

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Cr. No. 09-50 (JMR)

UNITED STATES OF AMERICA,)
)
 Plaintiff,) PLEA AGREEMENT AND
) SENTENCING STIPULATIONS
)
 v.)
)
 SALAH OSMAN AHMED,)
)
 Defendant.)

The United States of America and Salah Osman Ahmed (hereinafter referred to as "the defendant") agree to resolve this case on the terms and conditions that follow. This plea agreement binds only the defendant and the United States Attorney's Office for the District of Minnesota. This agreement does not bind any other United States Attorney's Office or any other federal or state agency. The government agrees not to bring further charges against the defendant for his participation in criminal activity that he has disclosed to the government as of the date of this agreement.

PLEA AGREEMENT

1. Charges. The defendant agrees to plead guilty to count 1 of the indictment, which charges the defendant with providing material support and resources, namely personnel, knowing and intending that the material support and resources were to be used in preparation for and in carrying out a violation of Title 18, United States Code, Section 956(a)(1) (conspiracy to kill, kidnap, maim or injure persons in a foreign country), all in violation of Title 18, United States Code, Section 2339A(a).

FILED JUL 28 2009
RICHARD D. SLETTEN
JUDGMENT ENTD _____
DEPUTY CLERK _____
SA 840
WMS
2/28/09

2. Factual Basis and Stipulated Facts. The parties agree on the following factual basis for the plea agreement: On or about December 6, 2007, the defendant traveled from Minneapolis, Minnesota to Somalia to fight against Ethiopian troops present in Somalia and to cause the Ethiopian troops to withdraw from Somalia.

3. Waiver of Pretrial Motions. The defendant understands and agrees that he has certain rights to file pre-trial motions in this case. As part of this plea agreement, and based upon the concessions of the United States within this plea agreement, the defendant knowingly, willingly, and voluntarily waives his right to file any motions and gives up the right to litigate pre-trial motions in this case.

4. Statutory Penalties. The parties agree that Count 1 of the Indictment carries maximum statutory penalties of:

- a. fifteen (15) years' imprisonment;
- b. a supervised release term of life;
- c. a criminal fine of \$250,000; and
- d. a mandatory special assessment of \$100, which is payable to the Clerk of Court prior to sentencing.

5. Revocation of Supervised Release. The defendant understands that, if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment of up to two years, pursuant 18 U.S.C. § 3583(e).

6. Guideline Sentencing Stipulations. The defendant agrees to be sentenced in accordance with the Federal Sentencing Act, 18

SA
JED

WSS
11/20

U.S.C. § 3551, et seq., with reference to the applicable United States Sentencing Guidelines ("U.S.S.G."). The parties believe that the Guidelines Manual incorporating amendments effective November 1, 2008 applies in this case. The parties agree that the following calculations regarding the Guidelines will ultimately be determined by the Court.

a. Base Offense Level.

Count 1. The parties agree that the applicable guideline section is section 2A1.5, which provides a base offense level of 33. U.S.S.G. §§ 2X2.1, 2A1.5.

b. Specific Offense Characteristics. The parties agree that a 12-level enhancement may be applicable pursuant to guideline section 3A1.4(a). The defense reserves its right to argue against the applicability of an enhancement under guideline section 3A1.4(a). The government reserves its right to argue for the applicability of an enhancement pursuant to guideline section 3A1.4(a).

The parties agree that the defense is free to argue that the defendant is entitled to a role reduction pursuant to guideline section 3B1.2. The government reserves its right to oppose any reduction.

c. Chapter 3 Adjustments. The parties agree that the provisions of Chapter 3 of the Sentencing Guidelines do not apply, except as set forth in paragraph (b) above and paragraph (d) below. The parties further agree that the facts of this case support no other specific offense characteristics or chapter three adjustments.

d. Acceptance of Responsibility. The parties agree that if the defendant (1) provides full, complete and truthful disclosures to the United States Probation Office, including providing complete, accurate and truthful financial information; (2) complies with all conditions of release; (3)

SK
2/23/09

testifies truthfully during the change of plea and sentencing hearings; (4) complies with this Agreement; and (5) undertakes no act inconsistent with acceptance of responsibility before the time of sentencing, the government agrees to recommend that the defendant receive a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a), and to move for an additional one-level reduction under § 3E1.1(b). Whether there will be a reduction for acceptance of responsibility shall be determined by the Court in its discretion.

- e. Total Offense Level. The parties believe that, taking into account the above adjustments, the total offense level could be as high as 45, minus 3 points for acceptance of responsibility, if applicable, for an adjusted offense level of 42. Alternatively, the parties believe that, taking into account the above adjustments, the total offense level could be as low as 29, minus 3 points for acceptance of responsibility, if applicable, for an adjusted offense level of 26. Again, the Court will make the final determination of the total offense level.
- f. Criminal History Category. The parties agree that if the 3A1.4 enhancement is applied, the defendant has a criminal history category of VI. If the enhancement is not applied, the parties believe that the defendant's criminal history category is I.
- g. Guidelines Range. The parties agree that, if the adjusted offense level for Count 1 is 42 and the defendant's criminal history category is VI, then the guidelines range for Count 1 is 360 months to life imprisonment. However, because the statutory maximum is 15 years, the effective guidelines range would be 180 months. The parties agree that if the adjusted offense level for Count 1 is 26 and the defendant's criminal history category is I, then the guidelines range for Count 1 is 63-78 months' imprisonment.
- h. Fine Range. The parties agree that, if the adjusted offense level is 42, the fine range is \$25,000 to \$250,000. U.S.S.G. § 5E1.2(c)(3). The parties agree that, if the adjusted offense level

SA
JED
WAS
JED

is 26, the fine range is \$12,500 to \$125,000. U.S.S.G. § 5E1.2(c)(3). There is no agreement as to the imposition of a fine or, if one is imposed, the amount of any such fine.

- i. Supervised Release. The parties agree that the Sentencing Guidelines specify that, if a term of supervised release is ordered, the term of supervised release is 2 years to life. U.S.S.G. §§ 5D1.2(a)(2), 5D1.2(b)(1).
- j. Departures: The parties agree that the defense reserves its right to argue additional grounds for a downward departure or variance from the ultimate guideline determination in this case.
- k. Further Offense Characteristics: The parties agree that the facts of this case support no other specific offense characteristics or chapter three adjustments.

7. Discretion of the Court. The foregoing stipulations are binding on the parties, but do not bind the Court. The parties understand that the Sentencing Guidelines are advisory and their application is a matter that falls solely within the Court's discretion. The Court may make its own determinations regarding the applicable guideline factors and the applicable criminal history category. The Court may also depart from the applicable guidelines. If the Court determines that the applicable guideline calculations or the defendant's criminal history category is different from that stated above, the parties may not withdraw from this Agreement and the defendant will be sentenced pursuant to the Court's determinations.

8. Special Assessment. The Guidelines require payment of a special assessment in the amount of \$100 for each felony count of

5*
Juo
WA
1/28/04

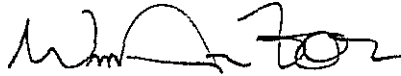
which the defendant is convicted. U.S.S.G. § 5E1.3. In this case, the defendant stands convicted of one count and is required to pay \$100.

9. Forfeiture. The government reserves its right to proceed against any of the defendant's assets if said assets represent real or personal property involved in violations of the laws of the United States or are proceeds traceable to such property.

10. Complete Agreement. The foregoing sets forth the full extent of the Plea Agreement and Sentencing Stipulations in the above-captioned case. There are no other agreements, promises, representations or understandings.

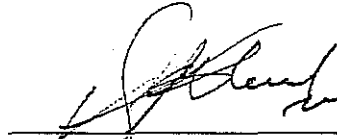
Dated: July 28, 2009

FRANK J. MAGILL, JR.
United States Attorney



BY: W. ANDERS FOLK
Assistant U.S. Attorney

Dated: July 28, 2009



SALAH OSMAN AHMED
Defendant

Dated: July 28, 2009



JAMES E. OSTGARD, Esq.
Attorney for Defendant

