



~~UNDER SEAL~~  
unsealed 6/19/03

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

FILED IN OPEN COURT  
MAY - 1 2003  
CLERK, U.S. DISTRICT COURT  
ALEXANDRIA, VA

Alexandria Division

UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 IYMAN FARIS, )  
 a/k/a Mohammad Rauf, )  
 )  
 Defendant. )

CRIMINAL NO. 03-189-A

PLEA AGREEMENT

Paul J. McNulty, United States Attorney for the Eastern District of Virginia, and Neil Hammerstrom, Jr., Assistant United States Attorney, and Joseph N. Kaster, Trial Attorney, U.S. Department of Justice, and the defendant, Iyman Faris, and the defendant's counsel, J. Frederick Sinclair, pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure, have entered into an agreement, the terms and conditions of which are as follows:

1. Defendant Iyman Faris agrees to waive indictment and any objections to venue and the charges, and agrees to plead guilty to a two-count criminal information filed with this agreement.

a. Count One of the criminal information charges the defendant with conspiracy to provide material support or resources to a designated foreign terrorist organization, in violation of Title 18, United States Code, Sections 2339B and 371. The maximum penalty for this offense is a term of imprisonment of 5 years, a fine of \$250,000, a special assessment, and a term of supervised release of <sup>3</sup>/<sub>5</sub> years. Jms

b. Count Two of the criminal information charges the defendant with providing material support or resources to a designated foreign terrorist organization, in violation of Title 18, United States Code, Section 2339B. The maximum penalty for this offense is a term of imprisonment of 15 years, a fine of \$250,000, a special assessment, and a term of supervised release of any term of years or life.

The defendant is aware that the Court can impose consecutive sentences on Counts One and Two. The defendant is further aware that the supervised release term is in addition to any prison term he may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for an additional term of years.

2. Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

3. The defendant is aware that his sentence will be imposed in accordance with the Sentencing Guidelines and Policy Statements. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offenses to which he pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is also aware that any estimate of the probable sentencing range under the sentencing guidelines that he may have received from his counsel, the United States, or the probation office, is a prediction, not a promise, and is not binding on the United States, the probation office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and he cannot withdraw a guilty plea based upon the actual sentence. The defendant is aware that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Acknowledging all this, the defendant

knowingly waives the right to appeal any sentence within the maximum provided in the statutes of conviction (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). Defendant also waives the right to bring any collateral attack against his conviction, except as it may relate to the effectiveness of his legal representation or the voluntariness of his plea.

4. The United States will not further criminally prosecute defendant for the specific conduct described in the criminal information or statement of facts. Therefore, defendant does not have immunity for crimes related to, but not specifically set out in, the criminal information or statement of facts.

5. The defendant represents to the Court that he is satisfied that his attorney has rendered effective assistance. Defendant understands that by entering into this agreement, he surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

a. If the defendant persisted in a plea of not guilty to the charges, he would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the defendant, the United States, and the judge all agree.

b. If a jury trial is conducted, the jury would be composed of twelve laypersons selected at random. The defendant and his attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by

removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed innocent, that it could not convict the defendant unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt, and that it was to consider each charge separately.

c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established the defendant's guilt beyond a reasonable doubt.

d. At a trial, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those witnesses and his attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence in his own behalf.

e. At a trial, the defendant could rely on a privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from the refusal to testify. If the defendant desired to do so, he could testify in his own behalf.

6. The defendant agrees to cooperate fully and truthfully with all federal, state and local law enforcement, intelligence, military, and other authorities designated by the government, and provide all information known to the defendant regarding any criminal or terrorist activity. In that regard:

a. The defendant agrees to testify fully, truthfully and completely at any grand juries, trials, military commissions, or other proceedings.

b. As required by the United States, the defendant agrees to be available for debriefing by law enforcement, intelligence, and military officers, and for pre-trial conferences with prosecutive authorities. The timing and location of such debriefings and meetings shall be determined by the United States. Should defense counsel wish to attend particular debriefings, the Government will seek to schedule such debriefings consistent with the schedule of defendant's counsel, who shall make himself reasonably available.

c. To protect the integrity of investigations, prosecutions, and intelligence activities, the defendant agrees that he will not communicate to anyone, directly or through intermediaries, any information he has about his own or other persons' involvement in criminal and terrorist activity to anyone other than: (1) in testimony during proceedings resulting from or related to his cooperation; (2) in debriefings by authorities designated by the government; (3) to his counsel and counsel's authorized agents; (4) if his counsel so authorizes, to counsel for persons about whom he has provided information; and (5) as otherwise authorized in advance by the government.

d. The defendant agrees to provide all documents, records, writings, or materials of any kind in his possession or under his care, custody, or control relating directly or indirectly to all areas of inquiry and investigation.

e. The defendant agrees that, upon request by the United States, he will voluntarily submit to polygraph examinations to be conducted by a polygraph examiner of the United States' choice. The defendant stipulates to the admissibility of the results of this polygraph examination if later offered in a proceeding to determine his compliance with this plea agreement.

f. The defendant agrees that the accompanying Statement of Facts is limited to information to support the plea. The defendant will provide more detailed facts relating to this case during ensuing debriefings.

g. The defendant is hereby on notice that he may not violate any federal, state, or local criminal law while cooperating with the government, and that the government will, in its discretion, consider any such violation in evaluating whether a downward departure is appropriate.

7. The defendant hereby assigns to the United States any profits or proceeds which he may be entitled to receive in connection with any publication or dissemination of information relating to illegal conduct alleged in the Criminal Information and Statement of Facts. This assignment shall include all profits and proceeds for the benefit of the defendant, regardless of whether such profits and proceeds are payable to himself or to others, directly or indirectly, for his benefit or for the benefit of the defendant's associates or a current or future member of the defendant's family. The defendant shall not circumvent this assignment by assigning the rights to his story to an associate or to a current or future member of the defendant's family, or to another person or entity who would provide some financial benefit to the defendant, to the defendant's associates, or to a current or future member of the defendant's family. Moreover, the defendant shall not circumvent this assignment by communicating with an associate or a family member for the purpose of assisting or facilitating their profiting from a public dissemination, whether or not such an associate or other family member is personally or directly involved in such dissemination.

8. a. The United States agrees not to use any truthful information provided pursuant to this agreement against the defendant in any other criminal prosecution against him. Pursuant to Section 1B1.8 of the Sentencing Guidelines, no truthful information that the defendant provides pursuant to this agreement will be used to enhance his guidelines range. Regardless of any other provision of this agreement, however, the United States may use any statement made by the defendant, whether in the form of the Statement of Facts accompanying this plea agreement or in the debriefing of the defendant or in some other form, against the defendant in any prosecution of the defendant resulting from the defendant's breach of the plea agreement, whether such breach is caused by the defendant's providing false information, failing to provide full and complete cooperation, or for any other valid reason. Such a prosecution includes, but is not limited to, a prosecution for perjury or false statements.

b. Nothing in this plea agreement restricts the Court's or Probation Office's access to information and records in the possession of the United States. Further, nothing in this agreement prevents the government in any way from prosecuting the defendant should he provide false, untruthful, or perjurious information or testimony.

9. This plea agreement is not conditioned upon charges being brought against any other individual. This plea agreement is not conditioned upon any outcome in any pending investigation. This plea agreement is not conditioned upon any result in any future prosecution which may occur because of the defendant's cooperation. This plea agreement is not conditioned upon any result in any future grand jury presentation or trial involving charges resulting from this investigation. This plea agreement is conditioned upon the defendant providing full, complete and truthful cooperation.

10. It is understood that the defendant's truthful cooperation with the United States is likely to reveal activities of individuals who might use violence, force, and intimidation against the defendant and possibly members of his family. Should defendant's cooperation present a significant risk of physical harm, the United States, upon the written request of the defendant, will take steps that it determines to be reasonable and necessary to attempt to ensure his safety and that of his family. These steps may include application to the Witness Security Program of the United States Marshal's Service, whereby the defendant and his family, if approved, could be relocated under a new identity.

11. The parties agree that the United States reserves its option to seek any departure from the applicable sentencing guidelines, pursuant to Section 5K of the Sentencing Guidelines and Policy Statements, or Rule 35(b) of the Federal Rules of Criminal Procedure, if in its sole discretion, the United States determines that such a departure is appropriate.

12. The accompanying Statement of Facts signed by the defendant is hereby incorporated into this plea agreement. Defendant adopts the Statement of Facts and agrees that the facts therein are accurate in every respect and that had the matter proceeded to trial, the United States would have proved those facts beyond a reasonable doubt.

13. If the defendant fails in any way to fulfill completely all of the obligations under this plea agreement, the United States may seek release from any or all its obligations under this plea agreement.

14. If the defendant fails to fulfill the obligations under this plea agreement, he shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other federal rule,



that his statements pursuant to this agreement or any leads derived therefrom, should be suppressed or are inadmissible.

15. Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence. The proceeding established by this paragraph does not apply, however, to the United States' decision whether to file a motion based on "substantial assistance" as that phrase is used in Rule 35(b) of the Federal Rules of Criminal Procedure and Section 5K1.1 of the Sentencing Guidelines and Policy Statements. The defendant agrees that the decision whether to file such a motion rests in the United States' sole discretion.

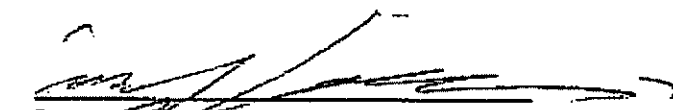
16. The defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

17. This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The United States has made no promises or representations except as set forth in writing in this plea agreement. The defendant acknowledges that no threats have been made against him and that he is pleading guilty, freely

and voluntarily, because he is guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

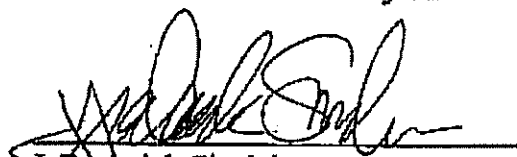
18. Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines and Policy Statements which may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and I voluntarily agree to it.

Date: 4-17-2003

  
Lyman Paris  
Defendant

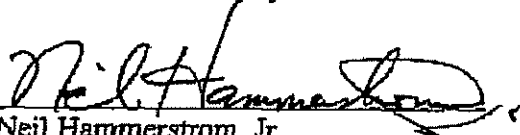
19. Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant his rights with respect to the pending information. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.


Date: 4/17/03

  
J. Frederick Sinclair  
Counsel for Defendant


Respectfully submitted,

Paul J. McNulty  
United States Attorney

By:   
Neil Hammerstrom, Jr.  
Assistant United States Attorney

  
Joseph N. Kaster  
Trial Attorney, Criminal Division  
Counterterrorism Section  
U.S. Department of Justice

APPROVED:

  
Justin W. Williams  
Assistant United States Attorney  
Chief, Criminal Division

Date: 4/30/03

Plea Agreement (Revised February 2003)