



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

ZA/CAC/MPC  
F. #2010R00057

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September 28, 2015

By E-mail

The Honorable Raymond J. Dearie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Abid Naseer  
Criminal Docket No. 10-19 (S-4) (RJD)

Dear Judge Dearie:

Pursuant to Federal Rule of Criminal Procedure 32(f), the government respectfully submits the following objections to the Presentence Report issued by the Probation Department on August 27, 2015 in reference to the defendant, Abid Naseer (the "PSR").

In paragraph 15, the PSR correctly states that the defendant's al-Qaeda point of contact when he returned to the United Kingdom was an individual who used the alias "Sohaib," and that Sohaib used the email account [sana\\_pakhtana@yahoo.com](mailto:sana_pakhtana@yahoo.com) to communicate with both the defendant and a member of the New York City subway plot, Najibullah Zazi. The government objects, however, to the last statement in that paragraph that incorrectly indicates that Sohaib was actually Abdul Hafeez, al-Qaeda's head of external operations at the time. According to testimony of Zazi, the individual who used the [sana\\_pakhtana@yahoo.com](mailto:sana_pakhtana@yahoo.com) email account to communicate with him was not Abdul Hafeez but rather one of Abdul Hafeez's communications conduits, who used the aliases "Zahid" and "Ahmad," and who reported back to Abdul Hafeez. See Trial Transcript ("Tr.") at 127, 129, 163-64, 180-81.

The government objects to the statement in paragraph 52 that the defendant attended John Moores University in Liverpool, England from September 2006 through December 2006. The defendant admitted at trial that he dropped out of John Moores University after only one week and lost £3,700. See Tr. at 1713-14. The defendant claimed that he dropped out due to his difficulty with the English language. Notably, the defendant had 60-90 days to enroll in another school before it would affect his student visa status. Tr. at 1716. Thus, the defendant did not attempt to enroll in another college until January 2007, 90 days after he had dropped out of John Moores University, nor did he attempt to go to class

at John Moores University between September 2006 and January 2007 despite the fact that he had paid to attend the classes.

The government objects to the statement in paragraph 54 that the defendant's attendance at Bradford College was verified by the exhibits produced at trial. The defendant produced two documents that the government demonstrated were forged. Those documents verified his attendance at Bradford College in September 2008 so that he could travel to Pakistan without losing his visa, but they were dated months before the defendant paid any tuition to Bradford College. In addition, the documents had typographical errors and were missing words, suggesting that the defendant forged the letters. Additionally, the defendant's computer had another letter saved on it, in another student's name, that was purportedly from Bradford College, but which the defendant likely forged for someone else. See Tr. at 1735-42, 1924.

Additionally, the government agrees that the obstruction of justice enhancement pursuant to §3C1.1 of the United States Sentencing Guidelines is appropriate in this case. In support of the enhancement, the PSR notes that the defendant's testimony was inconsistent with jury's findings and the evidence at trial including exhibits and witness testimony. See PSR at ¶¶ 21, 23. The government respectfully submits the following specific examples of the defendant making materially false statements in an effort to obstruct justice:

- The defendant lied with respect to email communications between himself and "Sohaib." In the emails the defendant repeatedly refers to women that he was allegedly courting for marriage and uses descriptive language referring to these purported women. During his testimony the defendant stated that these women existed and went into great detail regarding how he met these women. See Tr. at 1635-38, 1645-51, 1655-59, 1661-1667. Additionally, the defendant repeatedly denied that these emails he sent to Sohaib were coded language. Tr. at 1635, 1648, 1667. That testimony was materially false and was offered in an attempt to mislead the jury as to the true nature of the emails. The overwhelming evidence adduced at trial clearly, including the testimony of the defendant's co-conspirator Najibullah Zazi about the meaning of the code "wedding" within al-Qaeda, demonstrated that the defendant was using coded language to communicate with al-Qaeda about a planned attack in Manchester.
- The defendant lied with respect to his intention to marry Wafa Khan. Specifically, the defendant testified regarding the April 3, 2009 email he sent to Sohaib which read in part that the defendant "met with Nadia[s] (referring to Khan's) family and we both parties have agreed to conduct the nikah after 15th and before 20th of this month." See Exhibit 501. At trial, the defendant claimed that while he had not confirmed the nikah with Khan, and despite having ended his relationship with her, intended to reach out to her to see if they could "work it out." Tr. at 1661. However, Khan, who testified on the defendant's behalf, stated that in late March 2009 she received an email from the defendant ending the relationship. Specifically the defendant told Khan that he was "too religious" and Khan "too modern." See Khan

Deposition at 70-73. The two spoke briefly a few days later after which Khan cut off all communication with the defendant, well before the defendant's April 3, 2009 email. Id. at 74-75. Again, this false testimony was offered by the defendant in an attempt to mislead the jury as to the true nature of the email- namely to inform al-Qaeda of the approximate date of the planned attack.

- Additionally, the defendant lied with respect to the six nasheeds found on his electronic media. At first, the defendant claimed he downloaded the nasheeds because he found them to be both offensive and funny. Tr. 1681-82. However, when asked on cross-examination what was funny regarding the translated lyrics, the defendant claimed he did not understand what the nasheeds meant until he saw the translations introduced at trial. Tr. at 1754. These were the same violent nasheeds the defendant listened to before sending his last coded email regarding his planned attack to Sohaib. This is another example of the defendant offering materially false testimony in an attempt to mislead the jury as to the true nature of evidence offered at trial.

Finally, the PSR should reflect that the defendant is represented by Mr. James Neuman. Although the defendant represented himself at trial with Mr. Neuman as stand by counsel, at the conclusion of the trial the Court granted the defendant's request to have Mr. Neuman represent him in all future matters pertaining to this case.

The government has no objections to the Guidelines calculation as estimated in the PSR.

Respectfully submitted,

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