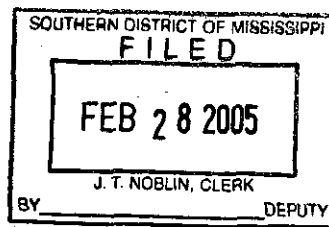


# Memorandum



Subject

U.S. v. Cedric Carpenter  
Criminal No. 3:04cr147LSu  
3:050111

Date

February 11, 2005

To

DENNIS JOINER, Esq.  
Attorney at Law

From

STAN HARRIS/GAINES CLEVELAND  
Assistant U.S. Attorneys

## MEMORANDUM OF UNDERSTANDING

CEDRIC CARPENTER, Defendant, and DENNIS JOINER, Esq., attorney for Defendant, have been advised that:

1. If Defendant waives indictment and waives any issue as to venue and tenders a plea of guilty to Counts One and Four of the six-count superseding felony information to be filed in this case, charging him in Count One with conspiracy to provide material support to members of Abu Sayyaf, a designated foreign terrorist organization, in violation of Title 18, United States Code, Section 2339B, and in Count Four with being a felon in possession of a firearm, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2), thereafter the United States Attorney's Office for the Southern District of Mississippi (the "U.S. Attorney's Office") will (a) recommend that the Court accept Defendant's plea of guilty; (b) at the time of sentencing, recommend that the Court sentence Defendant to the lower quarter of the applicable Sentencing Guidelines range; (c) move to dismiss the underlying indictment and the remaining counts of the present information; and (d) inform the United States Probation Office and the Court of this Agreement, the nature and extent of Defendant's activities with respect to this case and all other activities of Defendant which the U.S. Attorney's Office deems relevant to sentencing, and the nature and extent of Defendant's cooperation with the U.S. Attorney's Office. If the U.S. Attorney's Office determines that Defendant has provided substantial assistance in an investigation or prosecution, and if Defendant has fully complied with the understandings specified in this Agreement, the U.S. Attorney's Office will submit a motion, pursuant to Section 5K1.1 of the Sentencing Guidelines, requesting that the Court sentence Defendant in light of the factors set forth in Section 5K1.1(a)(1)-(5). The determination as to whether Defendant has provided such substantial assistance shall be decided solely by the U.S. Attorney's Office. It is understood that, even if such

a motion is filed, the sentence to be imposed on Defendant remains within the sole discretion of the Court.

2. It is understood that, as of the date of this Memorandum, Defendant and his counsel have indicated that Defendant desires to (a) waive any issue as to venue, (b) waive indictment and consent to the filing of the superseding felony information, and (c) plead guilty to Counts One and Four of the six-count information.

3. ~~It is further understood, under the unique and limited circumstances of this national security case, the parties have agreed to recommend this plea to the Court, in accord with the principles of Rule 11(c)(1)(C), Federal Rules of Criminal Procedure.~~ If the plea agreement should not be acceptable to the Court, the defendant will be allowed to withdraw and proceed to trial. *CC*

*SPJ*  
*One*

4. Defendant understands that Count One of the six-count superseding information charges Defendant with violating Title 18, United States Code, Section 2339B, which carries a maximum sentence of 15 years of imprisonment; a maximum fine of \$250,000.00; a maximum of three years of supervised release; and a mandatory \$100.00 special assessment. Defendant also understands that Count Four charges Defendant with violating Title 18, United States Code, Sections 922(g)(1) and 924(a)(2), which carries a maximum sentence of five years' imprisonment; a maximum fine of \$250,000.00; a maximum of three year of supervised release; and a mandatory \$100.00 special assessment. Defendant further understands that a term of supervised release may be imposed in addition to any prison sentence he receives; further, if any of the conditions of his supervised release are violated, Defendant can be returned to prison for the entire term of supervised release, without credit for any time already served on the term of supervised release prior to Defendant's violation of those conditions.

5. It is further understood and specifically acknowledged by Defendant that the consideration for the action by the U.S. Attorney's Office herein is Defendant's representation, by execution of this Memorandum of Understanding and otherwise, that Defendant both can and will carry out the terms and conditions herein.

6. It is further understood that Defendant agrees to be sentenced pursuant to the United States Sentencing Guidelines (hereafter "Guidelines" or "USSG") and that Defendant and his attorney have discussed the application of the Guidelines to

Defendant's case. In consideration of the foregoing and pursuant to USSG § 6B1.4, the parties hereby stipulate as follows:

a. In accordance with USSG § 1B1.11, the Sentencing Guidelines Manual effective November 5, 2003, applies to Defendant's conduct;

b. Defendant acknowledges that, for his violation of Title 18, United States Code, Section 2339B, he is subject under USSG § 2M5.3(a) to a base offense level of 26; however, because neither Defendant nor any co-conspirator completed all the acts the conspirators believed necessary on their part for the successful completion of the substantive offense, nor did the circumstances demonstrate that the conspirators were about to complete all such acts but for apprehension or interruption by some similar event beyond their control, Defendant is entitled to a three-level reduction under USSG § 2X1.1(b)(2), for a resulting offense level of 23;

c. Defendant acknowledges that, for his violation of Title 18, United States Code, Section 922(g)(1), he is subject under USSG § 2K2.1(a)(2) to a base offense level of 24;

d. Defendant acknowledges that, for the conduct involved in the dismissed narcotics violation of Title 21, United States Code, Section 846, he is subject under USSG §§ 2D1.1(a)(3) & 2D1.1(c)(6) to a base offense level of 28; however, because neither Defendant nor any co-conspirator completed all the acts the conspirators believed necessary on their part for the successful completion of the substantive offense, nor did the circumstances demonstrate that the conspirators were about to complete all such acts but for apprehension or interruption by some similar event beyond their control, Defendant is entitled to a three-level reduction under USSG § 2X1.1(b)(2), for a resulting offense level of 25;

e. the parties agree that the above-referenced conduct is properly groupable and the Government is unaware of any other conduct calling an enhancement that is not properly groupable under USSG § 3D1.2; the result of grouping is that the offense level determined under USSG § 2D1.1, the most serious of the counts comprising the group, is the applicable offense level, for an offense level of 25;

f. the Government agrees that Defendant timely accepted responsibility for his conduct and otherwise qualifies for a three-level decrease under USSG § 3E1.1(b);

e. the total offense level resulting from these computations is a Level 22, which, given Defendant's criminal history category of IV, results in a Sentencing Range of 63 to 78 months.

7. It is further understood that the full cooperation referred to in paragraph 1 includes: (a) truthful and complete disclosure of all matters involved in these charges to the appropriate federal agents; (b) truthful and complete disclosure of other matters involving possible violations of Federal law to the appropriate federal agency as directed by the U.S. Attorney's Office; (c) truthful testimony at trial involving any matter arising from these charges; (d) truthful testimony before any grand jury or at any trial in this or any other district on any matter about which Defendant has knowledge and which is deemed pertinent to the U.S. Attorney's Office; (e) full cooperation with the U.S. Attorney's Office and any law enforcement agency designated by the U.S. Attorney's Office; (f) attendance at all meetings at which the U.S. Attorney's Office requests his presence; (g) provision to the U.S. Attorney's Office, upon request, of any document, record, or other tangible evidence relating to matters about which the U.S. Attorney's Office or any designated law enforcement agency inquires of him; (h) an obligation on the part of Defendant to commit no further crimes whatsoever; and (i) full performance in accordance with the forfeiture paragraph of this agreement. The United States reserves the right to inform the Court and the U.S. Probation Office of all facts pertinent to the sentencing process, including all relevant information concerning Defendant and his background. It is further understood that the U.S. Attorney's Office reserves the right to speak at sentencing concerning the extent of cooperation, if any provided, by Defendant prior to sentencing and to respond to Defendant or his counsel regarding either the factual basis for the plea or in mitigation of sentence.

8. Defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and including his right to appeal the sentence imposed as provided in Title 18, United States Code, Section 3742, hereby expressly waives the right to appeal the conviction and/or sentence imposed in this case, or the manner in which that sentence was imposed, on the grounds set forth in Section 3742, or on any ground whatsoever, and expressly waives the right to contest the conviction and/or sentence or the manner in which the sentence was imposed in any post-conviction proceeding, including but not limited to a motion brought under Title 28, United States Code, Section 2255, and any type of proceeding claiming double jeopardy or excessive penalty as a result of any forfeiture

ordered or to be ordered in this case. Defendant waives any right to seek attorneys fees and/or costs under the "Hyde Amendment," that is, Section 617 of Public Law 105-119, as codified in Title 18, United States Code, Section 3006A, and Defendant acknowledges that the government's position in the instant prosecution was not vexatious, frivolous, or in bad faith. Defendant waives these rights in exchange for the recommendations and concessions made by the U.S. Attorney's Office in this plea agreement. However, Defendant reserves his right to appeal any sentence that may exceed his Rule 11(c)(1)(C) plea.

9. Defendant further hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, set forth at Title 5, United States Code, Section 552, or the Privacy Act of 1974, Title 5, United States Code, Section 552a.

10. Defendant and his attorney understand that this is a case which involves potential fines or a special assessment and that the collection of any fine or special assessment will require regular contact with Defendant during the period of his incarceration, if any, and during any period of probation or supervised release. Further, Defendant and his attorney understand that it is essential that defense counsel contact the Financial Litigation Unit of the U.S. Attorney's Office immediately after sentencing in this case to confirm in writing whether defense counsel will continue to represent Defendant in this case and in matters involving the collection of the financial obligations imposed by the Court. If the U.S. Attorney's Office does not receive any written response from defense counsel within two weeks from the date of entry of the Judgment in this case, the U.S. Attorney's Office will presume that defense counsel no longer represents Defendant, and the Financial Litigation Unit will communicate directly with Defendant regarding collection of the financial obligations imposed by the Court. Defendant and his attorney understand and agree that such direct contact with Defendant shall not be deemed an improper *ex parte* contact with Defendant, if defense counsel fails to notify the U.S. Attorney's Office of any continued legal representation within two weeks after the date of entry of the Judgment in this case.

11. It is further understood that this Memorandum does not bind any state or local prosecuting authority or any other federal district, except the Eastern District of Louisiana as to

the Section 922(g)(1) charge; further, this agreement does not bind the Attorney General of the United States in regard to any matter, civil or criminal, involving the tax statutes of the United States, except as authorized by the Tax Division in this case.

12. It is further understood that this Memorandum completely reflects all promises, agreements and conditions made by and between the United States Attorney for the Southern District of Mississippi and the Defendant.

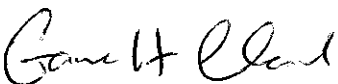
13. This Agreement is contingent upon Defendant's pleading guilty under the terms of this Agreement at the earliest date convenient to the Court, and is also contingent upon his co-defendant Lamont Ranson pleading guilty under the terms of a separate Memoranda of Understanding with this Office.

14. This Agreement is further contingent upon approval by the U.S. Attorney's Office for the Eastern District of Louisiana of the filing of the proposed felony information charging Defendant with a violation of Title 18, United States Code, Section 922(g)(1), in the Eastern District of Louisiana, based on his willingness to waive venue so as to permit the filing of that charge in this District.

15. This Agreement is also contingent upon approval by the Attorney General of the United States or his designee at the U.S. Department of Justice, Washington, D.C., of the filing of the proposed felony information charging both defendants with a violation of Title 18, United States Code, Section 2339B.

WITNESS OUR SIGNATURES, as set forth below.

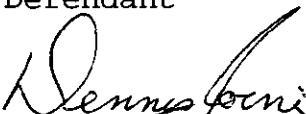
DUNN LAMPTON  
United States Attorney

  
STAN HARRIS/GAINES CLEVELAND  
Assistant U.S. Attorneys

2/28/05  
Date

  
CEDRIC CARPENTER  
Defendant

2/28/05  
Date

  
DENNIS JOINER, Esq.  
Attorney for Defendant

2/28/05  
Date