

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:16-CR-00064
)	Judge Anthony J. Trenga
MAHMOUD AMIN)	
MOHAMED ELHASSAN,)	
Defendant.)	

**DEFENDANT’S MOTION TO WITHDRAW
HIS PLEA OF NOT GUILTY TO COUNTS 2 & 3**

Defendant, **MAHMOUD AMIN MOHAMED ELHASSAN**, by and through his attorneys, **THOMAS ANTHONY DURKIN** and **STUART A. SEARS**, respectfully moves this Court, pursuant Rule 11(a)(1) of the Federal Rules of Criminal Procedure, as well as the Due Process and Effective Assistance of Counsel provisions of the Fifth and Sixth Amendments to the Constitution of the United States, to withdraw his previously entered plea of not guilty to Counts 2 & 3, and for leave to enter a new and different plea of guilty to those counts without the benefit of a written plea agreement.

In support of this motion, Defendant, through counsel, shows to the Court the following:

1. On January 16, 2016, Defendant was charged by criminal complaint with Aiding and Abetting Joseph Hassan Farrokh’s Attempt to Provide Material Support to a Designated Foreign Terrorist Organization in violation of 18 U.S.C. §§ 2339B and 2. (Dkt. #1)
2. On January 1st, March 11th, and May 4th, 2016, the Court granted Defendant’s Motions for Extension of Time of Indict. (Dkt. #11, #16, and #23)
3. During that time, the government tendered to undersigned counsel early discovery materials, and the parties engaged in numerous discussions regarding the resolution of the case

short of trial.

4. On May 24, 2016, Defendant was charged in a three-count Indictment with: (1) Conspiracy to Provide Material Support in violation of 18 U.S.C. §2339B(a)(1); (2) Attempting to Provide Material Support in violation of 18 U.S.C. §339B and 2; and, (3) False Statements in violation of 18 U.S.C. §1001. (Dkt. #24)

5. On June 6, 2016, Defendant was arraigned, and he entered a plea of not guilty to all counts. (Dkt. #30)

6. On September 23, 2016, the Court set this matter for trial on January 23, 2017. (Dkt. #37) At the time of the trial setting and other status hearings before this Court, counsel had indicated that they expected to resolve this matter short of trial and would so notify the Court if that was likely. Accordingly, counsel have prepared and submitted the instant motion.

7. Defendant does not wish to contest the allegations contained in Counts 2 & 3, and requests formal leave to withdraw his previously entered plea of not guilty so that he can enter a new and different plea of guilty to those counts of the indictment.

8. In support of this motion, and so as to provide a sufficient factual basis for his guilty plea to Counts 2 & 3, counsel have attached the affidavit of the Defendant.

Respectfully submitted,

/s/ Thomas Anthony Durkin

THOMAS ANTHONY DURKIN,

/s/ Stuart A. Sears

STUART A. SEARS,

Attorneys for Defendant.

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2016, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all parties involved in the case.

/s/ Stuart A. Sears

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AFFIDAVIT

MAHMOUD AMIN MOHAMED ELHASSAN, having been first duly sworn, upon oath, hereby state as follows:

1. I am the Defendant in these proceedings and have read the foregoing pleading prepared by my attorneys and entitled: Defendant's Motion to Withdraw His Plea of Not Guilty to Counts 2 & 3.
2. I have thoroughly discussed my case with my attorneys and have reviewed the discovery materials provided by the government to my attorneys. I have also thoroughly discussed my trial rights and options with my attorneys and this decision to plead guilty to Counts 2 & 3. I am fully satisfied with the representation my private attorneys have provided me and am making this decision to plead guilty freely and voluntarily.
3. In desiring to plead guilty to Count 2, I admit that from on or about August 1, 2015, and continuing through on or about January 15, 2016, in Prince William County in the Eastern District of Virginia, I did knowingly and unlawfully attempt to provide "material support and resources," as that term is defined in Title 18 United States Code, Section 2339A(b), to wit, personnel—by aiding and abetting Joseph Hassan Farrokh's attempt to provide himself to the Designated Foreign Terrorist Organization, the Islamic State of Iraq and the Levant ("ISIL"). More specifically, I admit that, among other things, during this time period I introduced Mr. Farrokh in or about August 2015 to an individual I believed could facilitate his travel to the Islamic State; and, that on January 15, 2016, I drove Mr. Farrokh in my taxicab from his home in Richmond, Virginia, to a location near the Richmond airport so that Farrokh could embark on his travel to the Islamic State. I also admit that later

that same day after Mr. Farrokh left my taxicab to go to the Richmond airport, I made false statements to the FBI when questioned about Farrokh's travel; and that I made these statements to the FBI in order to hinder the government's investigation of Farrokh's travel. The substance of these false statements are more fully set forth in Count 3 of the indictment.

4. In desiring to plead guilty to Count 3, I also admit that on January 15, 2016, I knowingly, unlawfully, and willfully made material false, fictitious, and fraudulent statements and representations in a matter involving international terrorism within the jurisdiction of the executive branch of the Government of the United States. Specifically, I admit that in an interview with Special Agents of the Federal Bureau of Investigation on January 15, 2016, I falsely stated to them that (a) Joseph Hassan Farrokh had flown out of Dulles Airport earlier that day on a flight to California to attend a funeral; (b) Farrokh had said that he would be back in about two weeks; (c) neither I nor Farrokh supported the Islamic State; and, (d) neither I nor Farrokh ever tried to find someone to help Farrokh get to the Islamic State.
5. In making this request to change my plea to Counts 2 & 3, I expressly acknowledge and understand, and have been so counseled by my attorneys, that I am offering to plead guilty to Counts 2 & 3 without any promises, representations or agreements of any kind with the United States.

Sworn and subscribed before me
this _____ day of October, 2016.

/s/ Mahmoud Amin Mohamed Elhassan
MAHMOUD AMIN
MOHAMED ELHASSAN

NOTARY PUBLIC