

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO. 04-543</b>
	:	
<b>v.</b>	:	
	:	<b>Judge Padova</b>
<b>ATEF HASAN ISMAIL IDAIS,</b>	:	
	:	
<b>Defendant</b>	:	<b>(Electronically filed)</b>

**NOTICE OF APPEAL**

Notice is hereby given that **ATEF HASAN ISMAIL IDAIS, Defendant** in the above-captioned case, hereby appeals to the United States Court of Appeals for the Third Circuit from this Honorable Court's Judgment in a Criminal Case dated September 8, 2005 (see Exhibit A, Judgment in a Criminal Case).

Respectfully submitted,

aa1644

\_\_\_\_\_  
Anser Ahmad, Esq.  
PA I.D. No. 75008  
Ahmad Law Offices, P.C.  
105 N. Front St., Ste. 106  
Harrisburg, PA 17101  
(717) 920-9100

Attorney for Defendant

Dated: September 19, 2005

**CERTIFICATE OF SERVICE**

I, Anser Ahmad, Esq., hereby certify that I have, on this date, served a copy of the foregoing *Notice of Appeal* and any attached pages upon the person(s) and in the manner indicated below:

Nancy Beam Winter  
U.S. Attorney's Office  
615 Chestnut St., Ste. 1250  
Philadelphia, PA 19106

Service by electronic filing.

aa1644

\_\_\_\_\_  
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Harrisburg, PA 17101  
(717) 920-9100

Attorney for Defendant

Dated: September 19, 2005

AO 245B (Rev. 12/03) Judgment in a Criminal Case Sheet 1

# UNITED STATES DISTRICT COURT

EASTERN

District of

PENNSYLVANIA

UNITED STATES OF AMERICA  
v.

JUDGMENT IN A CRIMINAL CASE

ATEF HASAN ISMAIL IDAIS

Case Number: 2:04-CR-00543-JP

USM Number: 58948-066

Robert E. H. Miller, Esq.  
Defendant's Attorney

### THE DEFENDANT:

- pleaded guilty to count(s) \_\_\_\_\_
- pleaded nolo contendere to count(s) 1ss and 2ss  
which was accepted by the court
- was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:1546(a) & 3238	False statement under oath and presentment of visa application with false statements	7/19/2000	1ss
18:1546(a)	Use of visa procured by false statements	8/6/2000	2ss

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must 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 must notify the court and United States attorney of material changes in economic circumstances.

September 8, 2005  
Date of Imposition of Judgment

[Signature]  
Signature of Judge

JOHN R. PADOVA, USDI EOPA  
Name and Title of Judge

9-8-2005  
A TRUE COPY CERTIFIED TO FROM THE RECORD

DATED 09-9-05

ATTEST [Signature]

DEPUTY CLERK, UNITED STATES DISTRICT OFFICE  
EASTERN DISTRICT OF PENNSYLVANIA

AO 245B (Rev. 12/03) Judgment in Criminal Case  
Sheet 2 — Imprisonment

Judgment — Page 2 of 6

DEFENDANT: IDAIS, ATEF HASAN ISMAIL  
CASE NUMBER: 04-543

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

One (1) year to be followed by three (3) years of supervised release.

**The defendant is to receive credit for any time served as a result of this conviction.**

The court makes the following recommendations to the Bureau of Prisons:

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

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on \_\_\_\_\_

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

### 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 UNITED STATES MARSHAL

DEFENDANT: IDAIS, ATEF HASAN ISMAIL  
CASE NUMBER: 04-543

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

Three (3) years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any 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 and shall submit a truthful and complete written report within the first five days of each month;
- 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 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 of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two 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; and
- 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.

AO 245B (Rev. 12/03) Judgment in a Criminal Case  
Sheet 3C -- Supervised Release

Judgment Page 4 of 6

DEFENDANT: IDAIS, ATEF HASAN ISMAIL  
CASE NUMBER: 04-543

### SPECIAL CONDITIONS OF SUPERVISION

The defendant shall not commit another federal, state, or local crime and shall comply with the 13 standard conditions that have been adopted by this court, and shall comply with the following additional conditions:

If deported or granted voluntary departure, the defendant shall remain outside the United States and all places subject to its jurisdiction unless prior written permission to reenter is obtained from the pertinent legal authorities and the defendant notifies the probation office in writing to that effect.

The defendant shall participate in the collection of DNA as directed by the probation officer.

It is further ordered that the defendant shall pay to the United States a special assessment of \$200.00, which shall be due immediately.

The court waives the imposition of a fine because the defendant is incapable of paying such a penalty.

DEFENDANT: IDAIS, ATEF HASAN ISMAIL
CASE NUMBER: 04-543

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TOTALS Assessment \$ 200.00 Fine \$ 0 Restitution \$ 0

[ ] The determination of restitution is deferred until \_\_\_\_\_. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

[ ] The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee Total Loss\* Restitution Ordered Priority or Percentage

TOTALS \$ \_\_\_\_\_ \$ \_\_\_\_\_

[ ] Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

[ ] The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine 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 Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

[ ] The court determined that the defendant does not have the ability to pay interest and it is ordered that:

[ ] the interest requirement is waived for the [ ] fine [ ] restitution.

[ ] the interest requirement for the [ ] fine [ ] restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1995.

DEFENDANT: IDAIS, ATEF HASAN ISMAIL  
CASE NUMBER: 04-543

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A  Lump sum payment of \$ 200.00 due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



DEFENDANT: ATEF HASAN ISMAIL IDAIS  
CASE NUMBER: 04-543  
DISTRICT: EDPA

**STATEMENT OF REASONS**  
**(Not for Public Disclosure)**

**THE COURT ADOPTS THE PRESENTENCE REPORT AND GUIDELINE APPLICATIONS WITHOUT CHANGE.**

**OR**

**THE COURT ADOPTS THE PRESENTENCE REPORT AND GUIDELINE APPLICATIONS BUT WITH THESE CHANGES:** (Use Page 3, if necessary.)

**Chapter Two of the U.S.S.G. Manual determinations by court (including changes to base offense level or specific offense characteristics):**

**Chapter Three of the U.S.S.G. Manual adjustment determinations by court (including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):**

**Chapter Four of the U.S.S.G. Manual determinations by court (including changes to criminal history category or scores, career offender, or criminal livelihood determinations):**

**THE COURT ADOPTS THE PRESENTENCE REPORT WITH THESE COMMENTS OR FINDINGS** (including comments or factual findings concerning certain information in the presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions. Specify court comments or findings, including paragraphs in the presentence report.) (Use Page 3, if necessary.)

**GUIDELINE RANGE DETERMINED BY THE COURT (BEFORE DEPARTURES):**

Total Offense Level: 8

Criminal History Category: I

Imprisonment Range: 0 to 6 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 1,000 to \$ 10,000

Fine waived or below the guideline range because of inability to pay.

**THE SENTENCE IS WITHIN THE GUIDELINE RANGE, THAT RANGE DOES NOT EXCEED 24 MONTHS, AND THE COURT FINDS NO REASON TO DEPART.**

**OR**

**THE SENTENCE IS WITHIN A GUIDELINE RANGE, THAT RANGE EXCEEDS 24 MONTHS, AND THE SPECIFIC SENTENCE IS IMPOSED FOR THESE REASONS:** (Use Page 3, if necessary.)

AO 245B (Rev. 12/03) Judgment in a Criminal Case Attachment (Page 2) — Statement of Reasons

DEFENDANT: ATEF HASAN ISMAIL IDAIS
CASE NUMBER: 04-543
DISTRICT: EDPA

STATEMENT OF REASONS
(Not for Public Disclosure)

RESTITUTION DETERMINATIONS

Total Amount of Restitution: \$ N/A

- For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
Restitution is not ordered for other reasons:
Partial restitution is ordered under 18 U.S.C. § 3663(c) for these reasons:

DEPARTURE (Check all that apply)

- The sentence departs below the guideline range for the following reasons; or
The sentence departs above the guideline range for the following reasons:

Pursuant to a Plea Agreement

- based on 5K1.1 motion of the government based on the defendant's substantial assistance;
based on a government motion pursuant to an early disposition program;
based on a binding plea agreement for departure which the court has accepted (cite below reason, if applicable);
based on a plea agreement which cites the below reason for departure, which the court finds to be justified; or
based on a plea agreement which states that the government will not oppose a defense departure motion and cites the below reason.

Pursuant to a Motion Not Addressed in a Plea Agreement

- pursuant to a 5K1.1 motion of the government based on the defendant's substantial assistance;
pursuant to a government motion based on the below reason for departure; or
pursuant to a defense motion based on the below reason for departure to which the government has not objected; or
pursuant to a defense motion based on the below reason for departure to which the government has objected.
Other than plea agreement or motion by the parties based on the below reason for departure.

Reason(s) for Departure

- 4A1.3 Criminal History Adequacy (explain)
5K2.0 Aggravating or Mitigating Circumstances (explain):
5K2.1 Death
5K2.2 Physical Injury
5K2.3 Extreme Psychological Injury
5K2.4 Abduction or Unlawful Restraint
5K2.5 Property Damage or Loss
5K2.6 Weapons and Dangerous Instruments
5K2.7 Disruption of Government Function
5K2.8 Extreme Conduct
5K2.9 Criminal Purpose
5K2.10 Victim's Conduct
5K2.11 Lesser Harm
5K2.12 Coercion and Duress
5K2.13 Diminished Capacity
5K2.14 Public Welfare
5K2.16 Voluntary Disclosure of Offense
5K2.17 High-Capacity Semiautomatic Firearm
5K2.18 Violent Street Gang
5K2.20 Aberrant Behavior
5K2.21 Dismissed and Uncharged Conduct
5K2.22 Age or Health of Sex Offenders
5K2.23 Discharged Terms of Imprisonment
5K3.1 Early Disposition, "fast-track" Program
Other (e.g., 2B1.1 commentary, 5H1.1-5H1.6 or 5H1.11)(explain and state guideline and/or statutory basis). (Use Page 3, if necessary.)

AO 245B

(Rev. 12/03) Judgment in a Criminal Case  
Attachment (Page 3) — Statement of Reasons

DEFENDANT: ATEF HASAN ISMAIL IDAIS  
CASE NUMBER: 04-543  
DISTRICT: EDPA

**STATEMENT OF REASONS**  
(Not for Public Disclosure)

**ADDITIONAL PRESENTENCE REPORT AND GUIDELINE APPLICATION CHANGES**  
(If necessary.)

**SPECIFIC SENTENCE IS IMPOSED FOR THESE REASONS**  
(If necessary.)

**ADDITIONAL COMMENTS OR FINDINGS CONCERNING INFORMATION IN PRESENTENCE REPORT**  
(If necessary.)

**ADDITIONAL REASONS FOR DEPARTING FROM THE GUIDELINE RANGE**  
(If necessary.)

Defendant's Soc. Sec. No.: 171-80-1279  
Defendant's Date of Birth: 12/27/76

Defendant's Residence Address: 2817 Ormes Street Phila. PA 19134

Defendant's Mailing Address: FDC PHILADELPHIA

September 8, 2005  
Date of Imposition of Judgment

  
Signature of Judge

JOHN R. PADOVA, USDJ EDPA  
Name and Title of Judge

9-8-2005  
Date Signed

AO 245B (Rev. 08/03) Criminal Judgment  
Supplemental Statement of Reasons

DEFENDANT: ATEF HASAN ISMAIL IDAIS  
CASE NUMBER: 2:04-CR-00543-JP  
DISTRICT: EDPA

**SUPPLEMENTAL STATEMENT OF REASONS  
APPLICABILITY OF THE FEDERAL SENTENCING GUIDELINES**

- The court applied the Guidelines and all relevant enhancements in this case.
  
- The court found the Guidelines unconstitutional in part, and imposed a sentence in accordance with the constitutionally applied portions of the Guidelines.
  
- The court did not apply the federal sentencing guidelines at all in this case and imposed a discretionary sentence.
  
- The court took some other action (Please explain below.):  

**The court applied the Guidelines and all relevant enhancements in this case as advisory and imposed sentence after considering all statutory factors pursuant to Sec.3553(a).**
  
- This judgment includes an alternative sentence.