

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA	:	
	:	
v.	:	Criminal No. 3:14cr163 (JCH)
	:	
EL MEHDI SEMLALI FATHI	:	OCTOBER 10, 2014

MEMORANDUM OF THE UNITED STATES

IN OPPOSITION TO FATHI’S SENCENGING MEMORANDUM

The United States submits this brief response to the sentencing memorandum filed by El Mehdi Semlali Fathi (“Fathi” or “defendant”). Fathi’s claim that the current Guideline calculation overstates his criminal history is unavailing and should be denied in its entirety. On the one hand, Fathi requests that the Court impose a Guideline sentence but on the other hand claims that the correctly calculated Guideline range in the PSR is not an appropriate range because it overstates his criminal past. A Criminal History Category II here accurately and appropriately reflects that in a short period of time, Fathi was twice arrested and convicted by state authorities for separate criminal behavior. The Guideline range as calculated, however, does not properly reflect Fathi’s criminal propensity and history in our country because it does not consider: 1) the repeated false statements to immigration judges in different districts; 2) the false refugee application that was filed; 3) the willingness to remain in our country in violation of our laws; and 4) the repeated and disturbing statements about causing harm in our country.

In the approximately six years that Fathi has unlawfully resided in our country, he has proven his criminal propensity. Fathi has accumulated a criminal history of escalating severity. If remaining in our country under false pretenses and committing various crimes does not show a propensity to commit crime, it is not clear what would. Given his extensive criminal conduct during the majority of the time that he has resided in our country, just and fair punishment requires a greater sentence than provided for by the applicable Guideline range. Simply stated, there is nothing understated about Fathi's criminal history.

Moreover, given all of the facts known about Fathi's conduct in our country, Fathi's claims that he was "hoping to succeed as a student and stay here in the land of opportunity" simply do not ring true. *See* Def. Brief dated Oct. 6, 2014 at 1. Having previously lied to every judge that he has appeared before or submitted information to; Fathi now wants this Court to believe that he was hoping to be a student. Sadly, the only thing he has learned in his time in this country is how to commit crimes and how to lie to judges. In short, he has no credibility and the Court should not believe him when he says he meant no harm to this country.

In addition, there are no facts that support that Fathi has shown any willingness to take advantage of all of the opportunities our country provides nor has he shown any interest in engaging in American life. To the contrary, his conduct here reflects his unwillingness to live a law abiding life and his statements reflect his desire to cause harm to our country.

Conclusion

The Government respectfully requests that the Court sentence Fathi to a sentence that is above the applicable guidelines range.

Respectfully submitted,

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/S/

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2014, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF.

/s/

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