



KTC/MLM:JHK/PKC
F.#2002R02098

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

PLEA AGREEMENT

- against -

03 CR 1322 (S-1) (DLI)

MOHAMMED MOHSEN YAHYA ZAYED,

Defendant.

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Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States Attorney's Office for the Eastern District of New York (the "Office") and MOHAMMED MOHSEN YAHYA ZAYED (the "defendant") agree to the following:

1. The defendant will plead guilty to Count Three of the above-captioned superseding indictment charging a violation of 18 U.S.C. § 2339B(a)(1). The count carries the following statutory penalties:

- a. Maximum term of imprisonment: 15 years (18 U.S.C. § 2339B(a)(1)).
- b. Minimum term of imprisonment: 0 years (18 U.S.C. § 2339B(a)(1)).
- c. Maximum supervised release term: 3 years, to follow any term of imprisonment; if a condition of release is violated, the defendant may be sentenced to up to 2 years without credit for pre-release imprisonment or time previously served on post-release supervision (18 U.S.C. §§ 3583 (b), (e)).

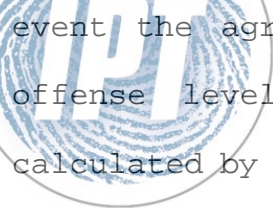


- d. Maximum fine: \$250,000
(18 U.S.C. § 3571(b)(3)).
- e. Restitution: To be determined.
(18 U.S.C. § 3663 and 3663A).
- f. \$100 special assessment
(18 U.S.C. § 3013).
- g. Other penalties: deportation/removal.

The defendant stipulates to the entry of a judicial order of removal, pursuant to Section 238(c) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. § 1228(c)(5) (the "INA"), and waives the right to notice and a hearing under the INA with regard to his removal from the United States. The defendant specifically agrees to execute a "Plea Statement in Support of Judicial Removal Proceedings."

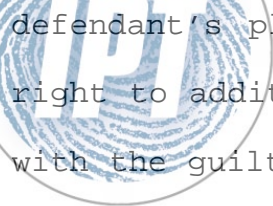
2. Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the Office and the defendant agree that a specific sentence of 80 months imprisonment,¹ no supervised release and a \$100 special assessment (as well as any fine and/or restitution imposed consistent with paragraph 1 above) is the appropriate disposition in this case. The defendant consents to expedited sentencing by the Court and waives the right to have a Presentence Report prepared in connection with sentencing. In the

¹ The Bureau of Prisons' Designations and Sentence Computations Center has already concluded that the defendant will get sentence credit for his time served in German custody from January 2003 until his extradition to the United States in November 2003.



event the agreed-upon sentence is above or below the adjusted offense level under the United States Sentencing Guidelines calculated by the Court, the defendant and the Office consent to an adjustment under 18 U.S.C. § 3553(a), and the Office will inform the Court at the time of sentencing why the adjustment is justified. The defendant will not challenge any Guidelines calculation by the Court or Probation Department. If the Court rejects this plea agreement, the defendant, pursuant to Rule 11(c)(5), and the Office shall be afforded the opportunity to withdraw or vacate the plea. The Office will advise the Court and the Probation Department of information relevant to sentencing, including criminal activity engaged in by the defendant, and such information may be used by the Court in determining the defendant's sentence.

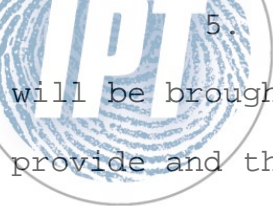
3. The defendant agrees not to file an appeal or otherwise challenge, by petition pursuant to 28 U.S.C. § 2255 or any other provision, the conviction or sentence in the event that the Court imposes a term of imprisonment of 80 months. This waiver is binding without regard to the sentencing analysis used by the Court. The defendant waives all defenses based on the statute of limitations and venue with respect to any prosecution that is not time-barred on the date that this agreement is signed in the event that (a) the defendant's conviction is later vacated for any reason, (b) the defendant violates this agreement, or (c) the



defendant's plea is later withdrawn. The defendant waives any right to additional disclosure from the government in connection with the guilty plea. The defendant agrees that with respect to all charges referred to in paragraphs 1 and 4 he is not a "prevailing party" within the meaning of the "Hyde Amendment," 18 U.S.C. § 3006A note, and will not file any claim under that law. The defendant has paid the special assessment of \$100 to the Clerk of the Court.

4. The defendant stipulates to the following facts and agrees that he will allocute, in substance, at the plea proceeding in this matter that:

On or about and between January 7, 2003 and January 10, 2003, the defendant Mohammed Zayed agreed with the defendant Mohammed Al-Moayad to deliver money to Hamas that he expected to be provided by an individual whom he believed was a donor from Brooklyn, New York who wanted to fund violent operations by Hamas. Zayed knew that Hamas engaged in "terrorist activity" as defined under U.S. law, including that Hamas committed politically motivated acts of violence targeting civilian populations. Zayed also knew that Al-Moayad was associated and worked with Hamas leaders in Yemen and Hamas-related organizations to provide financial support to Hamas. Al-Moayad and Zayed intended to use those relationships to ensure that the money provided by the New York donor would in fact get to Hamas. Zayed traveled from Yemen to Germany in furtherance of the conspiracy, and knew that the money was to travel from Brooklyn, New York to places outside the United States.



5. The Office agrees that no further criminal charges will be brought against the defendant for the conspiracy to provide and the attempted provision of material support to designated foreign terrorist organizations between October 8, 1997 and January 10, 2003, as charged in the superseding indictment, it being understood that this agreement does not bar the use of such conduct as a predicate act or as the basis for a sentencing enhancement in a subsequent prosecution including, but not limited to, a prosecution pursuant to 18 U.S.C. §§ 1961 et seq., and at the time of sentence, it will move to dismiss the remaining counts of the superseding indictment and the underlying indictment with prejudice.

6. This agreement does not bind any federal, state, or local prosecuting authority other than the Office, and does not prohibit the Office from initiating or prosecuting any civil or administrative proceedings directly or indirectly involving the defendant.

7. This agreement is conditioned upon the following: (a) the defendants listed below (the "covered defendants") entering guilty pleas, pursuant to plea offers dated August 5, 2009 on or before August 24, 2009; and (b) acceptance of those pleas by a United States District Court Judge. The covered defendants are:



(i) Mohammed Ali Hassan Al-Moayad; and

(ii) Mohammed Mohsen Yahya Zayed.

If either of the covered defendants fails to satisfy conditions 7(a) and 7(b), or if either of the covered defendants subsequently seeks to withdraw his guilty plea, the Office, in its sole discretion, may elect to void any or all of the covered defendants' plea agreements and proceed to trial. No covered defendant will have the right to withdraw his guilty plea in any of those circumstances.

8. No promises, agreements or conditions have been entered into by the parties other than those set forth in this agreement and none will be entered into unless memorialized in writing and signed by all parties. This agreement supersedes all prior promises, agreements or conditions between the parties. To



become effective, this agreement must be signed by all signatories listed below.

BENTON J. CAMPBELL
 United States Attorney
 Eastern District of New York

By: _____
 Pamela K. Chen
 Jeffrey H. Knox
 Assistant United States Attorneys

Approved by:

 Marshall L. Miller
 Supervising Assistant U.S. Attorney

I have read the entire agreement and discussed it with my attorney. I understand all of its terms and am entering into it knowingly and voluntarily. I also stipulate and acknowledge that the facts contained in paragraph 4 of the agreement are true and accurate and I will allocute to such facts at the plea proceeding.

 Defendant Mohammed Mohsen Yahya Zayed

Approved by:

 Counsel to Defendant