

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

Case No.: 1:19-cr-25-02

vs.

Hon.: ROBERT J. JONKER  
CHIEF U.S. DISTRICT JUDGE

MOHAMED SALAT HAJI,

Defendant,

SENTENCING  
MEMORANDUM AND  
BRIEF IN SUPPORT OF  
DEPARTURE FROM  
ADVISORY GUIDELINES

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Daniel R. Fagan  
Daniel R. Fagan & Associates, P.C.  
Defense Counsel  
429 Turner Avenue NW  
Grand Rapids MI 49504  
P: (616) 224-2564  
[fagandrlaw@gmail.com](mailto:fagandrlaw@gmail.com)

Clay M. West  
Christopher M. O'Connor  
Assistant U.S. Attorney  
330 Ionia Avenue NW Ste 501  
Grand Rapids MI 49503  
P: (616) 456-2404  
[Clay.M.West@usdoj.gov](mailto:Clay.M.West@usdoj.gov)  
[Christopher.OConnor@usdoj.gov](mailto:Christopher.OConnor@usdoj.gov)

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NOW COMES the Defendant, Mohamed Salat Haji, by and through his counsel of record Daniel R. Fagan & Associates, P.C., by Daniel R. Fagan and does present to this Court his Sentencing Memorandum and his argument for departure from the advisory guidelines.

Counsel for Mohamed Haji recognizes that this Court has already sentenced Defendant Muse Abdiqadir Muse and Mohamud Abdiqadir Muse. Counsel

strongly opines that the Court's approach to sentencing of Mohamed Haji should be similar to the approach it has taken with Muse Muse and Mohamud Muse for the obvious reason that Mohamed Haji is quite similarly situated.

**Nature and Circumstances of Mohamed Haji's Offense**

**and His History and Characteristics**

Defendant Mohamed Haji tendered a plea of guilty to Conspiracy to Provide Material Support to a Designated Foreign Terrorist Organization in violation of 18 U.S.C. § 2339B(a)(1). Mohamed Haji pled on June 09, 2021 after lengthy pretrial motions and forensic evaluation of Mr. Haji, as Mr. Haji's then-counsel determined necessary. The Court will no doubt recollect the clarity and emphatic nature of Mr. Haji's acknowledgment of his illegal conduct at the plea proceedings in June.

Mr. Haji, in 2017, when this conspiracy began, was only 24 years old. The behavior of Mr. Haji and other Defendants was not only youthful and immature, but, extremely unsophisticated and never developed to the level of actually assisting in any terrorism. Mr. Haji, like co-defendant Muse Muse, had no prior military training, no previous association with known terrorist operatives or even a real workable scheme to assist ISIS. It is significant to note that, while co-defendant Muse Muse did obtain a plane ticket to travel to Somalia, presumably to try to fight for ISIS there, he had no contacts in Somalia and no knowledge of the

country or the language or how he could possibly become a soldier for ISIS.

Counsel does not suggest that Mr. Haji was somehow inveigled against his will into this conspiracy with Muse Muse and Mohamud Muse. Defendant Haji fully recognizes that his violation of an antiterrorism statute was the group's own decision, and his own decision.

In any case, Muse Muse was arrested and the entire conspiracy was exposed. Thankfully, no one was injured, no weapon was ever obtained and no terrorism whatsoever resulted from the actions of these three young men.

The Court is familiar with the United States Sentencing Guidelines for a case such as this. The Guidelines wildly exceed the statutory maximum sentence of 240 months. The Court has made it abundantly clear, in its sentencing of co-defendants, that it does not believe that the 3553(a) factors are served by application of the Sentencing Guidelines as written.

This Court has provided Notice to the Government and Defense Counsel (**ECF No. 222, PageID 2207, 2208**), which Notice addresses the presumptive Guideline scoring range of (after a 3-point credit for Acceptance of Responsibility) an offense level of 35 and a Criminal History Category VI. As the Court has noted, the resultant advisory sentence would be, with the plea and explicit Acceptance of Responsibility, more than four years in excess of the statutory maximum of 240 months. While the Government has conceded that it is

nonsensical to fail to credit the Defendants with Acceptance of Responsibility and other possible Downward Departures, the Court made it quite clear in its Notice of August 10, 2021 that the Government's resultant proposed sentence of 178 months in the case of co-defendant, Muse Muse was simply higher than this Court thought appropriate. The Court further indicated that it would be considering a Downward Departure in the Criminal History Category applicable under U.S.S.G. 4A1.3.

The Court likewise referred to a series of cases in its Notice, which made it clear that it did not consider the reduced sentence proposed by the Government in Muse Muse's case, following cooperation and a 5K1.1 downward departure, to be remotely appropriate. The Court directed all counsel to consider the findings in *United States v. Jumaev*, 2018 WL 3490886, Case Appendix following \*22 (D. Colo. July 18, 2018). Counsel for Defendant Mohamed Haji has in fact reviewed the *Jumaev* case. Counsel respectfully requests that the Court apply the same rationale noted in *Jumaev* in its sentencing of Mohamed Haji. The Court should sentence Mohamed Haji similarly to his co-defendant cousins. This Court's obligation is, of course, to impose a sentence that is sufficient but not greater than necessary. There are strong reasons why Mr. Haji's sentence should be, again, similar to that of his co-defendants, including the arguments made in the *Jumaev* case, noting the lack of significant criminal history, the real risk that a longer incarceration might create more terroristic inclination than not, and, as this Court has significantly noted, that extremely long sentences for terroristic activity should

be limited to those cases where there has actually been real terrorism committed, such as the blowing up of a building or other acts.

The factors to be considered by this Court at sentencing are well known to it. Mohamed Haji's personal characteristics must be considered at sentencing. This Court is well aware that Mohamed Haji did not possess any weapons or participate in any assaultive conduct. While Mohamed Haji and his co-defendants expressed very strong terrorist sentiment, Mohamed Haji did no physical acts of violence whatsoever. He never did assist in purchasing a gun, or otherwise truly engage in terrorism.

This Court is well aware of its obligation to correctly score the Sentencing Guidelines, Gall v. United States, 552 U.S. 38, 49 (2007), this Court is entirely aware that the Guidelines do not control this Court's sentence and are treated only as one factor among many in determining the appropriate sentence under 3553(a) Kimbrough v. United States, 552 U.S. 85, 90 (2007). As this Court is again aware, the Sixth Circuit has recognized that all Sentencing Guidelines are advisory including those directed by Congress. United States v. Michael, 576 F. 3<sup>rd</sup> 323, 327 (6<sup>th</sup> Circuit 2009).

Mr. Mohamed Haji, at the beginning of this case, had no prior felony record and only one Driving While License Suspended conviction in 2018. He, like his co-defendants, came to the United States and obtained United States citizenship after relocation from Kenya in 2004, first moving to North Carolina, and then to

Lansing when he was approximately 9 years old. Mr. Haji did graduate from Sexton High School in Lansing and did attend classes at Lansing Community College.

**Need for Adequate Deterrence, 18 U.S.C. § 3553(a)(2)(B)**

An excessively long prison sentence for Mr. Haji is inappropriate and unnecessary. Mr. Haji has accepted responsibility for his wrongful behavior. The Court can and should consider Mr. Haji's background and actual behavior since 2004, while a citizen in this country. Almost all of his behavior has been lawful and appropriate until this case. It is quite clear that the time Mr. Haji has already spent incarcerated has been a stark warning to him of how foolish his infatuation with ISIS-driven terrorism was.

**Need for Incapacitation, 18 U.S.C. § 3553(a)(2)(C)**

Mr. Haji has renounced his behavior in this case and counsel strongly believes that he can be well-monitored after whatever incarceration he receives by means of lengthy Supervised Release so that there is no significant risk to the public of Mr. Haji committing further crimes.

This Court obviously should sentence Mr. Haji in a way which avoids unwarranted disparities with those similarly situated, like his co-defendants. This is clearly a case where a sentence somewhere in the range of that imposed by this Court on Muse Muse. Mr. Haji's conduct is not more serious, perhaps less serious than that of his co-defendants. Mr. Haji's criminal history is virtually identical to

that of Muse Muse at least. Mr. Haji arguably did *fewer* explicit acts in this conspiracy than did Muse Muse.

Muhammad Haji has struggled with mental health issues during the long course of his incarceration in this case. Some of his behavior while being forensically evaluated was wildly inappropriate and hurtful. Mr. Haji has recently acknowledged the wrongfulness of his behavior and indicates he wishes to apologize and do better. In fact, though Mr. Haji also had some behavioral trouble while in Newaygo County Jail, since June 22, 2021 he has been doing much better and has had *no* negative conduct reports since then. He has learned to regulate his behavior more appropriately.

A large number of family and friends have written to express their support for Mohamed Haji. These are attached. These letters certainly suggest that Muhammad Haji is well loved and has in fact been a valuable member of his community. There is every reason to believe he can be so again.

### **Conclusion**

Counsel believes that a sentence similar to that imposed on Muse Muse would be appropriate in this matter. Although Muse Muse did plead first and received a Downward Departure Motion by the government, Mr. Haji likewise has seen the error of his ways and wishes to live a life consistent with the laws of this country.

WHEREFORE, counsel does respectfully request that this Court sentence Mohamed Haji to no more than 78 months incarceration.

Dated: September 15, 2021

Respectfully submitted,  
/s/ Daniel R. Fagan  
Daniel R. Fagan (P39735)  
Attorney for Defendant



Daniel Fagan <fagandrlaw@gmail.com>

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## Sentencing Memorandum

1 message

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Bakari Muya

To: Fagandrlaw@gmail.com

Mon, Sep 13, 2021 at 7:37 PM

Mohamed plays a big influence in my life because he used to baby sit me and my siblings when my parents were at work. He taught me a lot of things I did not know in life and when things were though with school and homework he was there to help me out. I have lots of goals that I have accomplished the past 3 years because every time I think of giving up I remember his voice telling me, "don't think of the past or too much of the future, just think of the present and the future will come." Mohamed played a huge role in our community, he knew how to make everyone laugh and smile if they were having a bad day. He put others before himself and the best trait of him all is he has a great character. The past couple year just didn't feel right without Mohamed being in our presence, the only reason why I accomplished many goals is because of advice he gave me as a young buck. Mohamed is know to leave a hood image, for example when my friends and I hang out, play soccer and sometimes even say a sentence it always reminds us of Mohamed. Great character plays a huge role in Mohamed and many traits he uses to help others!

Sent from my iPhone



Daniel Fagan <fagandrlaw@gmail.com>

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**Mohamed Salat Haji**

1 message

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**Dadiri Muya**

To: Fagandrlaw@gmail.com

Mon, Sep 13, 2021 at 9:08 PM

Mohamed Haji, first time moving to Lansing, Michigan Things were hard my mother barley spoke English but when she needed a translator, babysitter or someone to drive her to an appointment it was always Mohamed. He never was a person that would refuse to help, when he could or had the chance he never hesitated to help us out, even during his own struggles Mohamed always put others first. When things are depressing and down Mohamed would always make everyone smile and laugh, he has his goofy moments in our little circle of friends and family. We would always get together and play Ludo a board game and Cards or sometimes basketball. Bring him home please we miss him things are definitely not the same without Mohamed we miss the laughter and excitement the petty arguments the Fun moments we had with Mohamed. Please bring him home

Sincerely. Dadiri Muya

Sent from my iPhone



Daniel Fagan <fagandrlaw@gmail.com>

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**Helpful letter**

1 message

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**Hussein Hussein**

To: "fagandrlaw@gmail.com" <fagandrlaw@gmail.com>

Tue, Sep 14, 2021 at 12:03 AM

Everything that happens to a mankind was already written to happen and I believe it's a test from god. We've all made bad decision in life that we regret, decisions we could never take back but just learn from them. Mohamed was a loving, caring father who always knew family comes first but also a big brother toward us who would advise us and guide us. I remember making my song with Mohamed felt like it was yesterday, and everything about that day tell it's own story. Mohamed has the heart and soul of an angel, He would light up the room with laughter and bad jokes and we would all reminisce them days together. We shared the same passionate in music and soccer but mostly our deen and I'm grateful I had the chance to learn from him. Everyone who had a bad judgment on him didn't really him, and I would never judge him because I know a mankind was made to make mistakes and learn from them. Life has many blessings and many secrets but mohamed salat Haji was our blessing and still is.

Sincerely: Hussein

Muslima Hussein  
9/14/2021

Dear majesties,  
the people of the court  
and to whom will be reading this letter.

My name is Muslima Hussein. I am located in Lansing, Michigan. I am the cousin of Mohamed Haji. I am writing this letter regards my cousin who has been away from us for almost 3 years. "Fa inna ma'al usri yusra" (With every hardship there is relief.) -Qur'an 94;5

Mohamed and I grew up together since we were kids, he was more like a big brother to me, we played together, ate together, and joked around all the times. He would always crack a dumb joke of me. When I first came to American, I didn't know anything about this country or its traditions. I didn't even know what was sled sliding until he showed me, so he will be picked us up (my siblings and his siblings) from school and it was during winter, I was in elementary at this time and he was in middle school. This one day he decided to bring a sled with him while picking us up from school. We went down the hill for the first time, and I was so scare because I never done it before, so he would push us down the hill by giving each person a turn and it was so fun we made it a habit. When I heard this situation, I couldn't believe it myself, it felt so unreal, I just couldn't imagine of him planning or be part of this. I grew up with him. He was very claim, never caused anyone trouble, he was always happy. We went to dukis (Islamic school) on weekends, he was always helping me, because I couldn't read the words in Arabic and he always saved me from the trouble.

Words can't explain how much we missed him and the other two of my cousins. This whole situation broke my family apart. Mohamed has always been a good person towards me and others that were close to him. I never once had a serious argument with him, he was a fun person, he loved playing basketball and soccer. I worked together with his wife and he would always give me rides back home when I didn't have a ride, even when I offered gas he wouldn't take it. He was my aunt (his mom) favorite kid and I can see the pain of her son behind bars is very troubling her. I'm sending my prayers to all them. There isn't a day that passed that I don't think about him, and I every time I do. I get dreams of him being release.

I pray the judges, the officers, the feds and the lawyers who are behind this case to give him/them a second chance, to give our family a second too, because this situation has mentally and emotionally affected us all. I know what they have done is wrong and everyone deserve a second chance. Thank you to his lawyer for taking he/she precious time to help my cousin and for being part of his case. We appreciate you for your hard work.

Sincerely,  
Muslima Hussein



Daniel Fagan <fagandrlaw@gmail.com>

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**Helpful letter concerning Mohamed HAJI**

1 message

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**AI JASASA**

To: fagandrlaw@gmail.com

Tue, Sep 14, 2021 at 9:57 AM

**To**

**Mohammed lawyer,**

Please let me take this opportunity to introduce myself to you. My name is Dadiri mussa and I am from Somalia. Came here to USA when I was 10 years of age. I lived here in Lansing, Mi for 16 years. Did everything here. I went to school here, got married here and met many great people here. My life today thanks to the almighty is beautiful. I am who I am today because of the people I was surrounded with. one of them is your defendant Mohamed Haji. He is my family, best friend and a brother to me. We can't never forget each other, because of the bond we had, a very strong bond. we were so close. We've Known each other for 12 years. Im Writing this letter to you thank you for everything that you are doing for him. we are in pain, we are sad because we missed him a lot we pray every day so that everything goes well. So that he can reunite with his family and friends. Where he can see his kids again I know how much he loves his kids, And I'm also writing this letter to you to tell you more about him and his character. He is Humble, loving, and funny he will make sure you smiled before the day ends. And most of all a great father. He will always FaceTime me and his kids we would play games and laugh together. Thanks to him I learned a lot. I feel like I'm doing good as a father myself. Because of him. I just want everyone to know who he really is. And not let the incident that happen to define his character. What happened was a mistake and mistake happens and we learn from our mistakes.

Sincerely,  
Dadiri Mussa



Daniel Fagan <fagandrlaw@gmail.com>

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**Character Reference Letter ( Mohamed )**

1 message

**Musa Abdiqadir**

To: Fagandrlaw@gmail.com

Mon, Sep 13, 2021 at 7:54 PM

From : Musa Abdiqadir

I have known Mohamed since my earliest childhood days and I write this character reference letter to express my support and paint a picture of the type person I've known him to be. Through our relationship I have developed a strong class of respect for Mohamed not only as a friend but as a brother a worker and a family man. I can't sit here and agree with the alleged findings but however I can tell you this is not the man that I grew up with. I do know from first hand experience people make mistakes people fall into the wrong crowd and some mistakes are worse than others but I believe everyone deserves a second chance and if not a second chance a chance to show that they have changed as an individual.



Daniel Fagan <fagandrlaw@gmail.com>

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**Mohamed Salat Haji**

1 message

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**Philly Maweja**

To: "fagandrlaw@gmail.com" <fagandrlaw@gmail.com>

Tue, Sep 14, 2021 at 12:02 AM

*All things are possible to them that believe, I understand we make decisions in our lives that we regret but all of us are entitled to receiving mercy. When I first met Mohamed was when I played basketball with the guy he was unique and selfless, a leader in the making. He shown me respect the moment I met him and was kind person towards me, he would make everything around him lit in a way where if you was having a bad day he would make it a good day for you. Mohamed was also a hard working man who served the community well and took care of his family, he never once gave up on himself or others. He always sought after success and made sure that he put the work behind his actions. I truly believe no one has the right to judge another man for what he does only God can do that but I truly believe Mohamed Salat was a person you normally would want in your life, he was very passionate.*