

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

Alexandria Division

UNITED STATES OF AMERICA)
)
 v.) No. 1:16cr00064 (AJT)
)
 MAHMOUD AMIN MOHAMED)
 ELHASSAN)

UNITED STATES' MEMORANDUM IN AID OF SENTENCING
(Revised with Exhibits and Exhibit Citations)

The establishment of the governance of Allah on earth will be achieved only by fighting in the name of Allah. (Ex. A)

*Mahmoud ElHassan, September 13, 2013
Using his pseudonym Mahmoud Al-Dongulawi IV*

I asked you about Al-Nafeer¹ about a month ago on your previous account sheikh. Praise be to Allah here with you is a sleeper cell. Sheikh pray for us for success and rewards. (Ex. C)

Mahmoud ElHassan, June 20, 2014

My doctrine is short: I believe the man made laws and constitution are pure Shirk² and Kufr. I believe whoever implements or make these constitutions and laws is Kaafir. I believe the armies that protect those constitutions and laws are in general apostate armies. I believe after mentioning these points that Muslims need to fight these apostate armies and governments, remove the Shirk of constitution and establish the Shari'ah. (Ex. D)

Mahmoud ElHassan, December 23, 2014

Allah commanded us to fight- and fighting is not throwing candies but necks being chopped off and stomachs being slashes (sic) and eyes poked! (Ex. E)

Mahmoud ElHassan, May 3, 2015

To live for Allah and die for Allah. (Ex. F)

Mahmoud ElHassan, September 7, 2015

¹ Al-Nafeer is a reference to violent jihad, or a call to mobilize. For an example of its usage: In or about June 2014, Al-Qaeda's media arm, as-Sahab, introduced a new publication called "Al-Nafeer", and in the first issue, renewed the group's pledge of allegiance to Afghan Taliban leader Mullah Muhammad Omar, and greeted fighters all over the world. <https://ent.siteintelgroup.com/Jihadist-News/as-sahab-introduces-new-publication-al-nafeer.html>

² In Islam, shirk is the sin of practicing idolatry or polytheism, *i.e.* the deification or worship of anyone or anything other than the singular God, *i.e.* Allah. Literally, it means ascribing or the establishment of "partners" placed beside God. [https://en.wikipedia.org/wiki/Shirk_\(Islam\)](https://en.wikipedia.org/wiki/Shirk_(Islam))

I. INTRODUCTION

The government's sentencing position in this case is driven by the defendant's conduct furthering the objectives of the Islamic State, and his own statements promoting his belief in violent Islamic Jihad. (See Ex. G.) Further, the defendant recruited Joseph Farrokh to join the Islamic State and aided his efforts to travel to Syria and Iraq to join the terrorist organization. But for the FBI's intervention, the overwhelming evidence points to two eventual outcomes of the defendant's escalating conduct: (1) he planned to join Farrokh in Syria/Iraq at a later date, or (2) he envisioned himself as a "sleeper cell" or "lone wolf" actor supporting the violent jihadist cause. (See Ex. B)

In June 2014, the defendant corresponded with Sudanese cleric Sheikh Mohammed Ali al Jazouly³ and promised to him "here with you is a sleeper cell." (Ex. C) Six months prior to this the defendant opened a Facebook account characterizing himself in the same terms, with the Arabic words for "solo wolf" imposed over an image of a stalking wolf on his Facebook page. (Ex. B) The United States has seen firsthand the horrific carnage wrought by "lone wolf" criminals acting in the name of Islamic terrorism: *See* Fort Hood, Texas; *See* Boston, Massachusetts; *See* San Bernadino, California; *See* Orlando, Florida. This is the violent ideology the defendant believes.⁴ This is what drove him to seek out like-minded people to further his belief.

³ Al Jazouly is a notorious cleric who promotes violent jihad. After Osama bin Laden was killed, Al Jazouly released a sermon on May 29, 2011, entitled "who Betrayed and Killed Osama Bin Laden? Further, after Abu Bakr al-Baghdadi anointed himself Caliph of the Islamic State, and declared war against western civilization, al-Jazouly publicly praised the speech as expressing "pearls of wisdom" and characterizing Baghdadi as the grandson of the messenger.

⁴ Remarkably, the defendant has still not renounced the violent ideology to which he subscribes. In his acceptance of responsibility statement (PSR ¶32), the defendant states, "I accept full responsibility for my actions in this case.

As this Court is aware, the government's objective at sentencing is to make an individual assessment of each convicted defendant's conduct to arrive at a just punishment that serves the public safety interests of the United States pursuant to the parameters congress established in 18 U.S.C. § 3553(a). The United States does not paint with broad strokes with respect to incarceration. We take seriously our responsibility to follow the statutory guidance set forth in §3553(a). The United States thoughtfully assesses the aggravating and mitigating circumstances of each defendant's conduct, and we understand that a sentence should be "sufficient, but not greater than necessary"⁵ to comply with the four purposes of sentencing set forth in the statute. We place a strong emphasis on the nature and circumstances of the offense and the history and characteristics of the defendant. §3553(a)(1). The government's sentencing evaluation appropriately begins with the benchmark provided by the United States Sentencing Commission, Guidelines Manual (U.S.S.G. or "Guidelines"), which are formulated by an independent agency operating within the judicial branch pursuant to congressional authority. *See* Title 28, United States Code, Section § 991⁶, *et seq.* The Guidelines provides a "rough approximation" of what sentence will achieve the statutory objectives. *United States v. Kimbrough*, 552 U.S. 85, 89 (2007). But if the Court decides that a that a variance sentence is warranted, "he must consider

... I assisted my co-defendant's attempt to provide himself to a terrorist organization ("ISIL"). ... I lied to them [FBI] about my knowledge of his trip and my involvement with helping him find a way to join the Islamic State." The defendant does not accept "full responsibility." This statement deflects responsibility to Joseph Farrokh.

⁵ The "sufficient, but not greater than necessary" statutory language is not an "admonition to be lenient." *United States v. Navedo-Concepcion*, 450 F.3d 54, 58 (1st Cir 2006). This sufficiency provision merely requires courts to impose a sentence that is consistent with the broad purposes in Section 3553(a)(2), most of which "hardly connote less punishment." *Id.* The Fourth Circuit has subscribed to this same view of the sufficiency clause. In *United States v. Smith*, 472 F.3d 222, 224-25 (4th Cir. 2006), the defendant argued that because a sentence at the low end of the guidelines range would always be reasonable, a court may not impose any higher sentence under the "sufficient, but not greater than necessary" standard. The Fourth Circuit swiftly rejected this argument: "To hold that the lowest sentence in an applicable range is always sufficient would rob 3553(a) of its force." *Id.*

⁶ The United States Sentencing Commission consists of seven voting members, at least three of whom shall be Federal judges. Title 28, United States Code, Section § 991(a).

the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance.” *Gall v. United States*, 552 U.S. 586, 597 (2007).

The recommended Guidelines sentence in this case is capped at the statutory maximum penalty, or 336 months. The government submits that the defendant should receive a substantial period of incarceration and that a “sufficient” sentence is one that is rationally and reasonably compatible with the United States Sentencing Commission Guidelines recommendation.

It is with this understanding that the government seeks a substantial period of incarceration for this defendant. As set forth in greater detail below and in the presentence investigation report, the defendant’s clear radicalization towards violent jihad, his open willingness to provide support to ISIL, his expressed rejection of the rule of law and the norms of a civil society (*I believe the man made laws and constitution are pure Shirk and Kufr*), and his egregious lies to the FBI when confronted with his unlawful conduct, all warrant strong condemnation by the United States and by this Court.⁷

II. BACKGROUND and OFFENSE CONDUCT

A. The Defendant (*history and characteristics*).

The defendant arrived in this country on or about June 1, 2012, after his mother obtained a U.S. permanent resident card on his behalf. The defendant’s mother, who has since passed away, was originally from the Sudan, but moved her family to Egypt when the defendant was a child. The defendant’s mother emigrated to the United States several years ago and gained legal

⁷ 18 U.S.C. 3553(a) requires the court to consider, among many other factors, how the particular sentence will “promote respect for the law.” *See* 18 U.S.C. 3553(a)(2)(A). The government submits that this factor has particular weight in this case: (1) the defendant has associated himself with a violent terrorist group that rejects the rule of law; (2) the defendant has expressed contempt for the rule of law and he has engaged in conduct demonstrating disdain for the rule of law; and, (3) the United States Sentencing Commission condemns this conduct in appropriately harsh terms, which has the added benefit of accurately reflecting public sentiment towards these terrorism crimes.

permanent resident status for herself. She subsequently sought and received U.S. permanent resident cards for many of her children, including the defendant. The defendant was 22 when he entered the United States. The defendant was 25 when he was arrested for these offenses.

The defendant was radicalized towards violent jihad either before he arrived in the United States or shortly after arriving in the United States.⁸ The defendant used various internet and social media sites to support and espouse violent jihad.⁹ PSR ¶11. (Ex. I) He publicly expressed in graphic terms his support for violent jihad. The defendant did not just talk the part of a violent radical, he acted upon it as well. He sought out Cooperator 1, who the defendant knew to be a significant figure of on-line Islamic radicalization. He sought out Sudanese cleric Sheikh al-Jazouly and expressed his desire to be a “sleeper cell.” He bragged to Joseph Farrokh about his contacts with Sheikh al-Jazouly. The defendant encouraged and arranged for Joseph Farrokh to leave his family and attempt to travel to Syria and Iraq to join the Islamic State.

The defendant has engaged in a pattern of criminal, anti-social activity in three years in the United States. The defendant has no respect for the rule of law. He expressly rejects the rule of law. When confronted with his conduct, his first, second and third reactions were to lie. The defendant also defrauded DC Medicaid in the amount of \$22,148.00 by falsely claiming a

⁸ In a Facebook posting in 2013 using his pseudonym Mahmoud Al-Dongulawi IV, the defendant posted a message praising Sami Osmacak as one of our “forgotten prisoners.” The defendant continued: “I saw this brother in 2009 on youtube and I wished to work with him one day, but the 1st day I came to the states I found that the disbelievers imprisoned him. May Allah release you akhe fe Allah.” (Ex. H)

⁹ The Islamic State’s adherents and followers actively use the internet and social media sites to incite terrorist activity and promote “lone-wolf” actors throughout the world, including within the United States. Strategically, propaganda production and dissemination is equally important to military jihad with respect to the terrorist organization’s goals and objectives. *See Media Jihad: The Islamic State’s Doctrine for Information Warfare*, Charlie Winter, *The International Centre for the Study of Radicalisation and Political Violence*. Found at <http://icsr.info/category/publications/>.

D.C. residence so he could receive medical treatment for injuries sustained because of a “new strenuous exercise program.” PSR ¶ and PSR page 11 (*New Information*).

The presentence report reflects that the defendant endured an abusive upbringing, albeit with a father who was a well-established goldsmith who provided well for his family. PSR ¶¶ 53-54. Any incidence of childhood abuse is sad and heartbreaking, and this defendant is no different. However, childhood abuse cannot be an excuse for aligning with and supporting a terrorist organization. Tens of thousands of victims of childhood abuse lead quiet lives dealing with their abuse without ever giving a thought to committing a crime, let alone a crime of terrorism. Drawing a causal connection between childhood abuse and terrorism does a grave disservice to victims of child abuse.

Finally, the defendant is likely to argue that his conduct was in some way “impulsive.” This claim is flatly rejected by the factual record in this case. The defendant engaged in escalating conduct over a period of 18 months. This conduct was deliberate, thoughtful, and planned -- everything but impulsive. The defendant argues that there are insufficient services available to him within the Bureau of Prisons. Once again, this is incorrect. The Bureau of Prisons’ website sets forth the mental health and other services available to prisoners. The defendant also argues that his near “certain” deportation should factor in the courts decision-making. Immigration consequences are purely collateral matters to the sentencing analysis, and find no support in the Section 3553(a) factors.

B. The Terrorist Organization.

The defendant has pled guilty to aiding and abetting the provision of material support to a designated foreign terrorist organization, to wit: the Islamic State. In addition, he has pled guilty to providing false statements to the FBI about his conduct. In order to understand the gravity of the defendant's conduct, it is important to provide the proper context for the terrorist group he supported.

The Islamic State is led by Abu Bakr al-Baghdadi. Mohamad al-Adnani served as the terrorist organization's chief spokesman and as a top advisor to Baghdadi. Adnani was killed in 2016. Baghdadi was declared a specially designated global terrorist by the Department of State on October 4, 2011. In a rare public address on July 5, 2014, within a mosque in Mosul, Iraq, Baghdadi declared the Islamic State a caliphate and he anointed himself the Caliph, or leader, of the organization. The objective of the terrorist organization is the forcible acquisition of land for the stated goal of creating an Islamic State without recognizing any national boundaries. The terrorist organization seeks to accomplish its goals through the commission of various criminal acts and acts of terror against the United States and the world community. On September 22, 2014, the organization released an audiotape of a speech by Adnani in which he states, on behalf of the FTO, "... if you can kill a disbelieving America or European ... then rely upon Allah and kill him in any manner or way however it may be. Smash his head with a rock, or slaughter him with a knife, or run him over with your car, or throw him down from a high place, or choke him, or poison him." Adnani concludes by stating "you have realized the threat of the Islamic State."

The Islamic State is a barbaric terrorist organization committed to the slaughter of the *kuffar* (non-Muslims). The Islamic State widely promotes its unique brand of savagery and perverted ideology through conventional media sources and modern social media outlets. The terrorist organization has publicly distributed its videotaped beheadings of American journalists and humanitarian aid workers. The terrorist organization torched a foreign soldier held captive in a cage and distributed the video of his brutal death. The Islamic State promotes and engages in the widespread rape and enslavement of women belonging to a religious minority in Iraq and Syria. The Islamic State slaughters thousands of males within the same religious minority. The terrorist organization's savagery does not respect any boundaries, moral or geographic, and the organization continues to promote and inspire violent acts, including acts committed within the United States.

C. The Offenses

The defendant was radicalized before he met Joseph Farrokh. The introductory statements of the defendant demonstrate this. In 2014, the defendant created a Twitter account for himself under the pseudonym @Loverofhooreen. On March 12, 2014, the defendant tweeted, "the day you die on the sake of Allah is the day you are born somewhere else." Two days later, the defendant retweeted photos of a lion and terrorist heroes, including Osama bin Laden, Anwar Aulaki, and Abu Musab Al-Zarqawi. On March 16, 2014, the defendant retweeted a photo of dozens of men waving the black jihad flag, with the caption "hey Obama!! We are all sheikh Osam, we are all Sheikh Baghdadi."

Mahmoud Elhassan became friends with Joseph Farrokh in March 2015 and their friendship, and criminal activity, deepened after the defendant attended Farrokh's wedding in August 2015. From August 2015, until their subsequent arrests, the defendant and Farrokh spoke openly with each other about supporting the Islamic State and supporting violent jihad. The co-defendants watched videos online that glorified terrorism in support of Islam, such as videos depicting sermons by Anwar Awlaki. The co-defendants discussed the contents of the videos and supported the ideology promoted in the videos. Elhassan educated Farrokh about the sermons of a radical Sudanese cleric who supported the Islamic State. PSR ¶12.

In the late summer of 2015, Farrokh talked more seriously with his co-defendant about traveling overseas and joining the Islamic State. On October 2, 2015, in a conversation about events in Syria, Farrokh told the defendant that he had no patience and that he wanted to go right away and "chop their heads."

On December 9, 2015, Farrokh told the defendant that he had recently submitted his two-week notice at work in preparation for his travel to Syria in January 2016. Farrokh researched flights, possibly out of Richmond, Virginia, to avoid what Farrokh believed to be stricter law enforcement scrutiny at larger airports. Farrokh told CHS #1 that he would send CHS #1 his flight information soon so that CHS #1 could assist Farrokh with his overseas travel plans. On or about December 21, 2015, Farrokh finalized his travel plans by purchasing his airplane ticket for Jordan, departing January 15, 2016 from Richmond, Virginia, and connecting in Chicago, Illinois.

Shortly before 8:00 a.m., on January 15, 2016, the defendant picked-up Farrokh at his residence in Woodbridge, Virginia. The co-defendants' plan included having the defendant drive Farrokh to a spot near the Richmond International Airport. At a bathroom in Dale City, Farrokh shaved his beard in an effort to avoid scrutiny when he reached the airport. After leaving Dale City, Elhassan drove southbound on Interstate 95 towards Richmond. Upon reaching the vicinity of the Richmond International Airport, Elhassan and Farrokh stopped at a commercial and retail area approximately one mile from the airport. Elhassan and Farrokh stayed together at this commercial area for approximately two hours. At approximately noon, Elhassan call taxicab for Farrokh. Farrokh entered this taxicab which drove him the approximate one mile to the Richmond International airport. Elhassan departed the commercial area near the airport and drove northbound on Interstate 95. He was surveilled by law enforcement agents as he proceeded on Interstate 95.

After several other efforts at avoiding scrutiny, Farrokh entered the airport terminal and proceeded to check-in for his flight to Jordan, *via* Chicago. Upon checking in, Farrokh cleared through the departure security area carrying two bags. Farrokh was arrested by the FBI as he was approaching his departure gate.

Subsequent to Farrokh's arrest, FBI agents approached Elhassan that afternoon at a location in Woodbridge, Virginia, where he voluntarily consented to an interview. During the course of the interview, Elhassan verbally acknowledged to the interviewing agents more than once that he knew it was illegal to knowingly lie to federal agents. He then proceeded to make numerous false statements in response to the agents' questions. Elhassan admitted knowing Farrokh and stated that he had first met Farrokh

approximately two months ago and that the two would occasionally talk by telephone. When asked when he had last seen Farrokh, Elhassan told the agents that it had been around 11:30 a.m. that day in the Woodbridge, Virginia area. He further stated that Farrokh was going to the airport to fly to California to attend the funeral of a friend and that Farrokh had told him that he would be gone for two weeks. When asked which airport Farrokh was departing from, Elhassan initially hesitated then said that Farrokh was flying out of Dulles airport. At the conclusion of the interview, Elhassan was placed under arrest.

III. The Applicable Guidelines Range Is Correctly Calculated at 360 months to Life, with a Restricted Statutory Cap at 336 months.

1. The Probation Officer's Report and Calculation of the Sentencing Guidelines.

The United States has reviewed the Presentence Investigation Report (PSR) and we have no corrections or objections to the PSR. The PSR properly calculates a base offense level of 37 at criminal history category VI, based upon the guidelines requirement that the terrorism enhancement (§3A1.4(a)) and the automatic calculation of criminal history category VI (§3A1.4(b)) is applied based on the facts of this case. Further, the government agrees that the probation officer has properly assessed an obstruction of justice enhancement pursuant to §3C1.1. The Guidelines recommend a sentence of 360 months to Life Imprisonment. However, the Guidelines are restricted in this case to the statutory maximum sentence of 336 months.

2. Sentencing Law

As this Court is aware, after *United States v. Booker*, 543 U.S. 220 (2005), the district court must engage in a multi-step process in sentencing a defendant. First, the court must

correctly determine, after making appropriate findings of fact, the applicable guideline range. *United States v. Moreland*, 437 F.3d 424, 432 (4th Cir. 2006). In doing so, the Court must make factual findings, supported by a preponderance of the evidence, to support any pertinent guidelines enhancements. See *United States v. Grubbs*, 585 F.3d 793, 803 (4th Cir. 2009); *United States v. Harvey*, 532 F.3d 326, 337 (4th Cir. 2008); *United States v. Quinn*, 359 F.3d 666, 680 (4th Cir. 2004). cf *United States v. Hammoud*, 381 F.3d 316, 355 (4th Cir. 2004) (No plain error when District Court applied preponderance of the evidence standard at a sentencing hearing for terrorism enhancement.) “Next, the court must ‘determine whether a sentence within that range serves the factors set forth in § 3553(a) and, if not, select a sentence [within statutory limits] that does serve those factors.’” *Id.* (quoting *United States v. Green*, 436 F.3d 449, 455 (4th Cir. 2006)).

That the Sentencing Guidelines are non-binding does not render them irrelevant to the imposition of an appropriate sentence. “As a matter of administration and to secure nationwide consistency, the Sentencing Guidelines should be the starting point and the initial benchmark” for determining a defendant’s sentence. *Gall v. United States*, 552 U.S. 38, 49 (2007); *United States v. Abu Ali*, 528 F.3d 210, 260 (4th Cir. 2008). Indeed, given the Sentencing Commission’s important institutional role and expertise, the recommended guidelines range typically will “reflect a rough approximation of sentences that might achieve § 3553(a)’s objectives.” *United States v. Kimbrough*, 552 U.S. 85, 89 (2007) (quoting *Rita v. United States*, 551 U.S. 338, 350 (2007)); *United States v. Lyman*, -- F.3d --, 2015 WL 1219553, at *4 (4th Cir. Mar. 18, 2015). The district court must therefore “consider the guideline range applicable to the defendant and pertinent policy statements of the Sentencing Commission.” *United States v.*

Perez-Pena, 453 F.3d 236, 241 (4th Cir. 2006); *see also United States v. Hughes*, 401 F.3d 540, 548 (4th Cir. 2005) (“In the wake of *Booker* . . . a sentencing court is still required to ‘consult [the] Guidelines and take them into account when sentencing.’” (quoting *Booker*, 543 U.S. at 264)). And, if the district court imposes a sentence outside the guideline range, the court must explain its reasons for the variance as required by 18 U.S.C. § 3553(c)(2). *Id.*; *see also United States v. Carter*, 564 F.3d 325, 328 (4th Cir. 2009); *Abu Ali*, 528 F.3d at 260 (“If the sentencing court believes ‘an outside-Guidelines sentence is warranted, [it] must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance.’” (quoting *Gall*, 552 U.S. at 597¹⁰)); *United States v. Moreland*, 437 F.3d 424, 434 (4th Cir. 2006) (“The farther the court diverges from the advisory guideline range, the more compelling the reasons for the divergence must be.”).

The United States is witnessing a disturbing trend in the imposition of sentences in terrorism cases that are between 40% to 60% below the minimum recommended Guidelines sentence (which are often already restricted at the statutory maximum penalty). Variance sentences of this magnitude cannot not properly weigh the public safety interests of these violent crimes.¹¹ The “overarching provision” within the sentencing statutory framework is congress’s instruction to the district courts to impose a sentence “‘sufficient, but not greater than necessary’ to accomplish the goals of sentencing, including to reflect the seriousness of the offense.... *Kimbrough v. United States*, 552 U.S. 558, 570 (2007)(listing all of the 3553(a) factors). In

¹⁰ “We find it uncontroversial that a major departure should be supported by a more significant justification than a minor one.” *Id.*

¹¹ Several 3553(a) factors address public safety or otherwise the promotion of a peaceful society: (i) “nature and circumstances of the offense;” (ii) “seriousness of the offense;” (iii) “promote respect for the law;” (iv) “just punishment;” (v) “adequate deterrence to criminal conduct;” (vi) “protect the public from further crimes of the defendant.”

addressing the 3553(a) factors, the Court must reach the “sufficiency” clause before addressing the greater than necessary clause.

Defendants convicted of material support for terrorism pursuant to 2339B, and related terrorism statutes, are engaging in a unique and violent brand of criminality. Reflexively untethering these crimes from the Guidelines does not further the interests of justice, nor does it properly follow the Supreme Court’s guidance, nor does it properly account for statutory balancing framework set forth in 3553(a).

3. The Terrorism Enhancements in U.S.S.G. §3A1.4(a)-(b) are Properly Applied.

The probation officer properly applied the 12 level offense conduct adjustment in U.S.S.G. §3A1.4(a), and the application of criminal history category VI set forth in U.S.S.G. §3A1.4(b). The defendant does not contest this application. Indeed, the application of the terrorism enhancements in this case are “straightforward.” *See United States v. Benkhala*, 530 F.3d 300, (4th Cir. 2008) (holding that enhancement was proper because defendant “attended a jihadist training camp abroad, was acquainted with a network of people involved in violent jihad and terrorism, and lied about both”) *cf. United States v. Chandia*, 514 F.3d 365, 376 (sentencing remanded to District Court where court “appeared to assume (erroneously) that the enhancement automatically applies to a material support conviction” and so “did not make any factual findings related to the intent element.”) *cf. United States v. Hammoud*, 381 F.3d 316, 355 (4th Cir. 2004) (No plain error when District Court applied preponderance of the evidence standard at a sentencing hearing for terrorism enhancement.)

The uncontroverted evidence established by (1) the plea colloquy in this matter, (2) the pre-sentence investigation report, and (3) the expressed statements of the defendant, amply

demonstrates that the defendant intended to commit a federal crime of terrorism. First, in accepting the defendant's guilty pleas on October 24, 2016, the Court accepted the sworn affidavit of the defendant in which he admits his conduct to both the §2339B offense and the terrorism related false statements offense. The defendant admitted he knew the Islamic State was a designated foreign terrorist group. See PSR ¶7, subparagraph 3. A conviction under §2339B requires the government to prove the defendant's "knowledge that the organization is a designated terrorist organization, that the organization has engaged or engages in terrorist activity, or that the organization has engaged or engages in terrorism." 18 U.S.C. §2339B(a)(1). A defendant who has been convicted of providing material support to an FTO may be subject to the enhancement if the evidence establishes that he provided such support with the "intent to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct." *United States v. Chandia*, 524 F.3d 365, 376 (4th Cir. 2008).

Further, at the Rule 11 hearing held on October 24, 2016, the Court asked the government to recite the facts it would have proven beyond a reasonable doubt had the matter gone to trial.

Among other facts, the government proffered the following:

"Between August and January – August 2015 and January 2016, the defendant and Mr. Farrokh had numerous conversations about the upcoming travel and the preparations and what Mr. Farrokh would do there. A number of the conversations were violent in nature expressing a desire to go over there and chop heads, fight against the U.S. military, etc."

Transcript, October 24, 2016, p. 17, lines 14-20. At the conclusion of the recitation of facts, counsel for the defendant said the only disputed fact was the government's assertion that the co-defendant's scheme involved the defendant travelling to Syria and Iraq at a later date to join Farrokh. The Court then had the following exchange with the defendant:

THE COURT: All right. Mr. Elhassan, would you come forward, please. I understand from your counsel that you dispute any claim or any recitation that you had agreed to go overseas yourself or that you had indicated that you would do so. Other than any of the facts that Mr. Fitzpatrick mentioned relating to that issue, do you dispute anything else that the government has told the Court?

THE DEFENDANT: No, Your Honor.

Transcript, October 24, 2016, page 21, lines 15-19. Further, the Court had the following exchange with the defendant concerning his knowledge:

THE COURT: In Court 2 of the indictment, it states that you know that ISIL was a designated foreign terrorist organization, that ISIL engages and has engaged in terrorist activity, and that ISIL engages and has engaged in terrorism. Do you agree that that is a correct statement of your knowledge?

THE DEFENDANT: yes, your Honor.

Transcript, October 24, 2016, page 23, lines 8-15.

Second, the PSR is replete with uncontested evidence that the defendant knew he was pleading guilty to a federal crime of terrorism as that term is defined by statute. Again, the Islamic State's entire reason for being is to (1) forcibly take land in Syria, Iraq and elsewhere, (2) draw the United States into battle, and (3) encourage "lone wolf" actors aligned with the Islamic State to commit terrorist attacks in the United States in order to influence, intimidate or coerce the government. Within the PSR, we know the following:

1. The defendant sought out Cooperator 1 in order to become introduced to people who could facilitate travel to ISIL controlled territory. The defendant knew that Cooperator 1 had for years ran an organization that operated internet platforms and websites containing postings and information supportive of violent jihad. PSR ¶¶ 8,11.
2. The defendant had been using various internet sites ... to support and espouse violent

jihad since shortly after his arrival in the United States in 2012. PSR ¶ 11.

3. On one of his Facebook pages, the defendant's profile was a black jihad flag associated with Islamic extremist groups. PSR ¶ 11
4. The defendant posted videos supporting terrorism. PSR ¶ 11
5. The defendant posted a comment that "he wished to work with him some day" referring to a violent extremist who railed against "the infidel status of Christians and Jews." PSR ¶ 11
6. The defendant communicated with Al-Jazouly and informed Farrokh of his contact with Al-Jazouly. PSR ¶ 12.
7. The defendant repeatedly lied to the FBI when confronted about his conduct, demonstrating his consciousness of guilt. PSR ¶¶ 27,28.

Third, the expressed statements of the defendant set forth in the introduction reflect that the defendant intended to influence or affect the conduct of government by intimidation or coercion or to retaliate against government conduct. For instance, this statement perfectly reflects the defendant's intent: *Allah commanded us to fight- and fighting is not throwing candies but necks being chopped off and stomachs being slashes (sic) and eyes poked!*

This record contains overwhelming evidence of the defendant's intent to commit a federal crime of terrorism. As the Fourth Circuit has plainly stated, "the terrorism enhancement is doing just what it ought to do: Punish[] more harshly than other criminals those whose wrongs served an end more terrible than other crimes." *United States v. Benkhala*, 530 F.3d 300, (4th Cir. 2008).

4. Defendant's Argument for a Mitigating Role Departure Pursuant to U.S.S.G. §3B1.2 is Unsupported and Should be Rejected.

As expected, and as reflected in the defendant's acceptance of responsibility, the defendant attempts to argue that Joseph Farrokh is the more culpable defendant in this case. As this memorandum argues elsewhere, that assertion is false. The defendant was not a minimal participant (§3B1.2(a)) or a minor participant (§3B1.2(b)). The defendant played a motivating and aggressive role in this case. The defendant was radicalized long before Joseph Farrokh. The defendant sought out Cooperator 1 for the purpose of learning how to support the Islamic State. The defendant sought out Sheikh Al-Jazouly, the Sudanese cleric whose entire reason for being is to promote violent jihad. Finally, the probation officer is correct that if we accept the defendant's characterization that the defendant was a recruiter, which he surely was and more, then that actually supports an *aggravating* role adjustment upward. Instead, the Court should reject the defendant's argument for a mitigating role downward adjustment.

5. The 18 U.S.C. § 3553(a) Sentencing Factors Support a Guidelines Sentence.

Under 18 U.S.C. § 3551, a defendant must be sentenced "in accordance with the provisions of this chapter so as to achieve the purposes set forth in subparagraphs (A) through (D) of section 3553(a)(2) to the extent that they are applicable in light of all the circumstances of the case." This mandate is repeated in the first sentence of § 3553(a), which provides: "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." This section then states that in determining a particular sentence, a sentencing court must consider certain enumerated factors. Thus, § 3553(a) serves two functions:

First, it prescribes that every sentence comply with the four announced *purposes* for sentencing. Second, it lists seven *factors* that a court must consider in determining a particular sentence, and included as one of the factors is the list of announced purposes for sentencing in § 3553(a)(2).

* * * *

The proper application of § 3553(a) therefore requires a sentencing court to focus on the four *purposes* of sentencing, as applicable in a particular case, and to consider, in determining a sentence that achieves those purposes, the seven *factors* listed in § 3553(a)(1)-(7).

United States v. Shortt, 485 F.3d 243, 247-48 (4th Cir. 2007) (emphasis in original). These factors, however, can themselves overlap. *United States v. Johnson*, 445 F.3d 339, 345 (4th Cir. 2006) (comparing, for example, promoting respect for the law under § 3553(a)(2)(A) and affording adequate deterrence under § 3553(a)(2)(B)).

In this case, the § 3553(a) factors are consistent with a Guidelines sentence. Of particular significance for this case are the factors addressing public safety: (1) the nature and circumstance of the offense, (2) the need for the sentence imposed to reflect the seriousness of the offense, (3) promotion of respect for the law; (4) just punishment; (5) adequate deterrence to criminal conduct; (6) protect the public from further crimes of the defendant.

A. The Public Safety Factors.

i. *nature and circumstances of the offense and seriousness of the offense.*

It is impossible to understand the severity of the defendant's conduct outside of the context of the terrorist group he seeks to support. For this reason, the government sets forth in stark terms in its memorandum the graphic description of ISIL. The ease with which the defendant gravitated towards this brutal terrorist organization is alarming. The defendant was active online espousing the virtues of the terrorist organization, expressing his own views about

the organization, and actively seeking to assist the organization. At different times, the defendant characterized himself as a “sleeper cell” and as a “solo wolf.” These are loaded terms meant to intimidate and incite and they accurately reflect the defendant’s motivation.

Finally, the defendant’s repeated lies to the FBI on the same day he delivered Farrokh to the airport demonstrates someone who was committed to making the plan work. The defendant could have acknowledged to the FBI the seriousness of this conduct. He made a different choice. He chose allegiance to the Islamic State cause over allegiance to the truth.

A Guidelines sentence reflects the seriousness of this offense and society’s contempt for the defendant’s conduct.

- ii. *promote respect for the law, just punishment, deterrence, and protect the public from further crimes of the defendant.*

As a general matter, terrorism crimes in this era are properly viewed as one of the more serious classes of crimes in criminal justice. Recent events within the last five to seven years have demonstrated the enormous toll in loss of life terrorism crimes create in communities across the country. Further, with the spread of the poisonous ideology into the internet and social media, the jihadist philosophy shows no sign of abating. A lengthy sentence recommended by the Guidelines would send an appropriate message to the public that we are guided by the rule of law.

The importance of this factor cannot be overstated. A substantial sentence in this case would send an appropriate and much needed message to all persons harboring any notion that serving, joining or aiding the Islamic State in any manner is worthwhile. It is abhorrent conduct. Strong punishments for this conduct send the appropriate message to others, *i.e.*, that

providing support to terrorist organizations will be pursued aggressively, and those who violate the law in this manner will be tried, convicted, and punished accordingly.

In a free, open, and vibrant democracy, tough sentences for violent crimes achieve justice by allowing the people to live freely without fear, violence and intolerance. Fidelity to the rule of law, and respect for the law, is a hallmark of American democracy. As applied to this defendant, in his short time in the United States he has demonstrated no respect for the law. A lengthy sentence would certainly send the appropriate message to this defendant.

IV. CONCLUSION

The defendant's state of mind and conduct in this case were egregious and go to the heart of the safety of our community and the nation. After a fair evaluation of the defendant's conduct, the nature and circumstances of the case, and the sentencing factors set forth in 18 U.S.C. § 3553(a), the government submits that a substantial sentence that is rationally and reasonably compatible with the United States Sentencing Commission Guidelines is warranted in this matter.

Respectfully submitted,

Dana J. Boente
United States Attorney

By /s/
Dennis M. Fitzpatrick
Assistant United States Attorney
Attorneys for the United States of America
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, Virginia 22314
(703) 299-3700
Dennis.fitzpatrick@usdoj.gov

EXHIBIT A

September 13, 2013, public screenshot of a Mahmoud Elhassan Facebook page under his pseudonym Mahmoud Al-Dongulawi IV.

facebook.com/mahmoud.amin.3150?hc_location=timeline

Would you like to translate it?

Translate

Nope

Dongulawi IV

Q

Home 20+ Find Friends

Recent

Al-Dongulawi IV Timeline Recent

Abdulrahman
MuhajirWagdi Ghoneim
الغنيمة / Wagdi

Mahmoud Al-Dongulawi IV

September 13 · At



The establishment of the governance of Allah on earth will be achieved only by fighting in the cause of Allah.

Allah exalted is He said : Fight them until there is no [more] fitnah and [until] Deen is all for Allah .

Like · Comment · Share

Like · Comment · Share

Mahmoud Al-Dongulawi IV

September 13 via mobile



I met this guy from the ghetto couple of days ago and he mentioned a word that I had to look up the whole dictionary for but found nothing.

The word was "Banan", I met him again and I asked him about and what I understood was he meant to say "about none".

Unlike · Comment · Share

You like this.

View 3 more comments

Sponsored

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Old Navy

oldnavy.gap.com



We've got your favorite looks at your favorite prices. Shop now!

EXHIBIT B

*Facebook screen shot of a Mahmoud Elhassan's
"Solo Wolf" account established November 18, 2013.*

facebook.com/profile.php?id=100007059102784

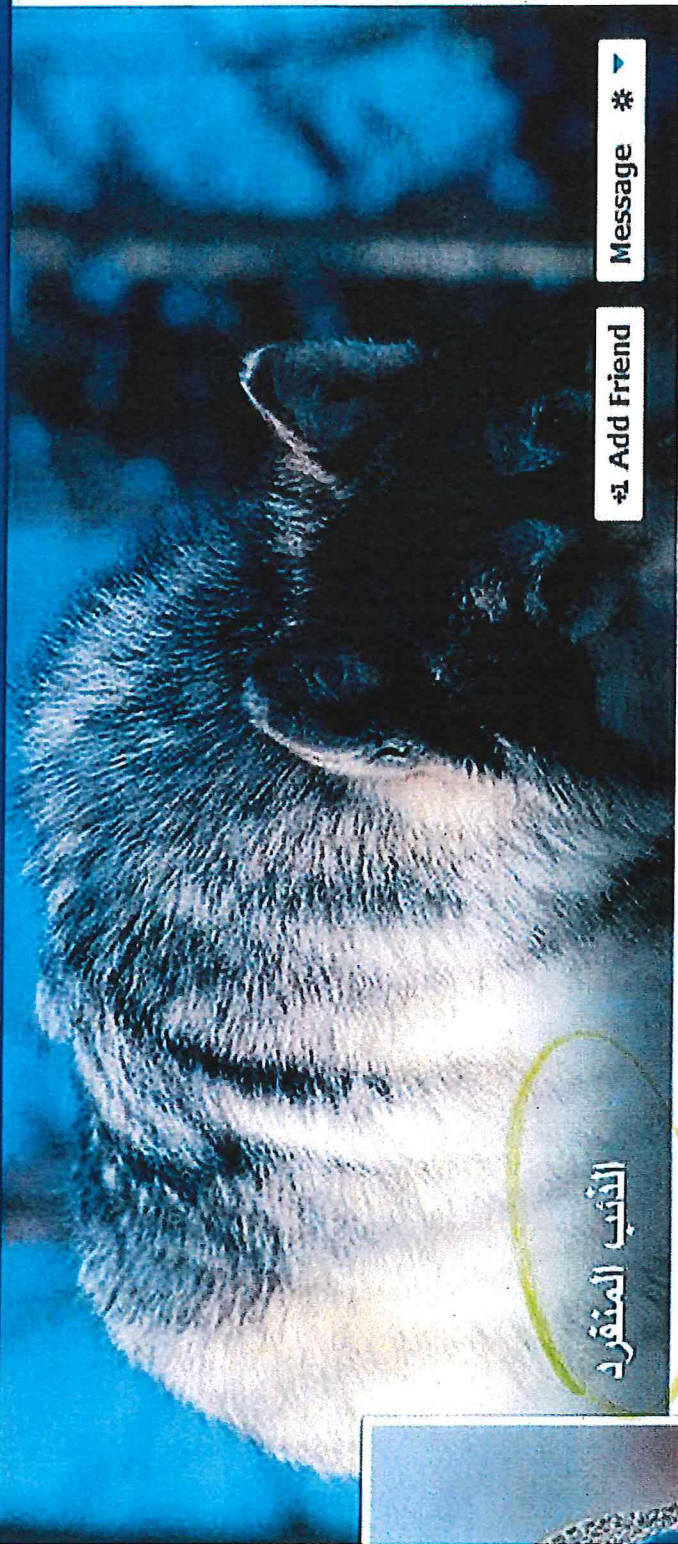
Search Here

Home

Home

Home

Q



More

11 Mutual

Friends

Photos

About

Timeline

11?

ares with friends, send him a friend request.



11 Mutual Friends

+1 Add Friend



Joined Facebook

employed

ddeen, science of Hadith at Al-

الدكتور المنقر

Timeline

About

Photos

Friends 11 Mutual

More ▾

Message ✱

+1 Add Friend

Share with friends, send him a friend request.

11 Mutual Friends

+1 Add Friend

Employed

Osod Addeen, science of Hadith at Al-

Y

Joined Facebook

November 18

im, Sudan

a, Egypt

Left Al-Azhar University



College — Osod Addeen, science of Hadith • Student of Shaykh Mazin Asirawi

2013

EXHIBIT C

*June 20, 2014, Facebook chat between Mahmoud Elhassan (using his
"Solo Wolf" account) and Sudanese cleric Mohammad Al-Jazouli.*

(English translation covers Arabic original)

2014-06-20

✓ Mahamud Elhassan

[LS: Summary of conversation between "L" [Lone Wolf] (100007059102784) and "M" Sheikh Mohammad Al-Jazouli (100006344983140)]

M asks where L is from.

L: My mother is Egyptian and my father is Sudanese and I am living in the U.S.

I asked you about Al-Nafeer [LS: Doing Jihad among Muslims in Muslim countries] about a month ago on your previous account sheikh

L: Praise be to Allah here with you is a sleeper cell. Sheik pray for us for success and rewards.

M: May Allah keep you but don't speak like this on Face[book].

M: Are there brothers who listen to sermons in the U.S.?

L: Yes sir, by Allah sheikh there are people who start shaking upon hearing the word J [LS: Jihad].

M: I didn't understand you??

L: I know only some wives of brothers who are incarcerated who listen to your sermons.

L: Your sermons sheikh talk about fighting and the situation of the Umma [Islamic nation] and Muslims here are following the cautious way.

M: May Allah help, the translators are young American men or Arabs who are living there

L: In all honesty sheikh I think I am the only one in this country who listens to you.

L: The government arrested any person who supports the Umma and carries its wounds.

L: As for the sheikhs at mosques, they invite government officials to mosques so they would tell Muslims to vote in the elections.

M: I am in contact with young men who are living in the U.S.

L: Please connect me to them, by Allah I am feeling that I am alone and I don't have anyone but the brothers on the internet and they might be infidel intelligence or they might be good brothers

L: As for the young men who are helping me with translation

L: Fatayat Al-Tawheed [username] is Eritrean [LS: From pervious chat her name is Huda] and she told me that her father knows you

L: And she told me that I can help her with translation

L: They are in Australia

L: And Allah knows if she is even a girl or an infidel, but whatever happens is what Allah has in store for us

L: You have added her [as a friend] sheikh

L: [Attachment]

L: Yes

L: You know her sheikh or did she sneak in

M: Via the internet

L: OK sheikh if you know brothers here then please point me to them and by Allah I am not taking on a fake identity, just looking for brothers whom I can work with until we get out of here, to bring a number of infidels to Islam, to organize demonstrations in support of our incarcerated brothers whom been accused of crimes for their intentions only

L: And that is why I talk with non Muslims and talk with young men at the mosque so we would unite because one hand cannot clap

L: Also here people are scared of talking about the real Islam, but not the short-sleeve Islam

L: And everywhere I go I play your sermons whenever I can

L: Please advise me sheikh may Allah bless you

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  نوحد جهودنا لحد ما نتخرج من هنا ندعوا لينا كم كافر للاسلام ننظم مظاهرات نضامنا مع اخوانا
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EXHIBIT D

*December 23, 2014, "My doctrine" Facebook
post by Mahmoud Elhassan.*

Facebook Business Record for account 100005228508579 Page 3915

Posted 2014-12-23 04:46:39 UTC

Status My doctrine in short: I believe the man made laws and constitutions are pure Shirk and Kufr. I believe whoever implements or make these constitutions and laws is Kaafir. I believe the armies that protect these constitutions and laws are in general are apostate armies. I believe after mentioning these points that Muslims need to fight these apostate armies and governments, remove the Shirk of constitution and establish the Shari'ah.

Mobile true

EXHIBIT E

May 3, 2015, "fighting" Mahmoud Elhassan Facebook post using the pseudonym Mahmoud Akoud (since 2009).

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- <minifeedStory>

<story>Mahmoud Akoud commented on his own status. 'Akhe let me ask you a question, what is the greatest evil? Kufr and ruling Allah's earth by Kufr or killing a muslim? I can answer this question directly from the Quran, Allah says: And fight them until there is no fitnah and [until] the religion, all of it, is for Allah. And if they cease - then indeed, Allah is Seeing of what they do. All the scholars with no dispute agree that Fitnah here means Kufr!.. So Allah commanded us to fight and die for what? to remove the Fitnah and establish his deen! This is the true fitnah which is ruling by other than the Deen of Allah. The other thing is if these scholars believe that today's rulers are disbelievers then the second step would be getting the Ummah ready to fight them not allying with them and give them Shari'e reasons to stay on power!'</story>

<time>2015-05-03T11:02:30Z</time>

</minifeedStory>

- <minifeedStory>

<story>Mahmoud Akoud commented on his own status. 'Plus akhe, are our lives better and more worthy/valuable than the Deen of Allah and its establishment!'</story>

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</minifeedStory>

- <minifeedStory>

<story>Mahmoud Akoud commented on his own status. 'As you can see in the above verse Allah commanded us to fight- and fighting is not throwing candies but necks being chopped off and stomachs being slashes and eyes poked! for what?'</story>

<time>2015-05-03T11:09:17Z</time>

</minifeedStory>

- <minifeedStory>

<story>Mahmoud Akoud commented on his own status. 'Also, who can decide how much power we need to fight these regimes? the scholars who work for them or those in the front lines!'</story>

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<story>Mahmoud Akoud commented on his own status. 'These are questions that need to be answered so at least we know who we should take fatwahs from. If the scholars who work for them can come down from their seats and do as Ibn Taymiyyah did calling Muslims and encouraging them to fight the Tatars then wallahi I will be the first to follow them, but unfortunately no.'</story>

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</minifeedStory>

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Firefox/37.0</userAgent>

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</activities>

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EXHIBIT F

September 7, 2015, Facebook conversation (to live for Allah and to die for Allah) using the pseudonym Mahmoud Akoud (since 2009).

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EXHIBIT F

September 7, 2015, Facebook conversation (to live for Allah and to die for Allah) using the pseudonym Mahmoud Akoud (since 2009).

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EXHIBIT G

*“Carrier of the punishment flag” Facebook posting by
Mahmoud Elhassan using his Akoudamina pseudonym.*

EXHIBIT H

Mahmoud Elhassan posting as Mahmoud al-Dongulawi VI with (1) the Islamic State flag and (2) reference to Sami Osmakac.

www.facebook.com/mahmoud.amin.3150/about

Mahmoud Al-Dongulawi IV



Home Find Friends Jester



الامين

Cover Photo



Mahmoud Al-Dongulawi IV

+1 Add Friend

Message



Timeline About Photos Friends More

About

Sponsored

Araishaa



Like • 26 people like it

you need help

yp



Like • 56,567 people

ATHLETE Studio



Like • 524 people like it

+1 Add Friend

fbid=1379702652244090&set=a.1379702652244091.1073741826.1000061310787498&type=1



book.com/mahmoud.amin.3150

Would you like to translate it?

Translate

Nope

Mahmoud Al-Dongulawi IV

Mahmoud Al-Dongulawi IV Timeline Recent

news 1



الدكتور

1 2 4



بدر الأحمه



Bilad Al Shaam



Musa Cerantonio



Is Of The



Free Abu Hamza



Mutah "Napoleon" Seale

ips 1

Muslim Prisoners
1,525 members

Don Ahmed wanti bis7a ya moze

October 15 at 12:24pm · Like · 1

عبد هاديك عليا و عبد

Princess Diamond

October 15 at 3:22pm · Like · 1

رنا بيسكي يا

Eng Savoy

October 15 at 5:41pm · Like

أحمد

Mahmoud Al-Dongulawi IV

October 12

Mahmoud Al-Dongulawi IV shared a link.

One of our forgotten prisoners, I saw this brother in 2009 on youtube and I wished to work with him one day, but the 1st day I came to the states I found that the disbelievers imprisoned him! May Allah release you akhe fe Allah

Muslim Message To The Jews & Christians

www.youtube.com

A message from brother Abdul Samad to the so-called people of the book. What are you following?

Like · Comment · Share

Mahmoud Al-Dongulawi IV

October 12 via mobile



احب الحبيب الحماضية التي نشغل الغيرة علي الدين في كلوب المؤمنين وتترك عروش الطواغيت وليست الا يدبر شؤم على الطغاة المعادين.

Like · Comment · Share

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2015

Born

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Fall into Savings

statefarm.com



It's open season for discounts! Switch to State Farm® and you could save \$500. Get A Quote

Meet Single Guys

match.com



See who's on Match.com. Browse pics & profiles of single men - it's FREE to look!

Unique Engagement Rings

brilliantearth.com



Discover Brilliant Earth's beyond conflict free diamond rings & fine jewelry - click here!

PA Trips By Train

patriotsbytrain.com



Love TRAVEL? Get away on the Amtrak® Keystone Service®. Click for Discounted Trip Packages

"Sweater Weather" Sale!

cully.com



Beautiful and luxurious sweaters and tops up to 70% off! Sale ends soon, shop now!

Join Google+

Join now and connect with the people who matter most.

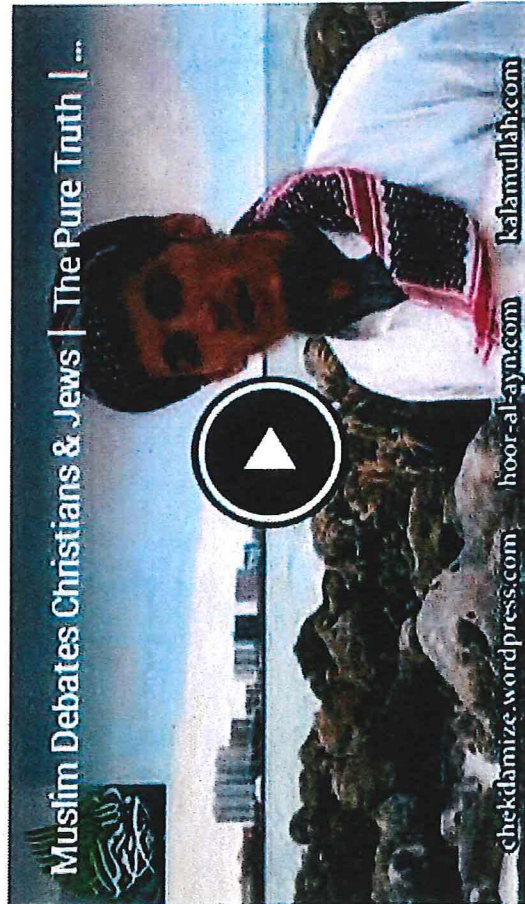
6 have him in circles

About Posts Photos Videos

Ibn Aljarrah commented on a video on YouTube.

Shared publicly · Feb 22, 2015

Akhe is there anyone of these brothers still exist in the states other than bro Abdul Samie may Allah release him? If yes then please get me in contact with them I want to start giving dawah if not then I just have to start all by myself. Please akhe do not abandon me



+1



100% 100%

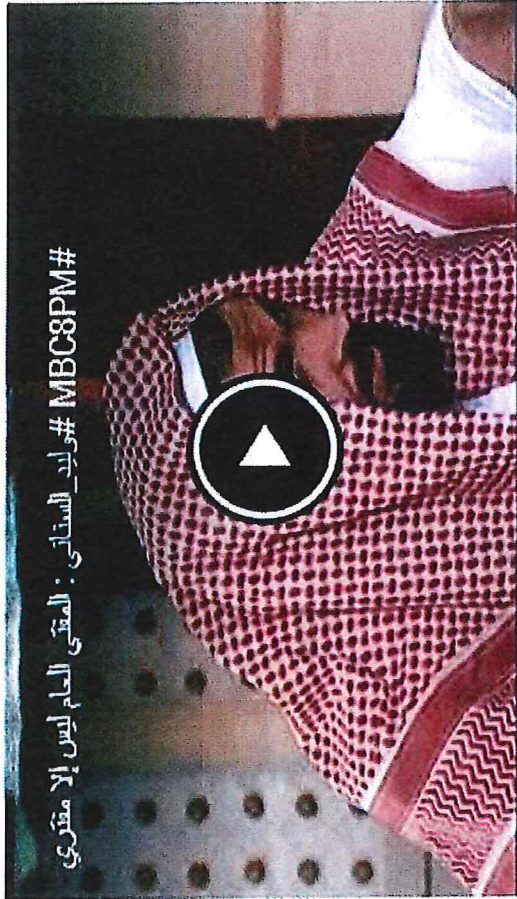


Ibn Aljarrah commented on a video on YouTube.

Shared publicly · Feb 22, 2015

والله اني ربي الله عز وجل في كل وقت وكل مكان وكل وقت وكل مكان
وانه في كل وقت وكل مكان

Translate



+1



4 comments

Ibn Aljarrah · Feb 22, 2015

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA**vs.****SAMI OSMAKAC**

**Case Number. 8:12-cr-45-T-35AEP
USM Number: 55958-018**

George E. Tragos, Retained

JUDGMENT IN A CRIMINAL CASE

The defendant was found guilty to Counts One and Two of the Indictment. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 2332a(a)(2)	Attempted Use of Weapons of Mass Destruction	January 7, 2012	One
26 U.S.C. §§ 5861(d) and 5871	Possession of Unregistered Firearm	January 7, 2012	Two

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence:

November 5, 2014


MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

November 5, 2014

Sami Osmakac
8:12-cr-45-T-35AEP

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **FOUR HUNDRED AND EIGHTY (480) MONTHS**. This term consists of **FOUR HUNDRED AND EIGHTY (480) MONTHS** as to Count One and **ONE HUNDRED AND TWENTY (120) MONTHS** as to Count Two, all such terms to run concurrently.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

Sami Osmakac
8:12-cr-45-T-35AEP

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **LIFE. This term consists of LIFE as to Count One and THIRTY-SIX (36) MONTHS as to Count Two, all such terms to run concurrently.**

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from custody of the Bureau of Prisons. The defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The mandatory drug testing requirements of the Violent Crime Control Act are waived. However, the Court orders the defendant to submit to random drug testing not to exceed 104 tests per year.

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervision that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervision in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. the defendant shall not leave the judicial district without the permission of the court or probation officer;
2. the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. the defendant shall support his or her dependents and meet other family responsibilities;
5. the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. the defendant shall notify the probation officer **at least ten (10) days prior** to any change in residence or employment;
7. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;

Sami Osmakac
8:12-cr-45-T-35AEP

11. the defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;
12. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
13. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. The defendant shall participate in a mental health treatment program (outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, the defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Mental Health Treatment Services.
2. The defendant shall submit to a search of your person, residence, place of business, any storage units under the defendant's control, computer, or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. You shall inform any other residents that the premises may be subject to a search pursuant to this condition.
3. The defendant shall cooperate in the collection of DNA, as directed by the Probation Officer.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in the Schedule of Payments.

Total Assessment

\$200.00

Total Fine

waived

Total Restitution

n/a

SCHEDULE OF PAYMENTS

Special assessment shall be paid in full and is due immediately.

FORFEITURE

Defendant shall forfeit to the United States those assets previously identified in the Preliminary Order of Forfeiture, that are subject to forfeiture.

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:12-cr-45-T-35AEP

SAMI OSMACAC

PRELIMINARY ORDER OF FORFEITURE

The United States moves this Court, pursuant to 18 U.S.C. § 981(a)(1)(G), 18 U.S.C. § 924(d)(1), 26 U.S.C. § 5872, and 28 U.S.C. § 2461(c), for a preliminary order of forfeiture for the following assets:

- (1) \$500.00 in U.S. currency as down payment on \$2,500.00 toward the purchase of firearms, explosives, and a car bomb.
- (2) One fully automatic AK-47, Serial No. 1978IL 3611;
- (3) One drum magazine containing various rounds of ammunition;
- (4) Various rounds of ammunition;
- (5) One .45 caliber Colt pistol, Serial No. SF12925E, and ammunition;
- (6) One magazine for the Colt pistol and various rounds of .45 caliber ammunition;
- (7) One black duffle bag;
- (8) Two (2) firearm component magazines;
- (9) One magazine pouch with three firearm component magazines;
- (10) One green ammunition can;

- (11) One brown bag with 6 items made of PVC pipe and other materials designed to resemble grenades;
- (12) One item designed to resemble an explosive vest, including eight items made of PVC pipe and other materials designed to resemble explosives;
- (13) One maroon bag;
- (14) Batteries and a plastic container;
- (15) One Metro PCS cellular phone, serial number YSA9MA10A2130369;
- (16) One item designed to resemble a detonating device made of an orange case containing a Nokia cellular phone, timer, electronic blasting cap, and two 9 Volt batteries;
- (17) One item designed to resemble a vehicle born explosive device made of 2 orange buckets, which contain detonation cords, cast boosters, urea, diesel fuel, and other materials, as well a wooden carrier used to carry the device;
- (18) Sony Bloggie Mobile HD Snap Camera, Model MHS-TS10, serial number 1625707;
- (19) One Samsung cellular phone, MEID # 268435460709240842; and
- (20) 1994 Honda Accord, Vehicle Identification Number 1HGCD5639RA177526, registered to Asllan Osmakac.

Following a jury trial, Sami Osmakac was found guilty of attempting to use weapons of mass destruction, specifically, destructive devices as defined in 18 U.S.C. § 921(a)(4)(A), including explosives, grenades and similar devices, in violation of 18 U.S.C. § 2332(a)(2), as charged in Count One of the Indictment. The jury also found Osmakac guilty of possessing an unregistered firearm,

specifically an AK-47 machine gun, in violation of 26 U.S.C. §§ 5841, 5861(d) and 5971, as charged in Count Two. Osmakac waived his right to a jury determination of the forfeiture.

Being fully advised in the premises, the Court finds that the assets described above were acquired by Sami Osmakac with the intent and for the purpose of supporting, planning, and conducting a terrorist attack, and were intended to be used to commit the terrorism offense described in Count One. Thus, they are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(G) and 28 U.S.C. § 2461(c).

The Court further finds that the United States has established the nexus between the AK-47 machine gun, serial number 1978IL 3611, and the violation alleged in Count Two of the Indictment, and therefore the firearm is forfeitable under 18 U.S.C. §§ 5872, 924(d)(1), and 28 U.S.C. § 2461(c).

Pursuant to Rule 32.2(b)(2), the United States is entitled to possession of these assets.

Accordingly, it is **ORDERED**

That, pursuant to 18 U.S.C. § 981(a)(1)(G), 18 U.S.C. §§ 5872, 924(d)(1), and 28 U.S.C. § 2461(c), the assets described above are **FORFEITED** to the United States of America for disposition according to law, subject to the provisions of 21 U.S.C. § 853, as incorporated by 28 U.S.C. § 2461(c).

The Court retains jurisdiction to enter any order necessary for the forfeiture and disposition of the assets, and to address any third party interests that may be asserted.

DONE AND ORDERED in Tampa, Florida this 30th day of October, 2014.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies to:
All Parties/Counsel of Record

EXHIBIT I

*Mahmoud Elhassan's Google Plus account using
the pseudonym Ibn Aljarrah referencing
Anwar Al-Awlaki and "My sincere brothers in Syria."*

google.com/117726019296222633629/posts

Join Google+

Join now and connect with the people who matter most.

7 followers 10,265 views

About

Posts

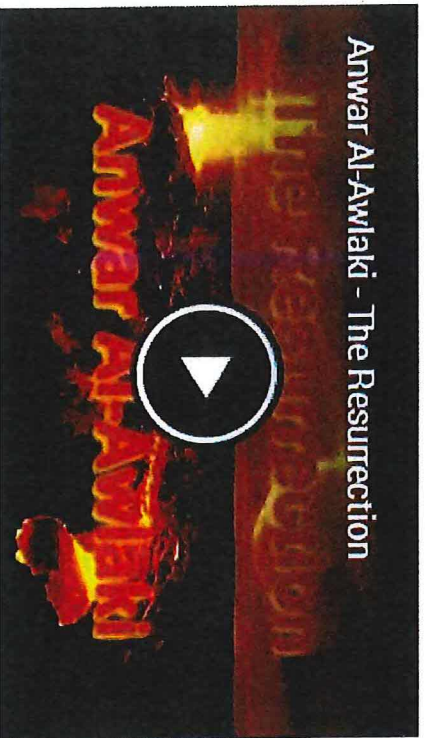
Photos

Videos



Ibn Aljarrah commented on a video on YouTube.

May Allah accept you as Shahid sh.Anwar, your one of your kind loyal to Allah and Islam.



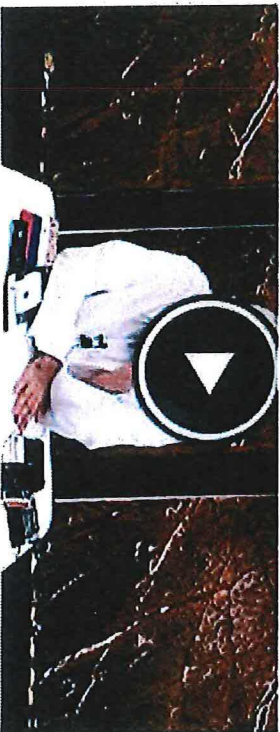
+1



ADD A COMMENT



Ibn Aljarrah commented on a video on YouTube.



+1



ADD A COMMENT



Ibn Aljarrah commented on a video on YouTube.

This brought tears to my eyes, our oppressed religion shall rise only through firm scholars who fear not but Allah, the prophet saaw said "Let not the fear of people prevent you from speaking the Haqq, indeed it shall not delay your provision nor will it bring closer death. O Allah make me amongst the firm servants of Yours upon knowledge and clear vision."



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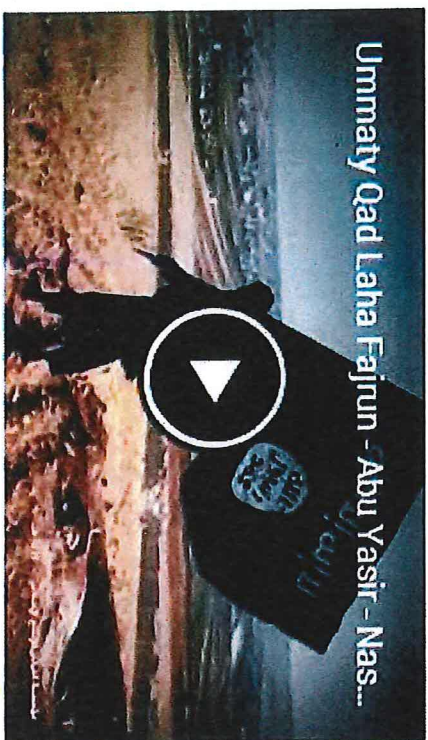
Videos



Ibn Aljarrah commented on a video on YouTube.

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My sincere brothers in Syria, by Allah I love you more than myself. I make dua for you after every Salah and in Qonoot asking Him to shower you with victory. You got up to defend the honor of our women who are raped by the soldiers of the Taghuti regimes, and our families who are killed for no reason. Allah elevated you above us.



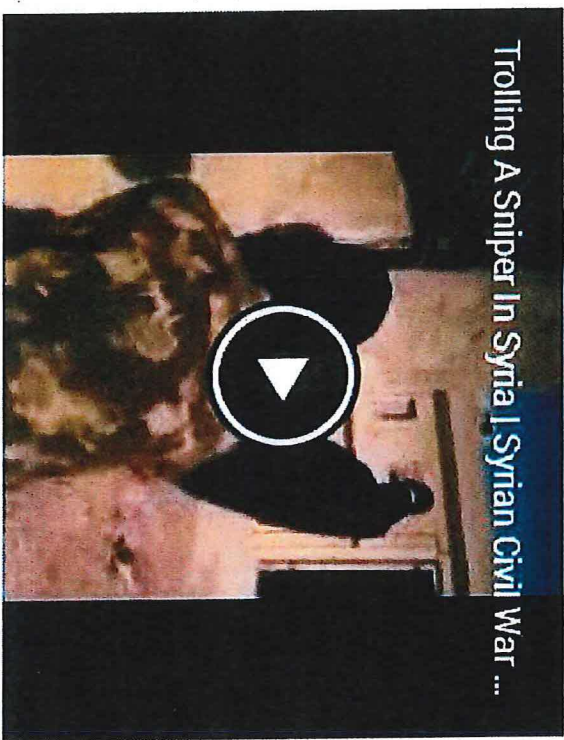
Ummaty Qad Laha Fajrun - Abu Yasir - Nas...



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Lo! may Allah give you victory my beloved brothers.



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