

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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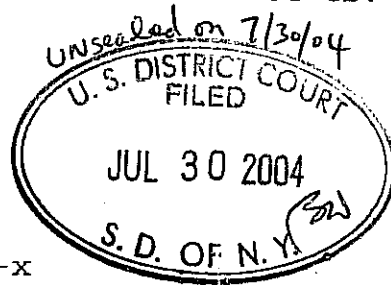
3 UNITED STATES OF AMERICA,

New York, N.Y.

04 Cr. 528

4
5 v.

6 MOHAMMED JUNAID BABAR,

7 Defendant.
8 -----X9
10 June 3, 2004
11 4:00 p.m.

12 Before:

13 HON. VICTOR MARRERO,

14 District Judge

15 APPEARANCES

16 DAVID N. KELLEY

17 United States Attorney for the
18 Southern District of New York

BY: LISA BARONI

19 Assistant United States Attorney

20 DANIEL OLLEN

21 Attorney for Defendant
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(Defendant present)

THE DEPUTY CLERK: All rise.

THE COURT: Please be seated.

All right. This is the matter of United States versus Mohammed Junaid Babar. It does not yet have a docket number.

Miss Baroni, does the government have an application?

MS. BARONI: Yes, your Honor, good afternoon, Lisa Baroni for the government. With me are Kaiser Gill and Charles Ribando from the FBI and Joint Terrorism Task Force.

Your Honor, the government has handed up to your Honor's law clerk a felony information to be filed today. The government would ask that your Honor arraign the defendant on the information in the first instance.

MR. OLLEN: Your Honor, Daniel Ollen for Mr. Babar. Good afternoon.

Before we proceed any further, I would ask your Honor to seal the courtroom and seal the transcript of the proceedings.

THE COURT: All right. Miss Baroni?

MS. BARONI: Government has no objection, Judge.

THE COURT: All right. The courtroom -- the application will be granted, the courtroom will be sealed. If there is anybody in the audience who is not court personnel or on the staff of the U.S. Attorney's Office or FBI or related in some way to the defendant, you may step out at this point.

1 Otherwise, anyone who is in the audience, given the
2 extraordinary circumstances of sealing a courtroom to a
3 proceeding like this should understand that this matter is
4 strictly confidential, and that you are under obligation,
5 professional and otherwise, to make sure that anything that
6 occurs here this afternoon is to kept strictly within the
7 confines of this room.

8 All right, you may proceed. Counsel, please enter
9 your appearances for the record.

10 MS. BARONI: Lisa Baroni for the government, your
11 Honor.

12 MR. OLLEN: Daniel Ollen Mr. Babar.

13 THE COURT: All right.

14 I note that the defendant Mohammed Babar is present in
15 the courtroom seated next to his attorney.

16 Mr. Ollen, I understand that the defendant is prepared
17 to waive indictment and plead at this point. Before we do
18 that, we will proceed with the arraignment.

19 Mr. Babar, please rise. Before I begin, let me remind
20 you of certain rights that you have with respect to the
21 information that the government has filed in this proceeding.
22 Mr. Babar, you have the right to remain silent. You need not
23 make any statement. If you have already made statements to the
24 authorities, you need not make any additional statement. Any
25 statements that you do make may be used against you.

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1 I see that you're represented by counsel today, and
2 you will have the right to be represented by an attorney at all
3 future proceedings in this matter.

4 Mr. Ollen, have you seen a copy of the information?

5 MR. OLLEN: Yes, your Honor.

6 THE COURT: And have you discussed it with your
7 client?

8 MR. OLLEN: Yes.

9 THE COURT: Mr. Babar, have you received a copy of the
10 information?

11 THE DEFENDANT: Yes.

12 THE COURT: Have you had an opportunity to discuss it
13 with your counsel?

14 THE DEFENDANT: Yes.

15 THE COURT: And do you waive a detailed reading of the
16 information?

17 THE DEFENDANT: Yes.

18 THE COURT: I understand again that the defendant is
19 prepared to waive his right to be charged by an indictment and
20 instead to be charged by this information. Accordingly, the
21 clerk will proceed with the waiver entry.

22 THE CLERK: Are you Mohammed Babar?

23 THE DEFENDANT: Yes.

24 THE CLERK: Is the person standing beside you your
25 attorney?

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THE DEFENDANT: Yes.

THE CLERK: Have you signed the waiver of Indictment?

THE DEFENDANT: Yes.

THE CLERK: Before you signed it, did you discuss it
with your attorney?

THE DEFENDANT: Yes.

THE CLERK: Did he explain it to you?

THE DEFENDANT: Yes.

THE CLERK: Did you understand what you were doing?

THE DEFENDANT: Yes.

THE CLERK: Do you understand that you are under no
obligation to waive indictment?

THE DEFENDANT: Yes.

THE CLERK: Do you understand that if you do waive --
if you do not waive indictment, and if the government wants to
prosecute you, the government will have to present this case to
a Grand Jury, which may or may not indict you?

THE DEFENDANT: Yes.

THE CLERK: Do you realize that by signing the waiver
of Indictment you have given up your right to have this case
presented to a Grand Jury?

THE DEFENDANT: Yes.

THE CLERK: Do you understand what a Grand Jury is?

THE DEFENDANT: Yes.

THE CLERK: Have you seen a copy of the information?

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THE DEFENDANT: Yes, I have.

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THE CLERK: Do you waive a detailed reading of the

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information?

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THE DEFENDANT: Yes.

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THE CLERK: Thank you.

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THE COURT: All right, thank you.

7

Mr. Ollen, is there an application on behalf Mr.

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Babar?

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MR. OLLEN: Yes, your Honor. Mr. Babar authorizes me

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to enter a plea of guilty on his behalf to the entire

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information.

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THE COURT: All right. Would you specify the charges

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contained in the information to which your client's plea

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relates?

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MR. OLLEN: Yes, your Honor. Count one charges him

16

with conspiracy to provide material support or resources to a

17

foreign terrorist organization.

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Count two charges him with providing and attempting to

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provide materials, support or resources to a foreign terrorist

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organization.

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Count three charges him with conspiracy to provide

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material support or resources to a terrorist activity.

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Count four charges him with providing material support

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or resources, excuse me, resources to terrorist activity.

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Count five charges him with making or receiving a

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1 contribution of funds, goods or services to, and for the
2 benefit of Al Qaeda.

3 THE COURT: Is this plea pursuant to a plea agreement?

4 MR. OLLEN: Yes, your Honor.

5 THE COURT: The clerk will administer the oath to the
6 defendant.

7 (Defendant sworn)

8 THE COURT: Mr. Babar, do you understand that you're
9 now under oath, and that if you answer any of my questions
10 falsely, your false answers may later be used against you in
11 another prosecution for perjury or for making a false
12 statement?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Babar, the Court intends to question
15 you regarding the facts of the crime alleged by the government.
16 Do you understand that you have a constitutional right to
17 remain silent and not incriminate yourself?

18 THE DEFENDANT: Yes.

19 THE COURT: Do I understand correctly that you wish to
20 waive that right for the purpose of pleading to the charges set
21 forth in the information?

22 THE DEFENDANT: Yes.

23 THE COURT: Mr. Babar, if you do not understand
24 anything as we proceed here today, please advise me immediately
25 and either I or your attorney will explain it to you more

1 fully.

2 Mr. Babar, please state and spell your name for the
3 record?

4 THE DEFENDANT: It's Mohammad M-o-h-a-m-m-a-d, Junaid,
5 J-u-n-a-i-d, Babar, B-a-b-a-r

6 THE COURT: How old are you?

7 THE DEFENDANT: 29.

8 THE COURT: And how far did you go in school?

9 THE DEFENDANT: One year Saint John's University
10 College.

11 THE COURT: Are you now or have you recently been
12 under the care of a doctor or a psychiatrist?

13 THE DEFENDANT: No.

14 THE COURT: Have you ever been treated or hospitalized
15 for any mental illness or any type of addiction, including drug
16 or alcohol addiction?

17 THE DEFENDANT: No.

18 THE COURT: In the past 24 hours have you taken any
19 drugs or medicines or pills or have you consumed any alcohol?

20 THE DEFENDANT: No.

21 THE COURT: Is your mind clear today?

22 THE DEFENDANT: Yes.

23 THE COURT: Are you feeling well today?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you have a factual and rational basis

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1 for understanding the proceedings brought against you by the
2 government and the charge that is set forth in the information?

3 THE DEFENDANT: Yes.

4 THE COURT: Do either counsel have any doubt as to the
5 defendant's competence to plead at this time; Miss Baroni?

6 MS. BARONI: No, your Honor.

7 THE COURT: Mr. Ollen?

8 MR. OLLEN: No, your Honor.

9 THE COURT: Mr. Babar, your attorney has informed me
10 that you wish to plead, to enter a plea of guilty to the crimes
11 with which you have been charged by the government in this
12 information, is that correct?

13 THE DEFENDANT: Yes.

14 THE COURT: The information charges you with five
15 counts of criminal activity.

16 Count one charges you with conspiracy to provide
17 material support or resources to a foreign terrorist
18 organization in violation of Title 18 U.S.C. Sections 2339B and
19 3238.

20 Count two charges you with providing and attempting to
21 provide material support or resources to a foreign terrorist
22 organization in violation of Title 18 U.S.C. Sections 2339B, 2
23 and 3238.

24 Count three charges you with conspiracy to provide
25 material support or resources to a terrorist activity in

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1 violation of Title 18 U.S.C. Sections 2339A and 3238.

2 Count four charges you with providing material support
3 or resources to a terrorist activity in violation of 18 U.S.C.
4 Sections 2339A, 2, and 3238.

5 And count five charges you with making or receiving a
6 contribution of funds, goods or services to and for the benefit
7 of, Al Qaeda, in violation of Title 50 U.S.C. Section 1705(b),
8 Title 31 Code of Federal Regulations, Sections 595.204 and 595.
9 205, and 18 U.S.C. Sections 2 and 3238.

10 Mr. Babar, how do you wish to plead to these charges?

11 THE DEFENDANT: Guilty.

12 THE COURT: Are you entering a plea of guilty to all
13 five counts in the information the government has brought
14 against you?

15 THE DEFENDANT: Yes.

16 THE COURT: Have you had a full opportunity to discuss
17 your case with your attorney and to discuss the consequences of
18 entering a plea of guilty to the charges set forth in the
19 information?

20 THE DEFENDANT: Yes.

21 THE COURT: Are you satisfied with your attorney and
22 his representation of you?

23 THE DEFENDANT: Yes.

24 THE COURT: On the basis of Mr. Babar's responses to
25 my questions and my observation of his demeanor, I find that he

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1 is fully competent to enter an informed plea at this time.

2 Before I accept any plea from you, Mr. Babar, I'm
3 going to ask you certain additional questions. I ask these
4 questions so that I am satisfied that the reason you wish to
5 plead guilty to the crimes in the charges brought against you
6 by the government in this proceeding is that, in fact, you are
7 guilty, and that you fully understand the consequences of your
8 plea.

9 I understand that this plea is being entered pursuant
10 to a plea agreement that I presume, Mr. Babar, that you believe
11 there is some benefit to you or to your family in your entering
12 a plea of guilty, or entering into the plea agreement.
13 Whatever benefit you believe exists, however, it's not a reason
14 to plead guilty. You should plead guilty only if you are
15 guilty, meaning that you did commit the crimes with which the
16 government has charged you and for no other reason. You
17 understand this?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, are you guilty of the charges brought
20 against you by the government in the information?

21 THE DEFENDANT: Yes.

22 THE COURT: I'm going to describe to you certain
23 rights that you have under the Constitution and the laws of the
24 United States, which rights you will be giving up if you enter
25 a plea of guilty and I accept it. Please listen carefully.

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1 Under the Constitution and the laws of the United
2 States, you have a right to a speedy and public trial by a jury
3 on the charges brought against you by the government. If there
4 were a trial on these charges, you would be presumed innocent,
5 and the government would be required to prove you guilty by
6 competent evidence, beyond a reasonable doubt.

7 At a trial the burden of proving you guilty beyond a
8 reasonable doubt, would be on the government. You would not
9 have to prove that you were innocent. If there were a trial, a
10 jury composed of 12 people selected from this district would
11 have to agree unanimously that you are guilty. If there were a
12 trial, you would have a right to be represented by an attorney,
13 and if you could not afford one, an attorney would be provided
14 to you free of cost.

15 If there were a trial, you would have a right to see
16 and to hear all of the witnesses against you, and your attorney
17 could cross-examine them. You would have a right to have your
18 attorney object to the Government's evidence and offer evidence
19 in your behalf if you so desired. You, yourself, would have
20 the right to offer evidence, and you would have the right to
21 have subpoenas issued or other compulsory process used to
22 compel witnesses to testify in your defense.

23 If there were a trial, you would have a right to
24 testify in your defense if you wanted, but no one could force
25 you to testify if you do not want to testify. And further, no

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1 inference or suggestion of guilt could be drawn if you were to
2 choose not to testify in your defense at a trial.

3 Mr. Babar, do you understand each and every one of
4 these rights?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you have any questions about any of
7 these rights?

8 THE DEFENDANT: No.

9 THE COURT: Do you understand that by entering a plea
10 of guilty today, you are giving up each and every one of these
11 rights, that you're waiving these rights, and that you will of
12 no trial?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that you can change your
15 mind right now and refuse to enter a plea of guilty, that you
16 do not have to enter this plea if you do not want to for any
17 reason?

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Babar, let me ask you again, have you
20 received a copy of the information?

21 THE DEFENDANT: Yes.

22 THE COURT: Have you reviewed it?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that you have a
25 constitutional right to be charged by an indictment rather than

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1 by information? An indictment would contain charges from a
2 Grand Jury composed of private citizens and not like this
3 information, simply charges by the government Prosecutor. Do
4 you understand that you're waiving your right to be charged by
5 an indictment?

6 THE DEFENDANT: Yes.

7 THE COURT: You waive this right voluntarily and
8 knowingly?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Babar, you're charged with five counts
11 of criminal activities which I referred to before.

12 Count one charges that from in or about August 2003,
13 up to and including March 2004, in an offense begun out of the
14 jurisdiction of any particular State or district of the United
15 States, you and others, known and unknown, at least one of whom
16 was first brought to and arrested in the Southern District of
17 New York, unlawfully and knowingly did combine, conspire,
18 confederate, and agree together and with each other to provide,
19 material support or resources, as that term is defined in 18
20 U.S.C. Section 2339A(b), including currency, and other physical
21 assets, to a foreign terrorist organization, to wit, Al Qaeda,
22 which was designated by the Secretary of State as a foreign
23 terrorist organization on October 8, 1999, pursuant to Section
24 219 of the Immigration and Nationality Act, and was
25 redesignated as such on or about October 2001 and 2003, all in

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1 violation of Title 18 U.S.C. Sections 2339B and -- I'm sorry,
2 3238.

3 Count two charges that prior to being brought to and
4 arrested in the Southern District of New York, from at least in
5 or about August 2003, up to and including March 2004, in an
6 offense begun out of the jurisdiction of any particular state
7 or district of the United States, you unlawfully and knowingly
8 did provide and attempt to provide material support or
9 resources, as the term is defined in 18 U.S.C. Sections
10 2339A(b), including currency and other physical assets, to a
11 foreign terrorist organization, to wit, Al Qaeda, all in
12 violation of Title 18 U.S.C. Sections 2339B, 2, and 3238.

13 Count three charges that from at least in or about
14 December 2002, up to and including March 2004, in an offense
15 begun out of the district, jurisdiction of any particular state
16 or district of the United States, you and others, known and
17 unknown, at least one of whom was first brought to and arrested
18 in the Southern District of New York, unlawfully and knowingly
19 did combine, conspire, confederate, and agree together and with
20 each other to provide material support or resources, as that
21 term is defined in 18 U.S.C. Section 2339A(b), including
22 lodging, training, weapons, lethal substances, explosives,
23 transportation and other physical assets, and conceal the
24 nature and location, source and ownership of material support
25 and resources, knowing and intending that such material support

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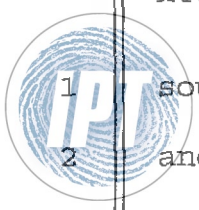
1 and resources were to be used in the preparation for, and in
2 carrying out, a violation of Section 2332a(b) of Title 18,
3 United States Code, and in preparation for and in carrying out
4 the concealment and an escape from the commission of such
5 violation.

6 Count three further charges that it was a part and an
7 object of the conspiracy that you, a United States citizen,
8 agreed with others to organize a jihad training camp where
9 training in military skills, explosives, and weapons was given,
10 agreed to provide lodging and to arrange transportation for
11 others to and from the training camp, and agreed to purchase
12 and attempt to purchase ammonium nitrate and aluminum powder
13 for destructive devices and bombs to be used in attacks in the
14 United Kingdom, all in violation of Title 18 U.S.C. Sections
15 2339A and 3238.

16 Count four charges that prior to being brought to and
17 arrested in the Southern District of New York from at least in
18 or about December 2002, up and including March 2004, in an
19 offense begun out of the jurisdiction of any particular state
20 or district of the United States, you unlawfully and knowingly
21 did provide and attempt to provide material support or
22 resources, as that term is defined in 18 U.S.C. Section
23 2339A(b), including lodging, training, weapons, lethal
24 substances, explosives, transportation and other physical
25 assets, and concealed and disguise the nature and location,

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1 source and ownership of material support and resources, knowing
2 and intending that such material support and resources were to
3 be used in preparation for, and in carrying out, a violation of
4 Section 2332a(b) of Title 18, United States Code, and in
5 preparation for, and in carrying out, the concealment and
6 escape from the commission of such violation, all in violation
7 of Title 18 U.S.C. Sections 2339A, 2 and 3238.

8 And count five charges that prior to being brought to
9 and arrested in the Southern District of New York, from at
10 least in or about August 2003, up to and including in or about
11 March 2004, in an offense begun out of the jurisdiction of any
12 particular state or district of the United States, you, a
13 United States citizen, unlawfully, willfully, and knowingly
14 violated a regulation issued under Chapter 35 of Title 50 U.S.
15 Code, to wit, you and others attempted to and did make and
16 receive a contribution of funds, goods, and services to, and
17 for the benefit of, Al Qaeda, a specially designated terrorist
18 organization, by providing military gear to others who
19 transported the gear to Al Qaeda associates in South
20 Waziristan, Pakistan, and by travelling to South Waziristan,
21 Pakistan, to provide military gear and money to Al Qaeda
22 associates there, all in violation of Title 50, U.S.C. Section
23 1705(b); Title 31, Code of Federal Regulations, Sections
24 595.204 and 595.205; and Title 18, U.S.C. Sections 2 and 3238.

25 Mr. Babar, do you understand the charges contained in

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1 count one through five of the information as contained in the
2 information you have seen and summarized by the Court above?

3 THE DEFENDANT: Yes.

4 THE COURT: In pleading guilty to these charges,
5 you're pleading guilty to certain elements or parts of those
6 crimes. The elements of the charges contained in count one of
7 the information conspiracy to provide material support or
8 resources to a foreign terrorist organization are as follows:

9 One, conspiracy to commit the crime alleged in count
10 two existed; two, you became a member of the conspiracy with
11 knowledge of its illegal objective; three, you provided items
12 of material support or resources defined in 18 U.S.C. Section
13 2339A(b) as money, lodging, training, expert advice or
14 existence of safe houses, false documentation or identification
15 communications equipment, facilities, weapons, lethal
16 substances, explosives, personnel transportation or other
17 physical assets to a designated foreign terrorist organization;
18 four, designated foreign terrorist organization was designated
19 as such at a time that the material support was provided; five,
20 you knew the identity of the foreign terrorist organization,
21 and that the foreign terrorist organization, and that the
22 terrorist organization was involved in terrorism or terrorist
23 activity; and six, you're subject to United States
24 jurisdiction.

25 Mr. Babar, do you understand the elements of the

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1 charge contained in count one of the information?

2 THE DEFENDANT: Yes.

3 THE COURT: The elements of the crime contained in
4 count two of the information, providing and attempting to
5 provide material support or resources to a foreign terrorist
6 organization are: One, you provided items of material support
7 or resources as defined in 18 U.S.C. Section 2339A(b), as
8 money, lodging, training expert advice or assistance, safe
9 houses, false documentation or identification from
10 communications equipment, facilities, weapons, lethal
11 substances, explosives, personnel transportation or other
12 physical assets to a designated foreign terrorist organization;
13 two, the designated foreign terrorist organization was
14 designated as such at the time that the material support was
15 provided; three, you knew the identity of the foreign terrorist
16 organization, and that the foreign terrorist organization was
17 involved in terrorism or terrorist activity; four, you're
18 subject to the United States jurisdiction.


19 Mr. Babar, do you understand the elements of the
20 charge contained in count two of the information?

21 THE DEFENDANT: Yes.

22 THE COURT: The elements of the charges contained in
23 count three of the information conspiracy to provide material
24 support or resources to a terrorist activity are: One,
25 conspiracy to commit the crime alleged in the count, you became

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1 a member of the conspiracy with knowledge of its legal
2 objective, a statutorily prohibited terrorist activity existed
3 or was prepared for, namely, in this case a violation of
4 Section 2332a(b) of Title 18, in that a United States National,
5 without lawful authority, uses, threatens, attempts or
6 conspires to use a weapon of mass destruction outside of the
7 United States; four, you provided or concealed or disguised the
8 nature and location or source of the material support or
9 resources; five, you provided or concealed or disguised the
10 material support or resources knowing or intending that the
11 support or resources were to be used in preparation for or in
12 carrying out the use or attempted use of a weapon of mass
13 destruction outside the United States; and six, you're subject
14 to United States jurisdiction.

15 Mr. Babar, do you understand the elements contained in
16 the crime charged in count three of the information?

17 THE DEFENDANT: Yes.

18 THE COURT: The elements of the charge contained in
19 count four of the information, providing material support or
20 resources to a terrorist activity, are that a statutorily
21 prohibited terrorist activity existed or was prepared for;
22 namely, in this case a violation of Section 2332a(b) of Title
23 18, in that a United States National, without lawful authority
24 uses, threatens, attempts or conspires to use a weapon of mass
25 destruction outside the United States, you provided or

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1 concealed or disguised the nature, location or source of the
2 material support or resources, you provided, concealed or
3 disguised the material support or resources knowing or
4 intending that the support or resources were to be used in
5 preparation for or in carrying out the use or attempted use of
6 a weapon of mass destruction outside the United States; and
7 four, you are subject to United States jurisdiction.

8 Mr. Babar, do you understand the elements of the
9 charge contained in count four of the information?

10 THE DEFENDANT: Yes.

11 THE COURT: The elements of the charge contained in
12 five, in count five of the information, making or receiving a
13 contribution of funds, goods or services to and for the benefit
14 of Al Qaeda, are that; one, you knowingly and willfully made or
15 received a contribution of goods, services; two, the goods,
16 funds or services were provided to or for the benefit of a
17 specially designated terrorist, namely, Al Qaeda; three, the
18 terrorist was designated at the time the transaction occurred
19 under an executive order; and four, you're subject to United
20 States jurisdiction.

21 Mr. Babar, do you understand the elements of the crime
22 charged in count five of the information?

23 THE DEFENDANT: Yes.

24 THE COURT: Mr. Babar, do you understand that the
25 government would have to prove each and every element of each

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1 charge beyond a reasonable doubt at a trial?

2 THE DEFENDANT: Yes.

3 THE COURT: The maximum and minimum penalties for the
4 crimes contained in count one of the information to which
5 you're entering a plea of guilty is as follows: A maximum term
6 of imprisonment of 15 years, a maximum fine of the greatest of
7 \$250,000, twice the gross pecuniary gain derived from the
8 offense, or twice the gross pecuniary loss to persons other
9 than you as a result of the offense, plus a mandatory \$100
10 special assessment, plus a maximum term of supervised release
11 of three years. Supervised release means that you will be
12 subject to monitoring for a specified period after your release
13 from prison, said monitoring under the terms and conditions
14 which could lead to reimprisonment without a jury trial if you
15 violate them.

16 Maximum possible penalties for the crimes contained in
17 count two of the information to which you're entering a plea of
18 guilty is as follows: Maximum term of imprisonment of 15
19 years, a maximum fine of the greatest of \$250,000, twice the
20 gross pecuniary gain derived from the offense or twice the
21 gross pecuniary loss to persons other than you as a result of
22 the offense, a mandatory \$100 special assessment, plus a
23 maximum term of supervised release of three years. The maximum
24 penalties for the crimes contained in count three to which
25 you're entering a plea of guilty are as follows: A maximum

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1 term of imprisonment of 15 years, a maximum fine of the
2 greatest of \$250,000, twice the gross pecuniary gain derived
3 from the offense or twice the gross pecuniary loss to persons
4 other than you as a result of the offense, plus a mandatory
5 \$100 special assessment, plus a maximum term of supervised
6 release of three years.

7 The maximum penalty for the crimes contained in count
8 four to which you're entering a plea of guilty as follows: A
9 maximum term of imprisonment of 15 years, a maximum fine of the
10 greatest of \$250,000, twice the gross pecuniary gain derived
11 from the offense or twice the gross pecuniary loss to persons
12 other than person other than you as a result of the offense,
13 plus a mandatory \$100 special assessment, plus a maximum term
14 of supervised release of three years.

15 The maximum penalties for the crimes contained in
16 count five to which you're entering a plea of guilty are as
17 follows: A maximum term of imprisonment of 10 years, a maximum
18 fine of the greatest of \$250,000, twice the gross pecuniary
19 gain derived from the offense or twice the gross pecuniary loss
20 to a person other than you as a result of the offense, plus a
21 \$100 special assessment, plus a maximum term of supervised
22 release of three years.

23 Accordingly, combined total maximum term of
24 incarceration on counts one through five of the information to
25 which you're entering a plea of guilty is 75 years of

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1 imprisonment. Court may also order --

2 MS. BARONI: Excuse me, your Honor, it's maximum term
3 of imprisonment of 70 years.

4 THE COURT: I'm sorry, 70 years, I stand corrected, 70
5 years, of imprisonment.

6 The Court may also order restitution to any victims of
7 the offense pursuant to Title 18 United States Code Sections
8 3663, 3663(a) and 3663. Restitution means that you would be
9 ordered to, you would be ordered to pay -- compensate any
10 victims of the crimes for any losses that they may have
11 suffered.

12 Mr. Babar, do you understand the maximum possible
13 penalties for counts one through five of the information?

14 THE DEFENDANT: Yes.

15 THE COURT: Mr. Babar, you are a citizen of the United
16 States?

17 THE DEFENDANT: Yes.

18 THE COURT: Since you're pleading guilty, I want to
19 make sure that you understand that if I accept your guilty plea
20 and adjudge you guilty, such adjudication may deprive you of
21 valuable civil rights, such as the right to vote, the right to
22 hold public office, and the right to serve on a jury, and the
23 right to possess any kind of firearm; do you understand this?

24 THE DEFENDANT: Yes.

25 THE COURT: Under current law, there are sentencing

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1 guidelines that judges must follow in determining your
2 sentence. Have you talked to your attorney about the
3 Sentencing Guidelines?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that the Court will not
6 be able to determine the sentence applicable under the
7 guidelines until after a presentence report has been completed
8 by the probation office, and after you and the government have
9 had a chance to challenge any of the facts reported by the
10 probation office?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you further understand that even after
13 it is determined what guidelines range applies to your case,
14 the Court has the authority, in some circumstances, to impose a
15 sentence that is higher or lower than the sentence called for
16 by the guidelines, although the Court does not have the
17 authority to exceed any applicable statutory maximum or to
18 order a sentence that is less than any statutory minimum?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that if your attorney or
21 anyone else has attempted to estimate or predict what your
22 sentence will be, it is possible that this estimate or
23 prediction could be wrong?

24 THE DEFENDANT: Yes.

25 THE COURT: No one, not even your attorney or the

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1 government can or should give you any assurance of what your
2 sentence will be, since that sentence will not be determined by
3 the Court until after the probation report is completed and the
4 Court has determined whether there are appropriate grounds to
5 depart from the guidelines range; do you understand this?

6 THE DEFENDANT: Yes.

7 THE COURT: And do you also fully understand that even
8 if your sentence is different from what your attorney or anyone
9 else has told you it might be or if it is different from what
10 you expect, you will still be bound to your guilty plea and you
11 will not be allowed to withdraw your guilty plea?

12 THE DEFENDANT: Yes.

13 THE COURT: And, finally, do you understand that
14 parole has been abolished and that you will not be eligible to
15 be released from prison sentence on parole?

16 THE DEFENDANT: Yes.

17 THE COURT: I have a copy of the plea agreement which
18 is dated May 28, 2004. It appears from page eight of the
19 agreement that it was agreed and consented to by you on June
20 2nd, 2004 and approved by your attorney, Mr. Ollen, on June 2nd
21 2004. Mr. Babar, have you signed the agreement?

22 THE DEFENDANT: Yes.

23 THE COURT: Did you review the agreement when you
24 signed it?

25 THE DEFENDANT: Yes.

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1 THE COURT: Did you discuss it with your attorney
2 before you signed it?

3 THE DEFENDANT: Yes.

4 THE COURT: Did you fully understand the agreement
5 before you signed it?

6 THE DEFENDANT: Yes.

7 THE COURT: Does this letter agreement constitute your
8 complete and total understanding of the entire agreement
9 between the government and you and your attorney?

10 THE DEFENDANT: Yes.

11 THE COURT: Is everything that you understand about
12 the circumstances of your plea contained in this agreement?

13 THE DEFENDANT: Yes.

14 THE COURT: Has anyone offered you any inducement or
15 threatened you or forced you to plead guilty or to enter into
16 this plea agreement?

17 THE DEFENDANT: No.

18 THE COURT: You understand that the Court is
19 completely free to disregard the Government's recommendation or
20 position with regard to your sentence and to impose whatever
21 sentence it believes is appropriate under the applicable
22 guidelines and circumstances, and that in that event you will
23 have no right to withdraw your plea?

24 THE DEFENDANT: Yes.

25 THE COURT: Now, I would like to ask you certain

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1 questions about provisions of the plea agreement. Do you
2 understand that under the terms of your agreement as to the
3 charges contained in the information, you agree to waive any
4 challenges, objections to defenses you may have as to venue in
5 the Southern District of New York, and you agree to plead
6 guilty to these charges in this district?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that under the terms of
9 the agreement you shall truthfully and completely disclose all
10 information with respect to the activities of yourself and
11 others concerning all matters about which the United States
12 Attorney's Office requires of you, which information can be
13 used for any purpose. You shall cooperate fully with the
14 United States Attorney's Office, the Federal Bureau of
15 Investigation, and any other law enforcement agency, including
16 but not limited to law enforcement intelligence, military and
17 public safety agency of the United States and other countries
18 designated by the United States Attorney's Office. You shall
19 attend all meetings at which the United States Attorney's
20 Office requests your presence. You shall provide to the United
21 States Attorney's Office, upon request, any document, record or
22 other tangible evidence relating to matters about which the
23 United States Attorney's Office or any designated law
24 enforcement, intelligence, military and public safety agencies
25 requires of you. You shall truthfully testify before the Grand

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1 Jury and any trial and other court proceeding with respect to
2 any matters about which the United States Attorney's Office may
3 request your testimony. You shall bring to the United States
4 Attorney's Office's attention all crimes which you have
5 committed in all administrative, civil or criminal proceedings,
6 investigations or prosecutions in which you have been or are
7 subject, target party or witness, and you shall commit no
8 further crimes whatsoever.

9 Moreover, any assistance you may provide the federal
10 criminal investigators, as well as investigators and
11 representatives from any other law enforcement, intelligence,
12 military and public safety agencies shall be pursuant to a
13 specific instruction and control of the United States
14 Attorney's Office and designated investigators.

15 Mr. Babar, do you understand these provisions of your
16 plea agreement?

17 THE DEFENDANT: Yes.

18 THE COURT: You understand that the United States
19 Attorney's Office cannot and does not agree to not to prosecute
20 you for criminal tax violations?

21 THE DEFENDANT: Yes.

22 THE COURT: However, if you fully comply with the
23 understandings specified in the agreement, no testimony or
24 other information given by you or any other information
25 directly or indirectly derived therefrom, will be used against

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1 you in any criminal tax prosecution.

2 Do you further understand that if you fully comply
3 with the understandings specified in the plea agreement, you
4 will not be further prosecuted criminally by the United States
5 Attorney's Office for any crimes, except for criminal tax
6 violations related to your participation in certain activities
7 specifically detailed in the agreement, to the extent you have
8 disclosed such participation to the United States Attorney's
9 Office as of the date of the this agreement. Do you understand
10 this provision?

11 THE DEFENDANT: Yes.

12 THE COURT: Mr. Babar, do you understand that this
13 agreement does not provide any protection against prosecution
14 for any crimes, except as set forth in the agreement?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you further understand that since your
17 truthful cooperation with the United States Attorney is likely
18 to reveal activities of individuals who might use force,
19 violence and intimidation against you, your family, your loved
20 ones, the United States Attorney's Office, upon your written
21 request, will take steps that it determines to be reasonable
22 and necessary to attempt to ensure your safety and that of your
23 family and loved ones?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that these steps may

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1 include application to the Witness Security Program of the
2 United States Marshals Service, whereby your family and love
3 ones could be relocated under a new identity?

4 THE DEFENDANT: Yes.

5 THE COURT: And do you understand, however, that the
6 Witness Security Program is under the direction and control of
7 the United States Marshals Service and not of the United States
8 Attorney's Office?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you also understand that your plea
11 agreement does not bind any federal, state or local prosecuting
12 attorney, other than the United States Attorney's Office?

13 THE DEFENDANT: Yes.

14 THE COURT: The United States Attorney's Office will
15 bring your cooperation to the attention of other prosecuting
16 offices if you so request under the terms of the agreement.

17 Mr. Babar, do you understand that to ensure that you
18 remain available to provide assistance to the United States
19 Government, and to maintain your safety, you agreed to write or
20 contract to write or otherwise assist in -- I'm sorry -- you
21 agree not to write or contract to write or otherwise assist in
22 writing of any book, novel, screenplay or other media, sell the
23 rights to your story, provide interviews to newspapers,
24 magazines, television or radio stations, or otherwise
25 communicate with any news medium concerning the subject of

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1 matter of your life or your knowledge of any Al Qaeda or any
2 other part of the subject matter of your potential testimony
3 without obtaining the prior written approval of the United
4 States Attorney's Office; do you understand this provision?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that the decision
7 whether to grant such approval is within the sole discretion of
8 the United States Attorney's Office?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Babar, do you understand that the
11 sentence to be imposed upon you is within the sole discretion
12 of the Court, and that the United States Attorney's Office
13 cannot and does not make any promise or representation as to
14 what your sentence will be and will not recommend any specific
15 sentence to this Court?

16 THE DEFENDANT: Yes.

17 THE COURT: However, the United States office will
18 inform the Probation Department and the Court of the plea
19 agreement, the nature and extent of your activities with
20 respect to this case, and any other of your activities which
21 the United States Attorney's Office deemed relevant to
22 sentencing, the nature and extent of your cooperation with the
23 United States Attorney's Office. In doing so, the United
24 States Attorney's Office may use any information they deem
25 relevant, including information provided both prior to and

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1 subsequent to the signing of this agreement.

2 In addition, you understand that if the United States
3 Attorney's Office determines that you have provided substantial
4 assistance in an investigation or prosecution, and if you have
5 fully complied with the understandings specified in the
6 agreement, the United States Attorney's Office will file a
7 motion pursuant to Section 5K1.1 of the United States
8 Sentencing Guidelines requesting the Court to sentence you in
9 light of the factors set forth in the United States Sentencing
10 Guidelines, Sections 5K1.1(a)(1) through (5). Do you
11 understand this provision?

12 THE DEFENDANT: Yes.

13 THE COURT: And do you also fully understand that even
14 if such proceeding is filed, the sentence to be imposed on you
15 remains within the sole discretion of the Court, and that
16 nothing in the plea agreement limits the United States
17 Attorney's Office's right to present any facts and make any
18 arguments relevant to sentencing to the Probation Department
19 and the Court or to take any position on post sentencing
20 motions. Do you understand that provision?

21 THE DEFENDANT: Yes.

22 THE COURT: And do you understand that you are
23 consenting to any adjournments of your sentence as may be
24 requested by the United States Attorney's Office?

25 THE DEFENDANT: Yes.

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1 THE COURT: Do you understand that should the United
2 States Attorney's Office determine that either that you have
3 not provided substantial assistance in an investigation or
4 prosecution, or that you have violated any provision of the
5 agreement, such a determination will release the United States
6 Attorney's Office from obligation to file a motion pursuant to
7 Section 5K1.1 of the Sentencing Guidelines and U.S. 18 U.S.C.
8 Section 3553(e), but will not entitle you to withdraw your plea
9 once it has been entered?

10 THE DEFENDANT: Yes.

11 THE COURT: And do you fully understand that should
12 the United States Attorney's Office determine, subsequent to
13 the filing of a motion pursuant to Section 5K1.1 of the
14 Sentencing Guidelines and/or 18 U.S.C. Section 3553(e) that you
15 have violated any provision of the plea agreement, the United
16 States Attorney's Office shall have the right to withdraw such
17 motion?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that should you commit
20 any further crimes or should it be determined that you have
21 given false, incomplete or misleading testimony or information
22 or should otherwise violate any provision of the plea
23 agreement, you shall, thereafter, be subject to prosecution for
24 any federal criminal violation of which the United States
25 Attorney's Office has knowledge, including perjury and

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1 obstruction of justice; do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: That any such prosecution that is not time
4 barred by the applicable Statute of Limitations on the day of
5 the signing of the agreement may be commenced against you,
6 notwithstanding the expiration of the statute of limitations,
7 between the signing of the agreement and the commencement of
8 such prosecution, and that it is the intent of the plea
9 agreement to waive all defenses based on the statute of
10 limitations with respect to any prosecution that is not time
11 barred on the date that this agreement was signed. Do you
12 understand that provision?

13 THE DEFENDANT: Yes.

14 THE COURT: Finally, do you understand that in the
15 event it is determined that you have committed any further
16 crimes, giving false, incomplete or misleading at the time or
17 information, or otherwise violated any provision of the
18 agreement, all statements made by you to the United States
19 Attorney's Office or other designated law enforcement agency
20 agents and any testimony given by you before a Grand Jury or
21 other tribunal, whether prior to or subsequent to the signing
22 of the agreement, and any leads from such statements or
23 testimony shall be admissible in evidence in any criminal
24 proceeding brought against you, and you shall assert no claim
25 under the United States Constitution and statute Rule 410 of

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1 the Federal Rules of Evidence or any other federal rule that
2 such statements or leads therefrom should be suppressed. Do
3 you understand this provision?

4 THE DEFENDANT: Yes.

5 THE COURT: And do you understand that it is the
6 intent of the plea agreement to waive all such rights in the
7 foregoing respects?

8 THE DEFENDANT: Yes.

9 THE COURT: Mr. Ollen, do you know any reason why your
10 client should not be permitted to plead guilty?

11 MR. OLLEN: No, your Honor.

12 THE COURT: Mr. Babar, I would like you to tell me in
13 your own words what you did in connection with the crimes which
14 you're entering a plea of guilty. Please state when the crimes
15 occurred, where, what happened, and what your involvement in
16 the crimes was. Please begin with the crimes set forth in
17 count one of the information.

18 THE DEFENDANT: Starting the summer of '03, your
19 Honor, summer of '03, I -- that's when I first started
20 providing, you know, funding, material support to Al Qaeda, you
21 know, for the war in Afghanistan. And from summer '03 to about
22 March of '04 I provided night vision goggles, sleeping bags,
23 water proof socks, water proof ponchos, and money to a high
24 ranking Al Qaeda official in South Waziristan. In summer of
25 '03, I handed off to someone else, you know, to send it to

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1 South Waziristan. Then in January and February '04, I went
2 myself, personally, to South Waziristan and handed over money
3 to, and supplies to a high ranking Al Qaeda official.

4 THE COURT: All right. Mr. Babar, when you engaged in
5 these activities, was there an agreement or some form of
6 understanding that you entered into for the purpose of those
7 activities?

8 THE DEFENDANT: Excuse me? I don't understand.

9 THE COURT: Was there an agreement between you and
10 other persons?

11 THE DEFENDANT: Yeah.

12 THE COURT: For the purposes of the activities that
13 you've indicated?

14 THE DEFENDANT: Yes.

15 THE COURT: Did you become a member of that agreement
16 or understanding, conspiracy, with knowledge of its illegal
17 activity?

18 THE DEFENDANT: Yes.

19 MS. BARONI: May I interrupt, your Honor?

20 THE COURT: Yes, Miss Baroni.

21 MS. BARONI: Thank you, your Honor. If you could also
22 allocute the defendant, A, what he did with the other people;
23 and, B, what he -- what his knowledge was that these, this
24 material support or resources was going to be used for.

25 THE COURT: We'll get to that.

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1 Mr. Babar, you indicated that you became a member of
2 an agreement or understanding with others, and that you became
3 a member with knowledge of its illegal objective. Can you
4 indicate what your agreement, as you understood it, provided as
5 a purpose of the agreement and your role and that of other
6 persons in the agreement?

7 THE DEFENDANT: The agreement that I with others was,
8 A, was, you know, concerning people was, A, to provide funding
9 that would -- then I would then transport, you know, to, you
10 know, to South Waziristan, Al Qaeda, and also to provide
11 supplies, you know, you know, when I would give them a list of
12 anything that I needed, and they would provide the supplies
13 that I would need that I would then pass over in South
14 Waziristan.

15 THE COURT: And you knew, Mr. Babar, the identity of
16 the organization that was involved in the activities that
17 you've indicated?

18 THE DEFENDANT: Yes.

19 THE COURT: And did you know the organization was a
20 terrorist organization?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Miss Baroni, are there any
23 questions from the government concerning the sufficiency of the
24 allocution with respect to the elements of count one?

25 MS. BARONI: Yes, your Honor. If you could allocute

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1 the defendant on what he believed the material support or
2 resources was going to be used for.

3 THE COURT: All right. Mr. Babar, the government has
4 asked for clarification, elaboration of your knowledge of the
5 intended use of the material support that you've indicated was
6 involved as part of the agreement.

7 THE DEFENDANT: I just -- I understood that the money
8 and supplies that I had given to al Qaeda was supposed to be
9 used in Afghanistan, you know, against U.S. or International,
10 International Forces or against the Northern Alliance.

11 THE COURT: All right. Mr. Babar, with regard to the
12 elements of count two of the information, can you again
13 indicate in your own words what you did in that connection? If
14 the activities are the same that you've thus just related, you
15 can just summarize.

16 THE DEFENDANT: Yeah. The activities are basically
17 the same. It was the same. We got together with a couple of
18 people to provide funding and to provide supplies for Al Qaeda,
19 and we knew what the supplies where, the supplies and weapons
20 were going -- what they were going to be used for, and we know
21 who they were going to, and that's what we did. We got
22 together with people, tried to raise money and supplies and
23 tried to give them to high ranking al Qaeda official to be used
24 with the ongoing war inside of Afghanistan.

25 THE COURT: And you actually provided these items,

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1 material support as defined in the summary the Court gave
2 before?

3 THE DEFENDANT: Yes.

4 THE COURT: Miss Baroni, does the government have any
5 questions concerning the sufficiency of the allocution with
6 respect to count two?

7 MS. BARONI: Your Honor, I think coupled with his
8 allocution on count one, it's sufficient.

9 THE COURT: All right, thank you.

10 Mr. Babar, would you indicate in your own words what
11 you did in connection with count -- the elements contained in
12 count three of the information?

13 THE DEFENDANT: Count three, one of the things that we
14 did was I set up a jihad training camp where those who wanted
15 to go into Afghanistan where they could learn how to use
16 weapons, and also, you know, any explosive devices that they
17 wanted to test out over there. And I also provided lodging and
18 transportation in Pakistan for them, and I transported them to
19 and from the training camp.

20 At the same time, I was aware that some of the people
21 who attended the jihad training camp had ideas about, you know,
22 plotting against some targets in the United Kingdom, and I
23 provided some of the materials, like I mentioned, aluminum
24 nitrate, ammonium nitrate and aluminum powder for them in the
25 use of explosive devices that was then tested out at the

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1 training camp.

2 THE COURT: All right. And in connection with the
3 crimes charged in count three, Mr. Babar, if you would just
4 again confirm that you knew that there was an agreement or
5 understanding for the purposes that you indicated?

6 THE DEFENDANT: Yes.

7 THE COURT: Did you become a member of that agreement
8 or conspiracy with knowledge of its illegal objectives?

9 THE DEFENDANT: Yes.

10 THE COURT: And did you provide or conceal the nature
11 of the location or sources of the material support or resources
12 that you've just indicated?

13 THE DEFENDANT: Yes.

14 THE COURT: And you actually provided or concealed the
15 provision of material support, knowing or intending that the
16 support or resources were to be used in preparation for or
17 carrying out the use or attempted use of weapons of mass
18 destruction outside the United States?

19 THE DEFENDANT: Yes.

20 THE COURT: All right. Miss Baroni, does the
21 government have any questions concerning the sufficiency of the
22 allocution with respect to the elements of count three?

23 MS. BARONI: Yes, your Honor. If you could just
24 allocute the defendant that the aluminum powder that he
25 purchased, and the ammonium nitrate that he intended to

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1 purchase, his understanding was that at the time that they
2 would be used in explosive devices in a plot in the United
3 Kingdom.

4 THE COURT: All right. Mr. Babar, the government has
5 asked for a clarification and elaboration of the materials that
6 you purchased for the purposes of this activity in the United
7 Kingdom. Would you elaborate?

8 THE DEFENDANT: As far as the aluminum powder goes, I
9 knew purchasing aluminum powder, what it was going to be used
10 for, and they had told me, you know, what it would be used for,
11 explosive device, and they wanted to, you know, plot or target
12 some targets in the UK, and I knew purchase of aluminum powder,
13 that's what I was purchasing it for. And the ammonium nitrate
14 was the same thing. Although I never purchased it, I tried to
15 get it, but at that time I couldn't get it. So I was able to
16 get the aluminum powder, which I then passed along to them,
17 which I knew where it was going to, what it was going to be
18 used for, eventually.

19 THE COURT: All right.

20 MS. BARONI: Also, your Honor, if your Honor can
21 allocute the defendant on the timeframe of the conspiracy.

22 THE COURT: Yes. Mr. Babar, can you indicate the time
23 when these activities occurred with respect to count three?

24 THE DEFENDANT: It started about the spring -- this is
25 the spring and the summer of '03.

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1 THE COURT: And where did they start?

2 THE DEFENDANT: Excuse me?

3 THE COURT: Where did this occur?

4 THE DEFENDANT: In Pakistan.

5 MS. BARONI: And how long, if your Honor can allocute
6 him -- it began in the spring of '03 three, but how long did
7 the conspiracy --

8 THE COURT: Until when did it go, Mr. Babar?

9 THE DEFENDANT: Excuse me?

10 THE COURT: Until when did this --

11 THE DEFENDANT: Oh.

12 THE COURT: -- activity continue?

13 THE DEFENDANT: Up to March of '04.

14 THE COURT: All right. If we may move to the elements
15 of the charges contained in count four in the information,
16 would you indicate what your involvement was in those
17 activities? To the extent they're the same, you may so
18 indicate.

19 THE DEFENDANT: Count four is the same as count three
20 and I -- it's the same. You know, they wanted to set up a
21 jihad training camp, and I provided -- I, you know, provided
22 the area and the weapons for them where they can get the
23 training, and also provided some of the materials like aluminum
24 powder and ammonium nitrate for the explosive devices that were
25 used at the training camp.

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1 Also same thing, also I purchased aluminum powder,
2 ammonium nitrate knowing it was going to be eventually be
3 used -- well, not the nitrate, the aluminum powder I purchased
4 with the knowledge that it was going to be used for a plot
5 somewhere in the UK, and the ammonium nitrate which I tried to
6 purchase but wasn't able to.

7 THE COURT: And these activities took place in the
8 same timeframe you've indicated earlier?

9 THE DEFENDANT: Yes.

10 THE COURT: And in the same places?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. Miss Baroni, does the
13 government have any further questions concerning the
14 sufficiency of the allocution with respect to the elements of
15 Count Four?

16 MS. BARONI: Again, I think coupled with his
17 allocution on count three, since it's the same count, it's
18 sufficient, except for one fact which I think has been
19 established. But during this part of the plea proceeding it's
20 required that the defendant obviously is a U.S. citizen for
21 counts one through four and five, so if your Honor could
22 allocute the defendant on that also.

23 THE COURT: All right. The defendant has previously
24 indicated that he is a United States citizen.

25 All right, Mr. Babar, with respect to the count five,

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1 would you indicate your involvement?

2 THE DEFENDANT: Count five is the same as count one
3 and two. I tried to raise money with other people, money and
4 gear which I mentioned before, like night vision goggles,
5 sleeping bags, water proof socks, water proof ponchos and other
6 military gear to then pass it onto a high ranking al Qaeda
7 official in South Waziristan. And the timeframe is same with
8 the spring, summer of '03, up to '04, March of '04. And it was
9 sometimes I passed it along to someone else. And in the
10 beginning of '04 I personally went to South Waziristan and I
11 gave money and gear, the gear I just mentioned, to a high
12 ranking al Qaeda official, which I knew was going to be used in
13 the ongoing war in Afghanistan against U.S. and International
14 forces and Northern Alliance in military operations.

15 THE COURT: And when you did these activities, you did
16 so knowingly and willfully?

17 THE DEFENDANT: Yes.

18 THE COURT: And you knew that the goods, the funds
19 were to be provided for the benefit of Al Qaeda?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. Miss Baroni, does the
22 government have any questions concerning the sufficiency of the
23 allocution with respect to the elements of count five?

24 MS. BARONI: No, your Honor. I think that is
25 sufficient, given that the elements are similar to one and two.

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1 If I just may go back to an issue that relates to one,
2 two and five. If you could allocute the defendant on his
3 understanding of his knowledge that the kind of terrorist
4 activity that Al Qaeda was involved with at the time that he
5 was providing support.

6 THE COURT: All right. Thank you.

7 Mr. Babar, the government has asked for clarification
8 of your understanding of the kinds of activities that Al Qaeda
9 was involved in at the time that you were providing this
10 material support that you indicated.

11 THE DEFENDANT: I understood that it was involved in
12 ongoing military operations within Afghanistan, and also that
13 Al Qaeda was involved in military organizations outside of
14 Afghanistan, namely, bombings and highjackings and kidnappings
15 outside of Afghanistan, so that's what I understood that Al
16 Qaeda was involved in, those kinds of military operations.

17 THE COURT: All right. Mr. Babar, when you engaged in
18 these activities, did you know that what you were doing was
19 wrong and illegal?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. Miss Baroni, would you
22 indicate the evidence that the government would bring against
23 this defendant should this matter go to trial?

24 MS. BARONI: Yes, your Honor.

25 Your Honor, the government would, with respect to

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1 count one and two, and five, your Honor, the government would
2 prove through witness testimony, through documentary evidence
3 and other physical evidence that this defendant met with a high
4 ranking leader of Al Qaeda on several occasions in early 2004.
5 That he provided him with money and military equipment from the
6 end of 2003 through the early 2004 on several different
7 occasions; that he knew these items were going to Al Qaeda; he
8 knew that Al Qaeda was, in fact, involved in terrorist
9 activities, and that he had intended to provide these items
10 knowing that it would be used in the fight against U.S. troops
11 and other western troops in Afghanistan.

12 The government would further prove that the defendant
13 is a U.S. citizen, obviously, with respect to counts one, two
14 and five.

15 With respect to counts three and four, the government
16 would prove that this defendant worked with other associates,
17 other individuals to plan a bombing plot in the United Kingdom
18 from approximately December of 2002 until approximately March
19 of 2004; that he arranged a jihad training camp where members
20 of this conspiracy would receive training in military skills,
21 explosives and weaponry. That lasted for approximately three
22 or four weeks in July of 2003.

23 The Government would further prove that the defendant
24 provided lodging and transportation to the members of the other
25 members of the conspiracy, before and after their attendance at

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1 the training camp.

2 The government would further prove that the defendant
3 purchased and attempted to purchase the aluminum powder and
4 ammonium nitrate that he knew would be used in explosive
5 devices in the bombing plot in the United Kingdom, and that he
6 did this throughout from December 2002 through March of 2004.

7 THE COURT: All right, thank you.

8 Mr. Babar, having heard the government indicate the
9 evidence that it would bring against you, if this matter were
10 to go to trial, do you agree with what the government has said?

11 THE DEFENDANT: Yes.

12 THE COURT: Now, Mr. Babar, having heard me inform you
13 of your rights of a trial and the consequences of your pleading
14 guilty, and of the maximum sentence that you would face, and of
15 the civil rights that you would lose, how do you now plead to
16 the charges contained in information, guilty or not guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: Are you pleading guilty because you are
19 guilty?

20 THE DEFENDANT: Yes.

21 THE COURT: Are you pleading guilty voluntarily and of
22 your own free will?

23 THE DEFENDANT: Yes.

24 THE COURT: Because you acknowledge that you're guilty
25 as charged in the information, because you know your rights and

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1 you are waiving them, because your plea is entered knowingly
2 and voluntarily and is supported by an independent basis in
3 fact, containing each of the essential elements of the
4 offenses, I accept your guilty plea and adjudge you guilty of
5 the offense to which you've just pleaded.

6 The Probation Officer will next prepare a presentence
7 report to assist the Court in sentencing you. You will be
8 interviewed by the Probation Officer. It is important that the
9 information you give to the Probation Officer be truthful and
10 accurate. The report is important in my decision as to what
11 your sentence will be. You and your attorney have a right and
12 will have an opportunity to examine the report to challenge or
13 comment point to speak on your behalf before sentencing.

14 Does the government propose a sentencing date?

15 MS. BARONI: Your Honor, the government would request
16 a control date, I guess six months.

17 THE COURT: All right, six months control date.

18 THE DEPUTY CLERK: Friday, December 3rd at 10:00 a.m.
19 or November? Keep it December 3rd.

20 THE COURT: All right. Mr. Ollen, is that date
21 suitable?

22 MR. OLLEN: That's fine, your Honor.

23 THE COURT: Miss Baroni?

24 MS. BARONI: Yes, your Honor.

25 THE COURT: All right, Miss Baroni, what is the bail

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1 status of the defendant, and is there any application
2 contemplated?

3 MS. BARONI: Your Honor, the defendant was arrested on
4 a material witness warrant in April and was presented in front
5 of Judge Sand, and at that time consented to detention.

6 THE COURT: All right. Is there anything else from
7 the government?

8 MS. BARONI: No, your Honor. Thank you.

9 THE COURT: Anything from Mr. Ollen?

10 MR. OLLEN: No, your Honor.

11 THE COURT: Thank you.

12 (Adjourned to December 3, 2004 at 10:0 a.m.)
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