

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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x

**UNITED STATES OF AMERICA** :

-v.- :

**AHMED ABDEL SATTAR, et al.,** :

**S1 02 Cr. 395 (JGK)**

**Defendants.** :

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x

**GOVERNMENT'S SENTENCING MEMORANDUM**

**(REDACTED)**

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## TABLE OF CONTENTS

	<u>Page</u>
ARGUMENT .....	6
POINT I	
THE LAW REGARDING SENTENCING IN THE WAKE OF <i>UNITED STATES</i> <i>v. BOOKER</i> , 543 U.S. 220 (2005), AND <i>UNITED STATES v. CROSBY</i> , 397 F.3d 103 (2d Cir. 2005) .....	6
POINT II	
LYNNE STEWART SHOULD BE SENTENCED TO THIRTY YEARS' IMPRISONMENT .....	15
A. The Nature And Circumstances Of Stewart's Offenses Of Conviction Are So Egregious That They Outweigh All Other Factors And Merit A Guidelines Sentence Of Thirty Years' Imprisonment .....	16
1. Sheikh Omar Abdel Rahman's Trial And Conviction .....	16
2. The Special Administrative Measures .....	17
3. Stewart's Knowledge Of Abdel Rahman And The Islamic Group .....	19
4. Stewart's Criminal Conduct .....	23
a. The March 1999 Prison Visit .....	23
b. The May 2000 Prison Visit .....	26
c. The Press Releases .....	30
d. The July 2001 Prison Visit .....	36
5. Stewart's Motivation .....	38
6. The Nature And Circumstances Of Stewart's Offenses Warrant Thirty Years' Imprisonment .....	42
B. A Guidelines Sentence Is Also Warranted Because Stewart Perjured Herself At Trial .....	43
1. Applicable Law .....	43
2. Discussion .....	46
C. Applying The Terrorism Enhancement In U.S.S.G. § 3A1.4 To Increase Stewart's Criminal History From I to VI Does Not Overstate Her Criminal History .....	50
D. Neither Stewart's Medical Condition Nor Mental Health Warrants Either A Departure Under U.S.S.G. § 5H1.4 Or A Non-Guidelines Sentence ....	53
1. A Departure Under U.S.S.G. § 5H1.4 For Stewart's Medical Condition Is Unwarranted .....	54

2.	A Non-Guidelines Sentence Pursuant To 18 U.S.C. § 3553(a)(2)(D) Based on Stewart’s Medical Condition Is Unwarranted . . . . .	57
3.	Neither A Non-Guidelines Sentence Nor A Departure Based On Stewart’s Mental Health Condition Is Warranted . . . . .	59
E.	A Guidelines Sentence Of Thirty Years’ Imprisonment For Stewart Would Avoid “Unwarranted Sentence Disparities” In Accordance With 18 U.S.C. § 3553(a)(6) . . . . .	62
F.	Stewart’s Conduct Was Clearly Criminal In Nature And Not The Result Of Zealous Advocacy. . . . .	82
G.	Stewart Did Not Attempt To “Avoid A Greater Harm” . . . . .	86
H.	An Aberrant Behavior Downward Departure Or Non-Guidelines Sentence Is Not Warranted . . . . .	88
I.	Stewart’s “Chilling Effect” Claim Is Frivolous . . . . .	90

POINT III

	AHMED ABDEL SATTAR SHOULD BE SENTENCED TO LIFE IMPRISONMENT . . . . .	92
A.	The Terrorism Sentencing Enhancement Should Be Applied . . . . .	93
B.	Sattar’s Pre-Sentence Confinement Does Not Warrant A Downward Departure . . . . .	95
C.		
D.	A Guidelines Sentence Is Also Warranted Because Sattar Perjured Himself At Trial . . . . .	100

POINT IV

	MOHAMMED YOUSRY SHOULD BE SENTENCED TO TWENTY ____ YEARS’ IMPRISONMENT . . . . .	104
A.	A Guidelines Sentence Is Warranted and Yousry Is Not Entitled To A Role Reduction . . . . .	104
1.	Applicable Law . . . . .	105
2.	Additional Reasons Yousry’s Role In The Offense Warrants A Guidelines Sentence . . . . .	108
a.	Yousry’s Knowledge of Abdel Rahman and the Islamic Group . . . . .	108
b.	Yousry’s Knowledge of SAMs . . . . .	111
c.	Yousry’s Criminal Conduct . . . . .	113
i.	The March 1999 Prison Visit. . . . .	113

	ii.	The September 1999 Prison Visit .....	114
	iii.	The February 2000 Prison Visit .....	116
	iv.	The May 2000 Prison Visit .....	117
	v.	The Press Releases .....	119
	vi.	The July 2001 Prison Visit .....	121
B.		A Guidelines Sentence Is Also Warranted Because Yousry Perjured Himself At Trial And Lied To Investigators During The Investigation Of This Case .....	122
C.		A Guidelines Sentence For Yousry Would Not Impinge On Academic Freedom .....	127
CONCLUSION .....			129

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**-v.-** :

**AHMED ABDEL SATTAR,** : **S1 02 Cr. 395 (JGK)**  
**a/k/a "Abu Omar,"** :  
**a/k/a "Dr. Ahmed,"** :  
**LYNNE STEWART, and** :  
**MOHAMMED YOUSRY,** :

**Defendants.** :

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**GOVERNMENT'S SENTENCING MEMORANDUM**

**Introduction**

The Government respectfully submits this memorandum in connection with the sentencings of defendants Ahmed Abdel Sattar, Lynne Stewart, and Mohammed Yousry, which are currently scheduled for September 25, 2006. The conduct underlying the defendants' convictions for providing material support to terrorism, defrauding the United States, and conspiring to murder innocent civilians overseas warrants severe sentences within the ranges prescribed by the Sentencing Guidelines. For over two years, Sattar, Stewart, and Yousry were the hub of a communications network that enabled a convicted and imprisoned terrorist, Sheikh Omar Abdel Rahman, to perpetuate his position as the spiritual leader of his terrorist organization, the Islamic Group, despite his conviction for

sedition conspiracy to wage a war of urban terrorism against the United States based on a plan to blow up buildings and tunnels in New York City and despite the United States government's entirely appropriate efforts to cut Abdel Rahman off from the Islamic Group after that conviction. From their position at the hub of the communications network, the defendants received messages from leaders of the Islamic Group around the world, smuggled those messages to Abdel Rahman in prison, received Abdel Rahman's responses to those messages, relayed those responses back to the Islamic Group leaders, and, in the case of Abdel Rahman's withdrawal of support for the Islamic Group's cease-fire, even broadcast those responses to the news media for dissemination around the world. In other words, the defendants ensured that, even while incarcerated, Abdel Rahman would be able to continue providing spiritual leadership to the Islamic Group. In short, the defendants provided material support to a terrorist organization and to the commission of a terrorism crime.

It is important to recognize that the Islamic Group is not just some fledgling group that encourages peaceful political and social change. To the contrary, the Islamic Group is a powerful, well-established terrorist organization that advocates the violent overthrow — through random acts of horrific violence directed at innocent civilians, including tourists — of Egypt's secular government and the establishment, instead, of an Islamic state. To that end, the Islamic Group has orchestrated numerous acts of violence and terror, including the murder of 58 tourists visiting Luxor, Egypt in 1997. Moreover, the

Islamic Group's most militant leader, Rifa'i Taha aligned himself with Al Qaeda and Usama Bin Laden, joining forces in 2000 to threaten violence unless Abdel Rahman was released from prison.

The nature of the Islamic Group and all that it stands for was, of course, well known to the defendants. Indeed, although Stewart disavows being a terrorist and claims not to share the Islamic Group's views, the very reason that Stewart herself has given for engaging in the conduct underlying her criminal convictions — her desire, as Abdel Rahman's attorney, to keep him in the spotlight so that he could eventually be transferred to Egypt to serve his sentence there or even be released — necessarily depended on the Islamic Group's successful and violent overthrow of what Stewart herself saw as the corrupt government in Egypt. And that overthrow, as Stewart fully recognized, necessarily involved the death of innocent people — people at tourist sites, people in night clubs, people in stock markets, people who find themselves in the wrong place at the wrong time — to accomplish a perceived greater end. In Stewart's own words, that is what happens in an armed struggle: people die. In her view, it was only as a result of a violent uprising in Egypt that Abdel Rahman had any hope whatsoever of returning to Egypt as part of some trade.

In other words, and as demonstrated more fully below, the defendants' criminal conduct falls comfortably within the heartland of the terrorism-related activities that Congress has sought to punish severely and deter, and that conduct is therefore fully

deserving of sentences within the Guidelines ranges established by the Sentencing Commission.

The defendants nonetheless seek non-Guidelines sentences on a number of grounds, none of which withstand scrutiny. In particular, the defendants suggest that lesser sentences are warranted because their conduct was not really all that serious and no actual harm resulted from it. Of course, the fact that no apparent violence occurred as a result of Abdel Rahman's withdrawal of support for the cease-fire has nothing whatsoever to do with the severity of the defendants' criminal conduct. The fortuity that no violence occurred in the wake of Abdel Rahman's support for a return to violence provides no reason for punishing the defendants any less severely. Sending a "no harm, no foul" message certainly would not do much for deterring future terrorist behavior.

In a similar vein, the defendants attack the Government's motives for bringing this prosecution and suggest that the Government has overreacted to the September 11, 2001 terrorist attacks on the World Trade Center and the Pentagon. In particular, in classic "the best defense is a strong offense" fashion, Stewart and her supporters maintain that, before September 11, 2001, the Government would never have prosecuted an attorney for merely violating a Bureau of Prisons regulation. Yousry goes so far as to claim that he too is a "victim" of the attacks of September 11. If anything is "out of balance" about this prosecution, however, it is Stewart's and her supporters' failure to recognize and acknowledge the seriousness of the defendants' criminal conduct and the severity of the

potential consequences of providing material support to a terrorist organization. As Stewart was warned, violating the Special Administrative Measures by smuggling messages into and out of prison on behalf of a known terrorist could well have resulted in the loss of countless innocent lives. The Government obviously did not prosecute Stewart because she is a zealous advocate, but rather for blatantly and repeatedly violating the law. Stewart's refrain of, "I have gotten away with it before, so I will do it again, and again, and yet again," particularly when one is on notice that the stakes are high and getting higher, is certainly no excuse for these crimes. In the name of legal representation, Stewart repeatedly put herself above the law. She decided that her conduct was justified because it served a goal that she herself perceived was worth breaking the law for. Such behavior simply cannot be countenanced in a law-abiding society. Stewart's egregious, flagrant abuse of her profession, abuse that amounted to material support to a terrorist group, deserves to be severely punished.

Sattar's and Yousry's conduct is no less deserving of severe punishment, and their reasons for lesser sentences do not counsel otherwise. Sattar was a *de facto* member of the Islamic Group who aligned himself with Taha, the group's most militant leader. He assisted Taha in trying to bring about the violent upheaval of the Egyptian government and advocated the murder of Jewish people. Yousry, an expert on Abdel Rahman and the Islamic Group, was perhaps more knowledgeable than even his co-defendants on the violent history of the Islamic Group. He was also, in many ways, in the most powerful

position of the three defendants due to his access to and ability to communicate directly with Abdel Rahman. While proclaiming his opposition to everything Abdel Rahman and the Islamic Group stand for, he nevertheless chose to facilitate, and did facilitate, Stewart's and Sattar's efforts to end the Islamic Group's cease-fire in Egypt and to return to violence.

Accordingly, and as set forth more fully below, the Government respectfully submits that the defendants should receive sentences consistent with the Guidelines, and that their reasons for downward departures and non-Guidelines sentences should be rejected.

## ARGUMENT

### POINT I

#### **THE LAW REGARDING SENTENCING IN THE WAKE OF *UNITED STATES v. BOOKER*, 543 U.S. 220 (2005), AND *UNITED STATES v. CROSBY*, 397 F.3d 103 (2d Cir. 2005)**

In *United States v. Crosby*, 397 F.3d 103 (2d Cir. 2005), the Second Circuit explained that, in light of *United States v. Booker*, 543 U.S. 220 (2005), a district court must engage in a three-step sentencing procedure. First, the court must determine the applicable Sentencing Guidelines range, and in so doing, "the sentencing judge will be entitled to find all of the facts that the Guidelines make relevant to the determination of a Guidelines sentence and all of the facts relevant to the determination of a non-Guidelines sentence." *United States v. Crosby*, 397 F.3d at 112. "Judicial authority to find facts

relevant to sentencing by a preponderance of the evidence survives *Booker*.” *United States v. Garcia*, 413 F.3d 201, 220 (2d Cir. 2005); accord *United States v. Gonzalez*, 407 F.3d 118, 125 (2d Cir. 2005). Moreover, “the sentencing court [is] entitled to rely on any type of information known to it when determining an appropriate sentence.” *United States v. Granik*, 386 F.3d 404, 414, n.7 (2d Cir. 2004) (quoting *United States v. Fagge*, 101 F.3d 232, 235 (2d Cir. 1996) (internal quotation marks and citation omitted)).

The second step of the post-*Booker* sentencing process is for the district court to consider whether a departure from the Guidelines range is appropriate. *Crosby*, 397 F.3d at 112.

Third, the sentencing court must consider the advisory Guidelines range, “along with all of the factors listed in section 3553(a),” and determine the sentence to impose. *Id.* at 113; see *Booker*, 543 U.S. at 245-46. Title 18, United States Code, Section 3553(a) provides that the “court shall impose a sentence sufficient but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection,” and then sets forth seven specific considerations:

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed —

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal

conduct;

(C) to protect the public from further crimes of the defendant;

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established [in the Sentencing Guidelines];

(5) any pertinent policy statement [issued by the Sentencing Commission];

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(a).

Although the Sentencing Guidelines are no longer mandatory, they nevertheless continue to play a critical role in trying to achieve the “basic aim” that Congress tried to meet in enacting the Sentencing Reform Act, namely, “ensuring similar sentences for those who have committed similar crimes in similar ways.” *Booker*, 543 U.S. at 252. Thus, the Second Circuit has instructed district judges to consider the Guidelines “faithfully” in sentencing, *Crosby*, 397 F.3d at 114, and has held that the applicable Guidelines range is “a benchmark or a point of reference or departure” for a district court

considering what sentence to impose on a defendant. *United States v. Rubenstein*, 403 F.3d 93, 99 (2d Cir.), *cert. denied*, 126 S. Ct. 388 (2005); *United States v. Fernandez*, 443 F.3d 19, 34, n.11 (2d Cir. 2006) (approving district court’s decision “to employ the Guidelines range as a starting point and then to determine whether the arguments presented pursuant to the § 3553(a) factors warranted lightening of, or fashioning of an alteration to, the advisory Guidelines sentence (or, in other words, imposing a non-Guidelines sentence)”) (internal quotation marks, brackets, and record citations omitted). The Circuit has also recognized that, in “the overwhelming majority of cases, a Guidelines sentence will fall comfortably within the broad range of sentences that would be reasonable.” *United States v. Fernandez*, 443 F.3d at 27. This is unsurprising, given that the Guidelines reflect the “accumulated wisdom and experience of the Judicial Branch.” *Mistretta v. United States*, 488 U.S. 361, 412 (1989).

Stewart argues that the Guidelines “cannot serve as *any* type of benchmark for [her] sentence” (Stewart Mem. 25),<sup>1</sup> and asserts that “the focal point” of this Court’s sentencing decision should be the so-called “parsimony provision” of Section 3553(a), which states that “[t]he court shall impose a sentence sufficient, but not greater than

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<sup>1</sup> “Stewart Mem.” refers to the Sentencing Memorandum on Behalf of Defendant Lynne Stewart; “Sattar ltr.” refers to Sattar’s sentencing letter dated June 30, 2006; “Yousry 10/12/05 ltr.” refers to Yousry’s October 12, 2005 letter to the Probation Department; “Yousry 6/30/06 ltr.” refers to Yousry’s sentencing letter dated June 30, 2006; “Tr.” refers to the trial transcript; “GX” refers to a Government exhibit at trial; and “DX” refers to a defendant’s exhibit at trial.

necessary, to comply with the purposes set forth in paragraph (2) of this subsection.” 18 U.S.C. § 3553(a). (Stewart Mem. 13). For the reasons set forth below, this Court should reject the claim that the parsimony provision should predominate over the Guidelines.

According to the Government’s research, only one court of appeals, for the Sixth Circuit, has construed the parsimony provision in the manner Stewart suggests. *United States v. Ferguson*, No. 0-3998, 2006 WL 2265468 (6th Cir. Aug. 9, 2006) (“The 12-month sentence imposed upon Ferguson, in short, was both procedurally and substantively reasonable. . . . [T]he record amply demonstrates that the court evaluated all of those [statutory] factors, entertained a forceful argument for leniency, and balanced the relevant considerations in light of Congress’s command that the sentence imposed be ‘sufficient, but not greater than necessary, to comply with the purposes’ articulated in § 3553(a)(2). Indeed, the district court twice quoted this so-called ‘parsimony provision,’ which this court has highlighted as the guidepost for sentencing decisions post-*Booker*.”)<sup>2</sup> No other circuit court has yet analyzed or discussed the parsimony provision, let alone adopted the position urged by Stewart.<sup>3</sup> *Cf. United States v. Jimenez-Beltré*, 440 F.3d 514, 526 n.8 (1st Cir. 2006) (Lipez, J., dissenting) (“The so-called ‘parsimony provision,’ which requires that sentences be only as long as necessary to serve the

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<sup>2</sup> The *Ferguson* opinion on Westlaw has not yet been paginated.

<sup>3</sup> In the only court of appeals case that Stewart cites (Stewart Mem. 13), *United States v. Spigner*, 416 F.3d 708, 711 (8th Cir. 2005), the Eighth Circuit merely quoted the parsimony provision without analyzing or discussing it.

purposes listed in Section 3553(a)(2), has received scant attention from courts.”); *United States v. Wilson*, 350 F. Supp. 2d 910, 923 (D. Utah 2005) (Cassell, J.) (noting that “the parsimony provision has played ‘almost no role in caselaw’”) (quoting Marc L. Miller & Ronald F. Wright, *Your Cheatin’ Heart(land): The Long Search for Administrative Sentencing Justice*, 2 Buff. Crim. L. Rev. 723, 744 (1999)). The fact that *Booker* was decided only about 18 months ago does not undermine the significance of this near-silence. For one thing, the Supreme Court itself made no explicit reference to the parsimony provision in *Booker*. Nor did the Second Circuit discuss it in either *Crosby* or *Fleming*, its principal exegeses of *Booker*. Moreover, there have been literally hundreds of appellate decisions applying Section 3553(a) since *Booker* was decided, yet *Ferguson* appears to be the only one that applies the parsimony provision.<sup>4</sup> And although some district courts have relied on the parsimony provision in imposing sentences below the applicable Guidelines ranges (*see* Stewart Mem. 13), other district courts have held that the provision does not justify a below-Guidelines sentence. As discussed below, the latter result is more consistent with the Second Circuit’s recent reaffirmation of the importance of the Guidelines and recognition that the Guidelines themselves incorporate the

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<sup>4</sup> Moreover, the parsimony provision did not suddenly spring to force with the arrival of *Booker*. The provision was part of the Sentencing Reform Act of 1984, Pub. L. No. 98-473, Tit. II, §§ 212(a)(1)-(2) & 235(a)(1), 98 Stat. 1987, 2031 (Oct. 12, 1984) — the very law that created the Guidelines — and thus has applied to every sentencing since that law went into effect. Sentencing judges may have gained more discretion when *Booker* rendered the Guidelines advisory, but they were as required to apply the parsimony provision in the pre-*Booker* era as they are now.

provisions of Section 3553(a).

Significantly, the Sentencing Guidelines themselves incorporate the parsimony provision. *See* 28 U.S.C. § 994(b)(1) (directing that Guidelines shall comply with all “pertinent provisions” of Title 18). As Judge Cassell has noted in explaining the “[l]imited [e]ffect of the [p]arsimony [p]rovision”:

[T]he [Sentencing] Commission was itself bound by the parsimony provision . . . . [T]he Commission promulgated Guidelines that it viewed as parsimonious. If the Commission was mistaken and the ranges were not parsimonious, Congress could have simply rejected them. Congress, of course, did nothing of the sort.

*United States v. Wilson*, 350 F. Supp. 2d at 922-23; *see also United States v. Bailey*, 369 F. Supp. 2d 1090, 1092 n.4 (D. Neb. 2005) (“[U]sing my *Booker* discretion, I would read the ‘parsimony’ provision *with* the Guidelines heavily in mind, . . . and others who abhor Congress’ harshness would read the ‘parsimony’ provision *without* the Guidelines much in mind. Tell me, honestly, dear readers, which *discretionary* approach is more consistent with (1) what Congress and the Commission intended, (2) how statutes (as a whole) are to be construed, (3) the remedy chosen by the Supreme Court in *Booker*, and (4) the proper role of federal judges under Article III?”) (emphasis in original).

Recently, in *United States v. Rattoballi*, 452 F.3d 127 (2d Cir. 2006), the Second Circuit found unreasonable a sentence of five years’ probation with one year of home confinement, where the Guidelines range was 27 to 33 months’ imprisonment. The Court acknowledged that “the Guidelines are still generalizations that can point to outcomes that

may appear unreasonable to sentencing judges in particular cases,” *id.* at 133, and that it has therefore “declined to adopt *per se* rules, opting instead to fashion the mosaic of reasonableness through case-by-case adjudication,” *id.* But the Court held that, “[i]n calibrating [its] review for reasonableness, [it] will continue to seek guidance from the considered judgment of the Sentencing Commission as expressed in the Sentencing Guidelines and authorized by Congress.” *Id.* The Court explained:

The guidelines cannot be called just another factor in the statutory list, 18 U.S.C. § 3553(a), because they are *the only integration of the multiple factors* and, with important exceptions, their calculations were based upon the actual sentences of many judges. It bears noting that *the Sentencing Commission is an expert agency whose statutory charge mirrors the § 3553(a) factors that the district courts are required to consider.* 28 U.S.C. §§ 991(b), 994.

*Id.* (emphasis added; internal quotation marks, brackets, and citations omitted). Under the reasoning of the *Rattoballi* Court — which is consistent with that of Judge Cassell in *Wilson*, 350 F. Supp. 2d at 922-23 — the parsimony provision should not be elevated over the Guidelines because the Sentencing Commission already integrated that provision into the Guidelines. Despite the Sixth Circuit’s decision in *Ferguson*, the logic of *Rattoballi* and the lack of any other circuit law in accordance with *Ferguson*, suggest that the Second Circuit would not interpret the parsimony provision as Stewart urges.

Stewart seems to view the parsimony provision as a statutory “straightjacket” that confines a court to one particular sentence in each case. But the general terms of Section 3553(a)(2) — for example, “the seriousness of the offense,” “respect for law,” “just

punishment,” and “deterrence” — do not lend themselves to such a restraining effect. As one district judge wrote:

What the hell does “not greater than necessary” *really* mean? Please do not refer me to 18 U.S.C. § 3553(a)(2) as if it provided a concrete answer for individual cases. Centering a sentence on the words “not greater than necessary” is the judicial equivalent of reading tarot cards — neither the legitimacy of the sentence nor the truth of the reading can be proved or disproved by rational means. More to the point, why should anyone trust one unelected judge like me to provide *ad hoc* definitions of this virtually meaningless and circular abstraction unencumbered by the lodestar of the Guidelines? *Booker* tells me to use discretion. It does not tell me to pick sentences out of the air by fixating on the phrase “not greater than necessary” as an excuse to sentence below the Guidelines.

*United States v. Tabor*, 365 F. Supp. 2d 1052, 1061 n.14 (D. Neb. 2005) (emphasis in original), *aff'd*, 439 F.3d 826, 830-31 (8th Cir. 2006) (rejecting defendant’s argument “that, by considering the crack cocaine Guidelines, the district court violated 18 U.S.C. § 3553(a), which directs courts to impose sentences that are ‘not greater than necessary’”). Sentencing judges are required to apply the parsimony provision, but certainly that cannot mean that the provision mandates one sentence only as “sufficient, but not greater than necessary,” 18 U.S.C. § 3553(a), and renders all sentences above that one unreasonable. In fact, the Second Circuit has already ruled that “reasonableness,” which is the standard of appellate review of sentences, encompasses a “range” rather than a single sentence. *See United States v. Rattoballi*, 452 F.3d at 133 (“reasonableness admits to ‘a range, not a point’”) (quoting *United States v. Cunningham*, 429 F.3d 673,

679 (7th Cir. 2005)); *Fernandez*, 443 F.3d at 34 (concluding that a sentence within the Guidelines range was within the “*broad range of reasonable sentences* that the District Court could have imposed in the circumstances presented”) (emphasis added); *accord United States v. Jimenez-Beltre*, 440 F.3d at 519 (“Often there can be more than one reasonable way of assessing a factor and more than one reasonable result. Assuming a plausible explanation and a defensible overall result, sentencing is the responsibility of the district court.”); *United States v. Saenz*, 428 F.3d 1159, 1164-65 (8th Cir. 2005) (concluding that “there is a range of reasonableness available to the district court in any given case”). Thus, the parsimony provision can only be viewed as an overarching interpretive framework for analysis of all the statutory factors that a court must consider in imposing sentence, including the Sentencing Guidelines.

In sum, current sentencing law requires this Court to begin its analysis with the advisory Sentencing Guidelines — the importance of which was reaffirmed in *Rattoballi* — and then consider the other sentencing factors enumerated in Section 3553(a) to determine whether any of them warrant a non-Guidelines sentence. For the reasons given below, the Government respectfully submits that the Court should answer the latter question in the negative and imposed Guidelines sentences on all three defendants.

## POINT II

### **LYNNE STEWART SHOULD BE SENTENCED TO THIRTY YEARS’ IMPRISONMENT**

In light of Stewart’s actions in providing material support to a terrorist

organization and to the commission of a terrorism crime, and in accordance with the Sentencing Guidelines and the recommendation of the Probation Office, the Government respectfully asks the Court to sentence Stewart to thirty years' imprisonment.<sup>5</sup> None of the factors she cites warrant a downward departure under the Guidelines or a non-Guidelines sentence.

**A. The Nature And Circumstances Of Stewart's Offenses Of Conviction Are So Egregious That They Outweigh All Other Factors And Merit A Guidelines Sentence Of Thirty Years' Imprisonment**

Stewart was convicted following a nine-month jury trial of conspiracy to defraud the United States, conspiracy to provide and conceal material support to a terrorist activity, providing and concealing material support to a terrorist activity, and making false statements to the government. The conduct which underlies those offenses spanned a period of more than two years in which Stewart repeatedly violated the law. Stewart's criminal conduct in this case does not warrant a sentence outside the Sentencing Guidelines range. Indeed, "the nature and circumstances of the offense[s]," 18 U.S.C. § 3553 (a)(1), as reflected in the evidence at trial and summarized below, are so egregious that they outweigh all other Section 3553(a) factors in determining the appropriate sentence for Stewart.

**1. Sheikh Omar Abdel Rahman's Trial And Conviction**

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<sup>5</sup> The Probation Department has calculated Stewart's Sentencing Guidelines range to be 360 months to life. Because Stewart's statutory authorized maximum sentence is 360 months, her Guidelines sentence is 360 months, the minimum under the range.

Stewart served as Sheikh Omar Abdel Rahman's defense attorney during Abdel Rahman's 1995 trial in the United States District Court in the Southern District of New York. In October 1995, the jury hearing that case convicted Abdel Rahman of engaging in a seditious conspiracy to wage a war of urban terrorism against the United States. The jury also found Abdel Rahman guilty of soliciting crimes of violence against the United States military and Egyptian President Hosni Mubarak and participating in a bombing conspiracy. In January 1996, Abdel Rahman was sentenced to life imprisonment. Since in or about 1997, Abdel Rahman has been incarcerated in various facilities operated by the United States Bureau of Prisons, including the Federal Medical Center in Rochester, Minnesota.

## **2. The Special Administrative Measures**

Beginning in or about April 1997, United States authorities, in order to protect national security, limited certain of Abdel Rahman's privileges in prison, including his access to the mail, the media, the telephone, and visitors. At that time, the Bureau of Prisons, at the direction of the Attorney General, imposed Special Administrative Measures ("SAMs") upon Abdel Rahman, pursuant to a federal regulation. The stated purpose of the SAMs was to protect "persons against the risk of death or serious bodily injury" that could result if Abdel Rahman were free "to communicate (send or receive) terrorist information." Under the SAMs, Abdel Rahman could receive visits only from his attorneys and certain family members and could communicate by telephone only with

his legal spouse and his attorneys. Any correspondence to or from Abdel Rahman was required to be screened by the FBI to determine whether it contained either overt or covert requests for illegal activities or actual or attempted circumvention of the SAMs. In addition, the SAMs prohibited communication between Abdel Rahman and any member or representative of the news media. (GX 2-6, 11, 13).

The SAMs specifically provided that attorneys for Abdel Rahman were obliged to sign an affirmation, acknowledging that they and their staff would abide fully by the SAMs, before being allowed access to Abdel Rahman. Stewart and the other attorneys agreed in their affirmations, among other things, to “only be accompanied by translators for the purpose of communicating with inmate Abdel Rahman concerning legal matters.” Moreover, since May 1998, Stewart and the other attorneys also agreed not to “use [their] meetings, correspondence, or phone calls with Abdel Rahman to pass messages between third parties (including, but not limited to, the media) and Abdel Rahman.” (GX 3, 7).<sup>6</sup>

Stewart understood that without her agreement to abide by the SAMs and the other representations contained in her affirmations, she would not be permitted to visit or speak with Abdel Rahman. As the evidence at trial proved, Stewart, nevertheless, blatantly and repeatedly violated the terms of the SAMs and the SAMs affirmations she had signed under oath.

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<sup>6</sup> Stewart conceded in her testimony that she periodically received copies of the SAMs from the United States Attorney’s Office and was familiar with their provisions. (Tr. 7681-86, 7689-90, 7691-93, 8042, 8065-67).













































































































































































































































