Nations, and others.

#### A. The Pre-Departure Activities of 2007

As adduced at the trial of *United States v. Mahamud Said Omar*, in September 2007, defendants Khalid Mohamed Abshir (*See* Attachment 2, Number “7”), Ahmed Ali Omar (*See* Attachment 2, Number “6”), Cabdulaahi Ahmed Faarax (*See* Attachment 3, Number “CC”), and Omer Abdi Mohamed (*See* Attachment 3, Letter “AA”) began meeting with Kamal Hassan (*See* Attachment 2, Number “3”), Salah Ahmed (*See* Attachment 2, Number “4”), and Abdifatah Yusuf Isse (*See* Attachment 2, Number “5”). The meetings were held behind closed doors, in cars, in private rooms at restaurants such as AINU SHAMS and Davanni’s, and in Khalid Abshir’s apartment. In these meetings, Khalid Abshir and Omer Mohamed talked of the need to fight *jihad* in order to oust the Ethiopian armed forces from Somalia. Omer Mohamed provided verbal encouragement and religious motivations to justify the fighting in which the group would participate.

Eventually, Abdifatah Isse, Kamal Hassan, and Salah Ahmed agreed to travel to Somalia. They believed they would either be fighting for the Islamic Courts Union or for a group they knew as al Shabaab. At this time, Abdifatah Isse, Kamal Hassan, and Salah Ahmed either thought al Shabaab was a part of the Islamic Courts, or did not know anything about al Shabaab.

Before departure for Somalia, this group raised money for their travel by falsely soliciting for charities at Twin Cities-area mosques. Mahamud Said Omar (*See* Attachment 2, Number “8”) and Adarus Abdulle Ali (defendant in 09-CR-317) also provided money to this group to facilitate their travel. Omer Mohamed accompanied the men to a travel agency and assisted in organizing their travel, including coordinating the production of a false itinerary for Kamal Hassan, knowing that Kamal Hassan needed to disguise the true destination of his travels in order to secure both money and permission to travel from his father.

The members of this conspiracy strove to keep the plan secret, reminding members not to discuss it with anyone outside the conspiracy, and policing entry into the group. Khalid Abshir and Omer Mohamed decided that two individuals, Mohamed Abdullahi Hassan (*See* Attachment 2, Number “10”) and Mustafa Ali Salat (*See* Attachment 2, Number “11”) were too young to travel in the fall of 2007, as it would draw unwanted attention from the community to the plan. They also challenged members of the conspiracy, including Kamal Hassan and Salah Ahmed, who had planned to travel, questioning their commitment, dedication, and knowledge of both Islam and events in Somalia, before ultimately assisting them with the trip. The group also used other

attempts to shield the plan from discovery by traveling singly or in pairs, buying round trip tickets instead of one-way tickets despite having no intention of returning, and as described above, using false itineraries to hide the true destination of travel from family members, and other means of concealment.

The first traveler, Dahir Gure, (*See* Attachment 2, Number “1”) departed Minneapolis on October 30, 2007. Six more men, Kamal Hassan, Salah Ahmed, Ahmed Omar, Abdifatah Isse, Khalid Abshir, and Shirwa Ahmed (*See* Attachment 2, Number “2”), traveled to Somalia in December 2007, and the remaining men traveled in small groups over the following months and years. (*See* Attachment 2).

#### **B. Safe-Houses and Training Camps in Somalia**

The seven men who had left from Minneapolis in the early winter of 2007 reunited at a safe-house in Marka, Somalia. Senior members of al Shabaab, including “Amo” (*See* Attachment 2, Letter “D”) and Fuad Mohmaed Khalaf (*See* Attachment 2, Letter “I”) visited the men at the al Shabaab safe-house. In mid-February, 2008, these seven men were joined at the Marka safe-house by defendant Mahamud Said Omar. While at the Marka safe house, Mahamud Said Omar provided money to the proprietor of the safe house, “Hooyo,” and also provided money to purchase weapons for the men from Minneapolis.<sup>1</sup>

Later, at a different safe-house in the Somali town of Baraawe, the men from Minneapolis, along with other members of al Shabaab, were issued AK-47s and

---

<sup>1</sup> After approximately ten days, Mahamud Said Omar left Marka and returned to the United States, where, after the suicide bombing of Shirwa Ahmed, he assisted the next wave of men from Minnesota join al Shabaab.

ammunition. They were trained how to handle and load the weapons, and with the exception of Khalid Abshir, who had become ill, went on to construct an al Shabaab training camp in far southern Somalia, near the town of Kamsuma. The men took their weapons with them from Baraawe to the site where they would be put to work building the training camp. Under the supervision of the leaders, they began cutting down trees and clearing brush. Salah Ahmed and Abdifatah Isse left the camp after one to two weeks and began making their way back to the United States.

While in the camps, the remaining travelers were trained by senior members of al Shabaab and a senior member of al Qaeda in East Africa. For example, Omar Hammami (*See Attachment 2, Letter "E"*) and Saleh Nabhan (*See Attachment 2, Letter "H"*) provided the men training on weapons and tactics. The men also received visits from other leaders of al Shabaab, including Mukhtar Robow (*See Attachment 2, Letter "G"*). Shortly before graduation, an al Shabaab "media" crew arrived to film a propaganda video that depicted recruits training and featured an English-language recruiting appeal made by Kamal Hasssan. Both Mukhtar Robow and Saleh Nabhan also appear in the video.

In mid-July 2008, after graduating from the training camp, the four remaining men from Minneapolis, Kamal Hassan, Ahmed Omar, Shirwa Ahmed and Dahir Gure, were assigned to a group of foreign fighters and dispatched to ambush Ethiopian troops traveling along a road in Somalia. The preparations and ambush were filmed by Jihad Mostafa (*See Attachment 2, Letter "F"*) and produced as an al Shabaab propaganda video. Omar Hammami narrates much of the video and Ahmed Omar, flanked by Kamal

Hassan and Dahir Gure, makes a speech to the camera in which he encourages more men to join them in Somalia.

**C. The 2008 Travelers Prepare to Depart Minnesota**

In the summer of 2008, a second group of young men made arrangements to leave Minnesota to join al-Shabaab. This group included Mohamed Hassan and Mustafa Salat, the two individuals whom Omer Mohamed and Khalid Abshir deemed too young to travel in December 2007. Joining them were Abdirashid Ali Omar (*See* Attachment 2, Number “12”), Mohamoud Ali Hassan (*See* Attachment 2, Number “13”), Troy Matthew Kastigar (*See* Attachment 2, Number “14”), Abdikadir Ali Abdi, (*See* Attachment 2, Number “15”), Jamal Aweys Sheikh Bana (*See* Attachment 2, Number “16”), Burhan Ibrahim Hassan (*See* Attachment 2, Number “17”), and Abdisalan Hussein Ali (*See* Attachment 2, Number “18”). Assisted by Ahmed Hussein Mahamud (*See* Attachment 3, Number “DD”), a member of the conspiracy who never traveled to Somalia, this group raised the funds needed to purchase airline tickets from members of the Somali community in Minnesota. At all these fund-raising events, the group claimed the money collected would be used to help Somali orphans rather than disclose that the money would pay for the group’s travel to Somalia to join al Shabaab.

In August 2008, Mahamud Said Omar accompanied Mohamed Hassan and Mustafa Salat to the airport knowing they would be traveling to Somalia to join al Shabaab. The following month, Abdirashid Omar departed Minnesota to join al Shabaab.



**D. The Suicide Attack of U.S. Citizen Shirwa Ahmed**

On October 29, 2008, Shirwa Ahmed, one of the December 2007 travelers, took part in one of five coordinated, simultaneous, suicide attacks on targets in northern Somalia. Shirwa Ahmed drove an explosive-laden Toyota truck into an office of the Puntland Intelligence Service in Boosaaso, Puntland; other targets that day included a second site adjacent to the Puntland Intelligence Service Office in Boosaaso, and the Presidential Palace, United Nations Development Program office, and Ethiopian Trade Mission in Hargeisa. Including the suicide bombers, nearly 30 people were killed in the attacks. Shirwa Ahmed became the first known U.S. citizen to participate in a suicide bombing.

**E. The Rest of the 2008 Travelers Depart Somalia to Join al Shabaab**

Within days of Shirwa Ahmed's bombing, Mahamud Said Omar helped six additional men travel to Somalia to join al Shabaab, including Mohamoud Hassan, Troy Kastigar, Abdikadir Abdi, Jamal Sheikh Bana, Burhan Hassan, and Abdisalan Ali. In fact, Mahamud Said Omar was with these men on October 31, 2008, at a Minneapolis travel agency where they purchased air tickets with a final destination of Somalia.

**F. The 2009 Travelers Join al Shabaab**

In October 2009, Cabdulaahi Ahmed Faarax, Abdiweli Yassin Isse (*See* Attachment 3, Number "DD"), and Farah Mohamed Beledi (charged in 09-CR-50-MJD) departed Minnesota by car, with Abdow Munye Abdow (charged in 09-CR-292-MJD) and another individual. Eventually, the group arrived in San Diego, California, where they contacted Nima Yusuf (charged in 10-CR-4551-BTM in the Southern District of

California). Cabdulaahi Faarax, Abdiweli Isee, and Farah Beledi then traveled from San Diego to Mexico, via the San Ysidro border crossing. From Mexico, these three individuals traveled a complicated route to Nairobi, Kenya, and then onto Somalia where they joined many of the other surviving Minnesotans who left in 2007 and 2008 to fight with al Shabaab.

On May 30, 2011, Farah Beledi, one of the October 2009 travelers, was shot and killed by AMISOM troops as he attempted to enter their base in Mogadishu while wearing a “suicide vest” containing an explosive charge. The vest worn by one of Beledi’s cohorts did explode, killing a person at the checkpoint.

## COMMON APPENDIX I

### I. BACKGROUND ON SOMALIA.

Except as otherwise indicated, the following facts are taken from the testimony at trial of *United States v. Mahamud Said Omar* of prosecution expert witness Matthew Bryden. (See Common Appendix IV).

#### A. The Origins of the Somali Civil War

Somalia gained its independence from Italy and Britain in 1960 and for the first nine years of its existence was a well-functioning democracy. In 1969 Army General Siad Barre seized power in a coup and from 1969 to 1991 Somalia was a military dictatorship. In 1991 Barre was first driven from power, and later that year was driven right out of Somalia. The vacuum left by his departure from the political scene, however, led to Somalia being plunged into a chaotic civil war and displaced Somali citizens, many of whom emigrated to Minnesota. From that day to this, Somalia has not had a properly functioning central government that has been able to exercise authority over all the territory of Somalia.

#### B. Ibrahim al-Afghani Brings *Jihadism* to Somalia from Afghanistan

In approximately 1988 Ibrahim al-Afghani, born in Somalia but residing in the United States, left his home in Virginia and traveled to Afghanistan to join the *jihad* against the Soviet Union. In late 1990, after being in Afghanistan for about two years, al-Afghani left Afghanistan and together with some companions went to Somalia. In Somalia, al-Afghani formed connections with several other men who would in later years

become important figures in the Somali terrorist organization *Harakat al Shabaab al Mujahideen* (“Organization of Jihadist Youth”) usually shortened to just “al Shabaab” (“the Youth”)<sup>1</sup>.

One of the connections al-Afghani made was with a man he introduced to the jihadist cause, Ahmed Abdi aw-Mohamed Godane, who was, at the time of trial in October 2012, the “emir,” or leader, of al Shabaab.

Shortly after arriving in Somalia, al-Afghani was one of several founders of an armed jihadist group, *al-Ittihaad al-Islam*. By 1992, al-Afghani was fighting with *al-Ittihad* around the port city of Kismayo, in southern Somalia. Accompanying al-Afghani in the Kismayo area fighting was another man al-Afghani had recruited, Hassan Dahir Aweys. *Al-Ittihaad* was defeated at Kismayo and al-Afghani then moved its base of operations to Boosaaso, the commercial capital of the Puntland region. Boosaaso is located in northern Somalia, along the coast of the Gulf of Aden. Aweys went with al-Afghani from Kismayo to Boosaaso, where Aweys was made vice chairman of *al-Ittihad* and its military commander. *Al-Ittihad* was defeated in fighting around Boosaaso in 1992, and by 1996 or 1997 had collapsed entirely. However, Aweys’ jihadist career continued with other organizations.

### **C. The Islamic Courts and the Emergence of al Shabaab**

Aweys in his turn brought into what became al Shabaab two other men, Aden Hashi Ayrow and Mukhtar Robow. (*See* Attachment 1, Letter “G”). Aweys became instrumental in the establishment of the first Islamic court, which was located in central

---

<sup>1</sup> Al Shabaab is the Arabic term for “the Youth”.

Somalia, and later the extension of the Courts to other areas of Somalia, including Mogadishu. At least at first these Courts were supported by the population because of the law and order they contributed to the still-chaotic Somali society. Eventually, of the 11 or 12 Courts which constituted the Council of Islamic Courts, the four Courts which espoused the most rigid interpretation of sharia put together a militia, the commander of which was Aden Hashi Ayrow.

When the Islamic Courts militia expanded its control over much of southern Somalia the internationally-recognized Transitional Federal Government (“TFG”) of Somalia responded by inviting Ethiopian armed forces into Somalia. The TFG’s invitation was supported by the international community: in late 2006 the regional inter-governmental organization for the Horn of Africa, the Inter-Governmental Authority on Development (“IGAD”) called for a military mission to support the TFG, and the United Nations Security Council also passed a resolution in favor of such a military mission.<sup>2</sup> In

---

<sup>2</sup> See Remarks with Somali Transitional Federal Government President Sheikh Sharif Sheikh Ahmed, Secretary of State Hillary Clinton, August 6, 2009, United States Department of State. “President Sheikh Sharif and I have just concluded a very thorough and productive discussion – thank you – about the challenges facing his country and the efforts of the international community to support the Transitional Federal Government as it stands up for the people of Somalia and against the threat of violent extremism. The United States pledges our continued support for President Sheikh Sharif’s government. And we have joined IGAD-the Intergovernmental Authority on Development, the Arab League, the Organization of the Islamic Conference, and the African Union, in endorsing the Somali-led Djibouti peace process. . . President Sheikh Sharif’s government has taken up the fight on behalf of the Somali people against al-Shabaab, a terrorist group with links to al-Qaida and other foreign militant networks. Al-Shabaab and its allies lack regard for human rights, for women’s rights, for education, and healthcare, and the progress of the Somali people. They see Somalia as a future haven for global terrorism. Just this week in Australia, we have been reminded that there are those who would use

December 2006, Ethiopian forces entered Somalia and quickly routed the Courts' militia. The Courts responded by calling for a *jihad*, using the word in the sense of a holy war meant to remove non-Muslims from Muslim land.

Al Shabaab had already been in existence before Ethiopian troops entered Somalia, but following December 2006 al Shabaab emerged from the Islamic Courts' militia as a terrorist organization in its own right.

**D. Al Shabaab and International Terrorism**

Al Shabaab showed, by its choice of targets and its choice of methods, that it was not a nationalist, anti-Ethiopian organization but an international jihadist movement. While it sought to extend its own, extreme, version of sharia law throughout Somalia, it also sought to extend the area under sharia law "all the way to Jerusalem." And while al Shabaab voiced support for the ejection of Ethiopian troops from Somalia, it attacked many non-Ethiopian targets:

- Al Shabaab used assassination as a tactic, and it sought to assassinate anyone associated with the TFG, from the President and Prime Minister down to the Deputy Mayor of Mogadishu. Al Shabaab targeted students, journalists, international aid workers, and clan elders.

---

Somalia as a training ground for attacks around the world." (<http://www.state.gov/secretary/rm/2009a/08/126956.htm>).

See also United Nations Security Council Press Statement on Somalia, April 5, 2012, U.S. Department of State "The members of the [United Nations] Security Council reiterated their full support to the Transitional Federal Government in its efforts to achieve peace, security and reconciliation through the Djibouti Peace Process, and the work of the Somali National Security Forces and the African Union Mission in Somalia (AMISOM)." (<http://usun.state.gov/briefing/statements/187452.htm>).

- While there were a number of groups in Somalia opposed to the Ethiopian invasion, only al Shabaab used suicide bombing as a tactic. The first time al Shabaab used a suicide bomber was in 2006, when a suicide bomber targeted the then-President of the TFG, Abdullahi Yusuf Ahmed. Other major al Shabaab suicide bomb attacks that occurred during the timeframe of the indictment in this case included a 2007 attack against TFG members of parliament who were staying at the Ambassador Hotel south of Mogadishu, and a 2008 attack against Burundian peacekeeping troops who were part of the African Union's peacekeeping mission in Somalia (called "AMISOM" for "African Union MIssion in SOMalia"). The AMISOM mission was also endorsed by the United Nations.
- On October 29, 2008, al Shabaab perpetrated five simultaneous suicide truck bombings in Boosaaso and Hargeisa. Of the five targets, four – two offices of the Puntland Intelligence Service, a United Nations Development Programme office, and the Somaliland Presidency – were non-Ethiopian. The one target that was Ethiopian was an Ethiopian Trade Mission in Hargeisa; however, the victims in Hargeisa were almost all Somalis who were waiting in line outside the Trade Mission for visas to enter Ethiopia. One of the suicide bombers who struck a Puntland Intelligence Service office was Shirwa Ahmed, who had traveled to Somalia from Minneapolis and was a citizen of the United States.
- On July 10, 2010, al Shabaab attacked Uganda using two suicide bombers and two remote-controlled improvised explosive devices. The terrorist attacks killed over 75 people, including one American. The leaders of al Shabaab claimed responsibility for the "blessed operations in Kampala" and left no doubt that the attack was a direct response to the presence of the Uganda People's Defense Force in Somalia, stating "we inform the Ugandan population that what you are experiencing today is a result of the flawed policies of your government."<sup>3</sup>

Besides its choice of targets and methods, al Shabaab also revealed its agenda by its relations with other international jihadist organizations, including al Qaeda. Al Shabaab took into its ranks two senior al Qaeda in East Africa ("AQEA") figures, Fazul Mohammed and Saleh Nabhan (See Attachment 1, Letter "H"). Fazul Mohammed was

---

<sup>3</sup> The Kampala attacks were not discussed by Matthew Bryden in his trial testimony. However, this information can be found in numerous widely-available open news sources, including <http://www.cfr.org/somalia/al-shabaab/p18650>.

the operational mastermind of the twin bombings of the U.S. Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania in 1998; Saleh Nabhan, for his part, was associated with the 2002 suicide bombing of the Israeli-patronized Paradise Hotel in Mombasa, Kenya, and the simultaneous effort (which thankfully failed) to use a shoulder-launched missile to shoot down an Israeli airliner as it took off from Mombasa Airport bound for Tel Aviv. Nabhan helped train travelers from Minnesota, including one witness at trial, at the Kamsuma terrorist training camp. Both Fazul Mohammed and Saleh Nabhan, even though non-Somali foreigners, achieved high rank in al Shabaab.

Al Shabaab's former leader, Aden Hashi Ayrow, who had trained with al Qaeda in Afghanistan prior to 2001, called for foreign fighters to join al Shabaab in a "holy war" against Ethiopian and African Union forces. Al Qaeda leadership, including Usama bin Laden and Ayman al-Zawahiri, echoed those calls. Finally, on February 9, 2012, al Shabaab effectively joined forces with al Qaeda when al-Shabaab informed al Qaeda leader Ayman al-Zawahiri that al Shabaab members "will march with you as loyal soldiers."<sup>4</sup> Against this backdrop, fighters from other countries, including the United States, traveled to Somalia to engage in violent *jihad*.

Al Shabaab welcomed these foreigner fighters into its ranks. Omar Hammami, or "Abu Mansoor al-Amriki" from the United States, and Jihad Mostafa, also from the

---

<sup>4</sup> Although the relationship of al Shabaab and al Qaeda was discussed by Matthew Bryden in his trial testimony, some of these specific statements made by al Qaeda's leadership were not. However, this information can be found in numerous widely-available open news sources, including <http://www.cfr.org/somalia/al-shabaab/p18650>.



United States, both became high level leaders within al Shabaab. (*See* Attachment 1, Letters “E” and “F” respectively).<sup>5</sup>

Al Shabaab, in short, at all times relevant to the indictment in this case, used “terrorism” as that term is defined by Section 212(a)(3)(B) of the Immigration and Nationality Act, or Section 140(d)(2) of the Foreign Relations Authorization Act for Fiscal years 1988 and 1989.

On February 26, 2008, U.S. Secretary of State Condoleeza Rice, in consultation with the Secretary of the Treasury and the Attorney General, designated al Shabaab a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act, as amended (8 U.S.C. § 1182(a)(3)(B)). This designation was published in the Federal Register on March 17, 2008. Al Shabaab spokesman Mukhtar Robow reacted by characterizing the designation as a “badge of honor.”

---

<sup>5</sup> Hammami and Mostafa are subjects of the United States Department of State Rewards for Justice Program. As such, the Secretary of State may authorize a reward of up to \$5,000,000 for information that leads to the arrest or conviction of either Hammami or Mostafa. *See* <http://www.rewardsforjustice.net>.