

KARIN J. IMMERGUT, OSB #96314
United States Attorney
District of Oregon
CHARLES F. GORDER, JR., OSB #91287
PAMALA R. HOLSINGER, OSB #89263
DAVID L. ATKINSON, OSB #75021
Assistant United States Attorneys
1000 S.W. Third Avenue, Suite 600
Portland, OR 97204-2024
Telephone: (503) 727-1000
Facsimile: (503) 727-1117

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA)	
)	No. CR 02-399-JO
v.)	
)	
JEFFREY LEON BATTLE, and)	GOVERNMENT'S
PATRICE LUMUMBA FORD,)	SENTENCING MEMORANDUM
)	
Defendants.)	

The United States of America, by Karin J. Immergut, United States Attorney for the District of Oregon, and Charles F. Gorder, Jr., Pamala R. Holsinger, and David L. Atkinson, Assistant United States Attorneys, respectfully submits this memorandum for the sentencings of defendants Battle and Ford which are currently set for Monday, November 24, 2003 at 9:00 a.m. The government is unaware of any disputed areas for the sentencing hearing with regard to the applicable guideline calculation and the ultimate sentence.

The government and defendants agree, and the Probation Office concurs, that the defendants' total offense level is 37 (Level 43 under U.S.S.G. § 2M1.1(a)(1) - Treason, minus 3 for conspiracy, minus 3 for acceptance of responsibility), defendants' criminal history category

is I, and the resulting guideline range is 210 to 262 months. Pursuant to the plea agreement between the parties and based upon the facts and evidence set forth below, the government requests a sentence of 216 months (18 years).

STATEMENT OF FACTS

This prosecution involved six Oregon residents who beginning as early as January 2001 began training themselves to fight in a so-called “jihad” somewhere in the world. As part of their training, various defendants conducted firearms practice at several locations in Oregon and Washington and engaged in martial arts training, both in formal classes and in informal group practices. After September 11, 2001, the defendants agreed on a location for their jihad: Afghanistan, where they would fight for the Taliban and Al-Qaida against the armed forces of the United States. After conducting more firearms training, six defendants, Jeffrey Battle, Patrice Ford, Ahmed Bilal, Muhammad Bilal, Maher Hawash and Habis Al Saoub traveled first to Hong Kong, and from there to Kashgar and Beijing in China in an attempt to enter Afghanistan via Pakistan. In Pakistan or Afghanistan, they expected to find persons who would further train them and assist them in getting to the war against United States military forces in Afghanistan. Due to the actions of the Chinese and Pakistani governments, the defendants before this Court were unsuccessful in reaching Pakistan. After a month of trying, the defendants split up and went in various directions. Defendants Ford and Hawash returned to the United States immediately. Defendant Battle went to Bangladesh in hopes of making it into Afghanistan from that country, but he was again unsuccessful and eventually returned to the United States in February 2002. Defendants Ahmed and Muhammad Bilal went to Indonesia. A month later, Muhammad Bilal returned to the United States and defendant Ahmed Bilal went to

Malaysia. Defendant October Lewis had remained behind in the United States and wire-transferred money she obtained from others to defendant Battle overseas in order to support his efforts to fight in Afghanistan.

SPECIFICS OF THE CONSPIRACY

A. The Defendants' Interest and Preparation for "Jihad"

With the exception of defendant Al Saoub, the defendants are all United States citizens by birth or naturalization. They all practiced the Muslim religion and lived in the Portland, Oregon, area during 2000 and 2001. They became acquainted with each other in part through their attendance at services conducted at two local mosques, the Masjid As-Sabr in southwest Portland and the Bilal Mosque (no relation to Ahmed and Muhammad Bilal) in Beaverton. The defendants became interested in the subject of fighting a "jihad" somewhere in the world, including at times in Afghanistan, Chechnya, or Kashmir.

For major inspiration, some of the defendants turned to Sheikh Abdallah Yusuf Azzam. Azzam is the author of "Join the Caravan [of Martyrs]" and "Defense of Muslim Lands," and other jihadist literature found at some of the defendants' residences. He is widely considered to be the "godfather" of the Arab-Afghan mujahideen movement and one of the original founders of the Al-Qaida military federation. Azzam first arrived in Afghanistan in 1979, and quickly established Makhtab-e-Khademat al-Mujahideen (the Mujahideen Services Office), the direct pre-cursor to Al-Qaida. Azzam's ideology, in his own words, was "jihad and the rifle alone: no conferences, no negotiations, and no dialogues." His calls for Muslim youth to join in a sacrificial "holy war" against the enemies of Allah, including the United States, have inspired Islamic militants long after his own death. Azzam Publications UK, a primary publisher of

English-language Al-Qaida propaganda, has distributed Azzam's radical teachings to a new generation of militants, including some of the defendants in this case, via the technology of the internet. Many of Abdallah Azzam's former students, including most notably Usama Bin Laden, have taken key leadership positions in various designated foreign terrorist organizations, including Al-Qaida, Hamas, and Lashkar-e-Taiba.

Several defendants began reading various books justifying violent "jihad" against nations, institutions, and persons considered anti-Muslim. Defendants Battle and Ford routinely visited various pro-jihad websites on the internet and often downloaded documents justifying "jihad." Notably, much of this activity preceded the Al-Qaida attack of September 11, 2001.

For example, defendant Battle possessed a document downloaded on January 29, 2001 entitled "How do I train myself for Jihaad[sic]?" which provided instruction on military and physical training for jihad as an Islamic religious obligation. Defendant Ford had another version of the same document which was downloaded on June 20, 2001. Ford also had a copy of Usama Bin Laden's "Declaration of War Against the Americans Occupying the Land of the Two Holy Places" downloaded on June 7, 2001. Both Battle and Ford had copies of Azzam's classic pro-jihad text, "Join the Caravan" which was endorsed on the back cover by Usama bin Laden.

To further their preparations for jihad, various defendants began practicing with firearms. Several overt acts of the charged conspiracies involve target practice at both commercial indoor firing ranges and informal shooting practice in rural Oregon and Washington. For example on several occasions in May and June 2001, defendants Ahmed and Muhammad Bilal went to an indoor shooting range called "The Place to Shoot" to shoot guns. During the Summer of 2001, defendants Ahmed Bilal and Muhammad Bilal went to rural locations in Oregon and practiced

military-style shooting as part of their preparation to fight violent jihad.

Also during 2001, in order to prepare themselves to fight jihad, the defendants took martial arts classes conducted by defendant Ford's uncle. Defendants Ford, Ahmed Bilal, Muhammad Bilal, and Hawash and others were formally enrolled in the martial arts classes. Defendant Battle attended some of their informal practices.

B. Planning for Travel to Afghanistan

On September 11, 2001, the United States was attacked by terrorists who hijacked four planes and flew two of them into the buildings of the World Trade Center in New York and one into the Pentagon outside of Washington, D.C. The attack was organized by Usama bin Laden and his terrorist organization, Al-Qaida, which was headquartered at the time in Afghanistan and under the protection of the Taliban regime in that country. After the Taliban refused repeated demands by the United States to turn over bin Laden and his cohorts, the United States and allied forces began retaliatory bombing of Taliban and Al-Qaida targets in Afghanistan on or about October 2001 and United States armed forces entered the conflict.

The attacks on the United States and the American government's military response galvanized the defendants to finalize their plans for participating in jihad in Afghanistan. On

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September 14, 2001, defendant Ford bought a shotgun, and shortly thereafter Ford and the two Bilals went target shooting at a private gravel pit they found in Washougal, Washington.

On a second occasion Ford and Ahmed Bilal returned to the gravel pit. At approximately 6:00 p.m., on September 29, 2001, a sheriff's deputy from the Skamania County Sheriff's Office, Stevenson, Washington, was notified of a complaint of automatic weapons fire by a citizen who

lived near the privately owned gravel pit referenced above. The gravel pit had a locked gate and numerous posted “No Trespassing” signs. Upon his arrival, the deputy noticed two vehicles with Oregon license plates parked near the gate, and could hear shooting in the gravel pit area. The deputy walked past the locked gate and toward the gravel pit. As he walked up the road, he noticed a small group of individuals, several of whom were wearing Middle Eastern-style turbans and clothing, shooting several weapons. The deputy told them to put down the weapons, which they did.

The deputy advised them they were on private property, and several of the individuals informed the deputy that they were from the Portland area and had come to the gravel pit to shoot their weapons. The deputy asked each of the individuals for identification. Defendant Battle, Ali Khaled Steitiye, and Ilir Koni, all produced Oregon state drivers licenses for the deputy. Defendants Ford, Ahmed Bilal, and Al Saoub verbally provided the sheriff's deputy with identifying information. The sheriff's deputy noted the following weapons present: a Remington 870 12 gauge shotgun (which the investigation has determined belonged to defendant Ford), a 30:06 rifle with scope (which the investigation has determined belonged to Ahmed Bilal), a Chinese SKS 7.62 assault rifle (which the deputy could not recognize as fully automatic and which belonged to Steitiye), a Makarov 9mm semiautomatic pistol which also belonged to Steitiye), and a Kel-Tec 9mm semiautomatic pistol (which belonged to defendant Battle). Unbeknownst to the deputy, Steitiye had another fully automatic weapon hidden in a bag. The sheriff's deputy then advised the group to pick up their weapons and leave the area, which they did.

Defendant Battle later recounted this incident in a recorded conversation:

We was up there blowin' it up . . . we was lightin' it up . . . he had a box full [of ammunition] . . . we almost shot them all. We got caught. I mean the police came up there We all went out shootin', me and [Steitiye], me and [Al Saoub], he had your gun, right there . . . another brother Ahmed Bilal, Lamum [Ford], me

And their minds focused on jihad, to try to find jihad. So our intentions were out there, we was, our intentions of going out there, we looked at it as worship because what our, what our intentions were, to learn how to shoot for

And a cop came up and he was like hey . . . you don't understand how close he was gonna get popped . . . yeah, we was gonna pop him.

Battle went on to explain that because they successfully hid their automatic weapons from the deputy and because "the cop was 'cool'" because he was a "gun guy," they decided not to kill him.

During this same period of time (post-September 11), the defendants began meeting at various locations in the Portland area in order to plan their travel to Afghanistan. Defendant Al Saoub was selected as the "Emir" or leader of the group because of his past experience as a mujahid ("holy warrior") fighter against the Russian Army in Afghanistan. They were informed by defendant Al Saoub that they would receive further military training at an unknown location in Pakistan or Afghanistan. Their initial plan was to get to Peshawar, Pakistan, through any route possible. At one point, defendant Al Saoub told them that once they got to their destination the group would be split up and they would be assigned to different locations.

Al-Saoub had a Jordanian passport which meant that he could not enter Pakistan or most other Asian countries without obtaining a specific visa ahead of time. Thus, the group chose to go first to Hong Kong where a Jordanian (and United States citizens) could be admitted without a visa, and then to attempt to get to Pakistan via any method possible. China was chosen at least

partially because defendant Ford could speak Chinese. The defendants left Portland on various flights during a one-week period in October 2001 and flew to Hong Kong where they gathered in a section of the city near a mosque.

C. *Travel Overseas*

On October 17, 2001, Al Saoub and Battle left Portland for Hong Kong. Defendant October Lewis drove Battle to the Portland airport. On October 20, 2001, defendant Hawash took defendants Ford, A. Bilal, and M. Bilal to the Portland airport. Defendant Hawash provided the Bilals with an envelope of cash that another individual had given to him to give to the Bilals.

After defendant Hawash finished getting his affairs in order (including transferring his home into his wife's name) and buying clothing and equipment for use in Afghanistan, he left the United States on October 24, 2001, and flew to Hong Kong.

The group ultimately decided to attempt to get into Pakistan and Afghanistan by traveling to the city of Kashgar, located in the far western province of China known as Xinjiang, and which is very near the Pakistani and Afghan borders with China. Since defendant Ford spoke

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Chinese, he acted as their interpreter. In Hong Kong, all of the group, including Al Saoub, ultimately were able to secure visas for China.

The group also chose a name for themselves, "Katibat Al-Mawt," which loosely translates to "The Squad of Death." The "Squad of Death" entered into China on October 27, 2001, and flew to Urumqi in Western China. From there, they took a train to Kashgar, reaching that city on October 30, 2001. At one point during their travel toward Afghanistan, the members of the group pledged to Al Saoub and to each other that they would stand firm and never run

away from the coming battle.

The group spent several days in Kashgar unsuccessfully trying to gain entry into Pakistan through several different methods. They hired a local person to drive them across the Pakistani border for \$600, but eventually the local person said he could not get them to the border. They heard that there were large numbers of Chinese soldiers blocking the route into Pakistan. Defendants Al Saoub and Hawash had a Pakistani individual purchase them bus tickets from Kashgar to Pakistan, but the Chinese bus driver would not let them get on the bus.

While they were in Kashgar, the group was observed by an American journalist, Ron Gluckman, who was independently in Kashgar researching a story for a travel magazine. He stayed at the same hotel as the six defendants and had a number of encounters and conversations with them. He noticed them doing chin-ups from the rafters of the hotel lobby, sparring in the hotel's courtyard, and described them as a "fighting squad." He recalled Ahmed Bilal as stating "We're in training. Believe me, pretty soon we'll have our chance to prove ourselves."

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The "Squad of Death" then decided to go to Beijing to obtain entry visas for Pakistan from the Pakistani Embassy. The group traveled by train to Beijing. In Beijing, defendants Hawash and Al Saoub in one group and defendants Ahmed and Muhammad Bilal, Ford, and Battle in a separate group went to the Pakistani Embassy to obtain visas for Pakistan, but they were all turned down. The failure to obtain visas for Pakistan precipitated the separation of the group in China in mid-November 2001. Defendants Ford and Hawash left China almost immediately and returned to the United States. The Bilals went to Indonesia. Battle went to Bangladesh to see if he could use the Tablighi Jamaat, an Islamic evangelical organization, to get

into Afghanistan, and Al Saoub remained for the time-being in China. Before the group separated, Hawash gave each member of the group (except Battle) some additional cash.

While Defendant Battle was overseas, defendant Lewis was able to keep in touch with him through e-mail and occasional telephone calls. Defendant Battle asked Lewis to talk to “the brothers” and ask for money for him. She asked another individual, whose family she was living with while Battle was overseas, for money for Battle. Shortly thereafter this other individual’s wife gave her a stack of money and told her it was for defendant Battle. Beginning when he was in Hong Kong, continuing while he was in China, and then while he was in Bangladesh, defendant Battle received a number of Western Union money transfers from Lewis. The total amount sent to Battle by Lewis was \$2130.00.

While Battle was in Kashgar, China on November 2, 2001, he e-mailed her:

[W]e’ve come up with some difficulty in are [sic] travel, some border blocks and undercover munafiqs [Arabic for “hypocrites”] and kafir [“infidel” or “non-believers”], but insha Allah! [God willing] Allah will open the door soon. Please make duah [pray] for use [sic] all.

And on November 12, 2001, from Beijing Battle e-mailed Lewis in part:

Baby this what I’m about to tell you is for your information only. Its not for yu to inform anybody of this at all. I tried to receive an visa to pakistand [sic] and was refused entry. This was one of the last atempts [sic] So I was faced with some major decisions to make at this point. So the decision was to either 1. return back to the USA to a land of the kafir or 2.Move to a muslim land close to the work of Allah The plan is for me to get set up and stay in this location (Bangladesh) until the doors open up for me to further do the work of Allah. . . . So I plan IshahaAlla to go there get involved with the tabliqi Jamaat learning more about this deen [religion] and doing the work of dawah until Allah opens the door for me else ware. . . . Don’t tell any one of are plains [sic] at all, we should have learend are [sic] lesson about the evil eye by now.

On November 14, 2001, Lewis sent an e-mail with the subject line “Sounds like a good plan to me” to Battle which read in part:

Have you already talk to Tabliqie Jammata already? What ever the case may be I'm so ready to leave America . . . Honey I hope yo!u will get to your destination safely [sic], and I hope to see you again soon. So what do you want me to tell the brother if he ask about you?

Shortly after reaching Bangladesh, on November 20, 2001, Battle e-mailed Lewis and in part responded to her inquiry:

This will probable be the last time I contact you for some time. . . . As for the brother let him read this or you can tell him. I cannot be getting on the phone talking and calling anybody on a schedule. My life is not on a schedule but at the rethym [sic] of what ever Allah wont at the time. I appreciate All of your sacrifice for helping my family and the finatial [sic] support you've given the whole jamaat, but I hope you did these things for the sack [sic] of Allah. I got a message that you really need to talk to me. I'm sorry but if its that important you should have told your wife to tell me. If Allah finally due [sic] connect us in conversation My brother in Islam please don't ask me question on the phone that could get myself or anyone I'm associated with in trouble. Something I wont talk to you about for your safety and your family safty [sic]. The Jamaat had to separate and Allah will get us to are [sic] final destination easeir [sic] insha Allah on separate avauenes [sic].

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On November 30, 2001, Battle e-mailed Lewis and in part told her to:

Let the brother know were I'm at and what I'm doing if you think it appropriate. Let him know its possiable that 3 of the brother could have made it by now, because I havnt received any emails from them as of yet.

On December 5, 2001, Lewis e-mailed Battle and said in part:

Oh yea Wali asked me did you go do you know what I said no, you need to stop listening to other people, I said that your gone on Jammata, doing spiritual work.and brother Omar at north ease masjid said : he did not go with the U.S. Army over there did he" I said no.he been out the army, he's on a spiritual trip.oh yea they showed on the news that the US captured three americans out there trying to fight on you know who side. There are 2000 Marines now out there. What really going on with you I hope you are alright love you

D. *Actions Taken After the Defendants Left China*

As soon as Ford returned to the United States, he wire transferred \$500 to defendant Al Saoub who had remained behind in China. Three days later, using the alias “Larry Jackson,” Ford sent Ahmed Bilal \$200 in Indonesia. In January 2002, Ford sent an additional \$483 to Al Saoub in China.

After Hawash returned to the United States, he received a phone call from Al Saoub asking for money. Hawash arranged for \$2000 to be sent by someone in Nablus in the West Bank area of Palestine to defendant Al-Saoub in China.

Muhammad Bilal left Indonesia and returned to the United States in late December 2001. Ahmed Bilal left Indonesia and went to Malaysia. Battle gave up his attempt to enter Afghanistan from Bangladesh and returned to the United States in February 2002.

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E. *Evidence Obtained in the Government’s Undercover Investigation*

Beginning in May 2002, a cooperating witness (“CW”) working for the Federal Bureau of Investigation began consensually recording extensive conversations with defendant Battle, and somewhat later, a limited number of conversations with defendant Ford.

On May 8, 2002, Battle discussed his group’s efforts to gain entry into Pakistan through western China. He stated that there were 400,000 Chinese soldiers waiting at the border for the mujahideen. They were unable to purchase tickets at the border, so they traveled to the Pakistani embassy in Beijing in an unsuccessful effort to obtain visas. Battle stated that it was the group’s intent to fight. He had a “burning desire” to fight in a jihad and to become “al shahid” (martyred). Although there were different “variations of intentions” among the members of the

group, it was Battle's intent to never leave jihad until he was martyred. Battle also discussed having considered, but ultimately rejected, committing terrorist acts in the U.S. – specifically, mass murder at a Jewish synagogue or school:

If every time [the Israelis] hurt or harm a Muslim over there [in Palestine] you go into that Synagogue and hurt one over here, okay, they're gonna say, wait a minute, we gotta stop, we're seeing a connection here, okay

We were gonna get those kind, something like that automatic, right? We was gonna hit all at the same time as each other

This is the land of the enemy. They're attacking us, they're supporting attacks on us all around the world. . . .

We were willing to get caught or die if we could do at least 100 or 1000, big numbers.

The next day, Battle spoke of his preference to commit an act of mass murder by staging a raid, as opposed to a suicide mission, because he wanted to be alive to see the damage inflicted. He spoke of his desire to prove himself to Osama bin Laden on the front lines of Afghanistan, and believed that bin Laden would thereafter take care of his financial needs, noting that during the Afghan jihad against the Soviets, Muslims ensured that the families of the mujahideen were financially supported.

On June 6, 2002, in a recorded conversation involving both Battle and Ford, Battle stated that he used his western name, as opposed to his Islamic name (“Ahmed Ali”) and dressed in western clothing, as opposed to traditional middle-eastern robes, because it is easier to travel and to “do things” when he is “behind enemy lines” (in context, within the U.S.). He praised the mujahideen as the “cream of the crop” and pure Muslims. He complained about the lack of financial support for American Muslims who leave their families to enter jihad. In Ford's

presence, Battle stated, “. . . if we would have made it to Afghanistan and fought there . . .” it would have been for “. . . purely Islamic reasons.” Battle praised Osama bin Laden and Sheikh Abdullah Azzam. Ford stated that Azzam was more influential than bin Laden; Azzam had been martyred and therefore was more potent. Ford also lectured the CW on what he characterized as the four steps to jihad.

On July 5, 2002, during a discussion with the CW about an Egyptian gunman who opened fire at an El Al Airlines counter at the Los Angeles International Airport the previous day (July 4, 2002), Battle opined that the gunman could have used a different strategy to kill more Israelis. He stated that a large number of Israelis would have to be killed before there would be any positive effect.

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On August 2, 2002, Battle discussed his participation in the Afghan jihad trip at length with the CW and an acquaintance, specifically identifying Afghanistan as their destination. Battle believed that fugitive co-defendant Al Saoub successfully made it to Afghanistan. Battle was “broken-hearted” that he did not make it to Afghanistan. Battle described having participated in firearms training in a gravel pit with “all the brothers that planned on going.” They had two fully-automatic weapons. The group considered killing a police officer who appeared during the training, but decided not to do so because the officer was “cool” and was a gun aficionado.

In a lengthy recorded tirade on August 15, 2002, Battle spoke about a variety of subjects: (a) wanting to kill a large number of Jews in Palestine; (b) believing that Palestinians should have a better source of arms; (c) believing that Israel should be fought “at the source” (in

context, in the U.S.); (d) believing that terrorist acts should be committed simultaneously to have a greater effect; and (e) believing that Muslims should do something here in the U.S. every time Israel does something against Palestinians. He spoke at length about his disdain for the U.S. and considered Americans to be “pigs.” He also observed that right-wing fanatics in the U.S. would “blow up a building just as quick as me.”

Battle stated that his group believed that nobody would suspect China as an entry point into Afghanistan. His group believed that “coming through the back door,” as opposed to entering via India or the Middle East, had the greatest chance of success. He further stated that the group’s strategy for accessing Afghanistan was that Ford, who spoke Chinese, would guide them through China, and Al Saoub would guide them through Pakistan and into Afghanistan.

On September 4, 2002, Ford and the CW discussed an Al Jazeera news report which showed a body resembling Al Saoub. In discussing whether it was actually Al Saoub depicted in the footage, Ford stated “He’s not gonna let them take him prisoner, I know that. . . . [h]e told us that he would not be taken prisoner.” Ford also stated that “they” could put him (Ford) in jail for what he did, under a conspiracy theory. In response to a question by the CW, Ford stated that Al Saoub made it because “[h]e was more patient than us. . . . Abu Tarek [Al Saoub] was definitely the most sincere out of all of us . . . going for jihad is really a privilege among friends.”

In response to a question by the CW about the group’s lack of military training, Ford responded that “the brothers, they train you . . . they don’t put you out unless you train and know what you are doing. They won’t just let you get killed. When we went there, there were 12,000 Pakistanis waiting at the border waiting to cross in to help . . . and the Taliban said no, we are not going to let your guys in, just gonna use our own people who are experienced and trained

because of the way the Americans are bombing there would be too many casualties” In response to the CW’s question about how he believed he would react under fire, Ford stated that he “thought about it all the time. . . . I would just ask Allah, don’t let me be a coward and let me be steadfast.” Ford stated that the group decided to try to enter Afghanistan through China and Pakistan because “we didn’t trust the Shiites” in the Middle East, who “hate the Sunni more than the kaffirs (unbelievers) do.”

On September 9, 2002, Battle stated that it was time to clean up any incriminating evidence and leave the U.S. He expressed a desire to “get strapped” in case “they” came for him before he left the country. The next day, while the CW was sharpening a knife, Battle stated that he wanted a “blade” to cut off the kaffirs’ heads. He stated that defendant Al Saoub was acquainted with bin Laden. In order to fight for the Taliban, one must first be cleared through al Qaida. Battle was humiliated that he didn’t make it to Afghanistan. He claimed to have a passion for jihad and was jealous of Al Saoub, who “got there.” Battle stated he joined the U.S. Army because it was the only place where he could get military training. He then left the military.

On September 10, 2002, Battle visited the CW’s residence and was overheard whispering to the CW and asking if he knew how to make a bomb.

F. *Evidence Obtained Through Telephone Interceptions*

During some of the period of this investigation, defendants Ford and Battle were subject to electronic surveillance pursuant to the Foreign Intelligence Surveillance Act (“FISA”).¹ For

¹ The telephone conversations intercepted pursuant to the FISA surveillance of Ford and Battle have been declassified and the Attorney General has authorized their use in this

example, at 12:24 a.m. on July 12, 2002, Ford and Muhammad Bilal were intercepted speaking in a telephone conversation, which in context appears to be the first time the two had spoken since they had separately returned from China. Ford informed Bilal that he was “watching a tight video” on Bosnia.² After some general conversation, M. Bilal inquired about Battle:

Ford: He’s doing alright. I see him every now and then. . . .

M. Bilal: I haven’t seen him since he’s been back, man. . . . I haven’t been out to the Masjed AsSabr in a long time.

Ford: (Yawning) Asked, everybody ask, even Maher, every now and then, so I asked him about you . . .

A bit later, the following conversation occurred, apparently concerning the CW’s attempts to elicit conversation from Ford concerning the shooting practice in Washington:

M. Bilal: When was the last time you went out shooting?

Ford: Man, I ain’t even mess with that no more, right now.

prosecution.

² Undoubtedly, the video “Martyrs of Bosnia” which was later found by the FBI in Ford’s VCR when he was arrested. The video “Martyrs of Bosnia” depicts in graphic detail the 1992-93 civil war in the Balkans, as seen through the eyes of the Arab-Afghan mujahideen under the command of Al-Qaida member Abdelrahman Al-Dosari (a.k.a. Shaykh Abu Abdel Aziz “Barbaros”) and Al-Gama`at Al-Islamiyya commander Anwar Shaaban. During the video, a number of other past and present Al-Qaida members are featured subjects of discussion, including Abu Zubair Al-Madani (a cousin of Usama Bin Laden) and Abu el-Ma`ali (a.k.a. Abdelkader Mokhtari), a notorious Algerian GIA terrorist based in Bosnia.

M. Bilal: For real?

Ford: Yeah, this one brother, I don't know if he trying to set me up or what. (Laughs) But he keeps on asking me. Man like, look man, I don't know nothing about guns. You know, I don't even know how to open up a knife. Will you stop talking to me about it, please? "Man. I gotta, I gotta AK and I gotta shotgun. I got this, and got that. Do you want to go?" Like no, man. I don't know what you're talking about.

M. Bilal: Someone trying to get Lumumba in trouble, man?

Ford: So let me tell you, you have to be careful, man. If you know what's good, if you know what I mean.

M. Bilal: Yeah, I hear you.

Ford: You notice how a lot of other people have been approached, but for some reason certain number of people ain't been noticed. Some coincidence, if you know what I mean.

M. Bilal: I know what you mean.

Ford: OK, so the reason for that (pause) That's all I'm saying right now. You're smart enough to know what I'm saying

A bit later, the two discuss China:

Ford: That's where we need to be going.

M. Bilal: Yeah man, there's good stuff out there. Good eating, Good sleeping. (Laughs) Beautiful creatures out there in the Muslim areas that we went to.

Ford: So, Guangzhou wasn't that bad either, though?

. . . .

M. Bilal: If I go back there, it's going to be going back there with a different eye, you know what I'm saying. . . . It's going to be different the next time I go.

Ford: I know what I'm doing. I'm a forge some documents, you know, like the Sheikh said. You needed the papers, you know, forge some documents . . . He was the one who fought the government, cause I know if, uh, we pressed

him, Abu Tarek (Al Saoub) could have convinced him, you know, to go ahead and let us (Pauses)

M. Bilal: Insha Allah (God willing)

The two then switched subjects and concluded their conversation with anti-Semitic remarks after Muhammad Bilal told Ford that he was working at bagel shop:

Ford: You work for the Jews?

M. Bilal: This guy is a Christian actually. He ain't a Jew.

Ford: That's a lot better.

M. Bilal: Alhamdu Lillah (Praise be to God)

Ford: (chuckles) Brother, they all the same.

M. Bilal: I hate Jews more man.

Ford: (laughs)

M. Bilal: Shoot

Ford: Brother, the Serbs, they're Christian. They, the US claims to be . . . They all the same brother.

M. Bilal: They are all creatures of Allah.

Ford: (Laughs) Listen to that.

M. Bilal: I hate the Devil more than all of them, though.

Ford: The same as apes and pigs are the creatures of Allah. Put 'em on the same level as that.

On August 14, 2002, at 12:55 a.m., another telephone conversation between Ford and Muhammad Bilal was intercepted. The two discussed marrying Muslim women. Ford indicated that he wanted to marry a real Muslim woman, not a "fake" American one. He described the "real" Muslim woman as "carrying an AK-47," "pop, pop, capping with it [the AK-47]," and

“ready to run up and blow something up.” Twice Ford sarcastically referred to a television program he was watching on the Holocaust. One reference was as follows :

Ford: I wish you was watching this brother, it’s about the poor little Jews, ohh, and the Holocaust.

M. Bilal: Brother, brother, brother, you so cold-hearted. You have to have a heart for the Jews.

Ford: (Laughs) Yeah, I like how your brother calls, he calls them “lampshades.”

M. Bilal: The “lampshades.”

Ford: Yeah

M. Bilal: Yeah

While Bilal was describing his youngest brother who he had recently seen for the first time in several years, Ford began to chant “Mujahid, Mujahid” (Holy Warrior, Holy Warrior).

G. *The Arrests and Searches*

Battle, Ford, Lewis, and Muhammad Bilal were arrested on the underlying charges on October 4, 2002. Searches of Battle’s and Lewis’s apartment and car uncovered 50 rounds of 9 mm ammunition (although no gun). Among the documents found besides those previously mentioned were Abdallah Azzam’s book “Join the Caravan,” Azzam’s “Islamic Ruling on Defending Muslim Lands Under Attack” (downloaded on September 16, 2001), and Azzam’s “Last Will and Testament.” Battle also had the book “Milestones,” written by Sayd Qtub, a prominent anti-American extremist and leading ideologue for Islamic fundamentalism from Egypt who was associated with the Muslim Brotherhood.

Searches of Ford’s residence and vehicles uncovered (1) the shotgun which he bought on September 14, 2001, and which fired the shotgun shells previously found at the Washougal

gravel pit, (2) machetes and other knives, (3) Azzam's book "Join the Caravan," (4) "Jihad Against Jews and Crusaders" by Usama Bin Laden (downloaded on September 30, 2001), (5) "Jihad: The Highest Peak of Islam" (downloaded January 8, 2002), and (6) downloaded documents from "Taliban and Mujahideen News," including documents celebrating the Taliban uprising at Mozari Sharif in November 2001 in which CIA officer Johnny Spann was killed and a 9/11 anniversary message from Mullah Omar. Ford also had a downloaded document entitled "Hunting the Hunter - Heartening Scenes of U.S. Marines' Beating" about attacking American forces in Afghanistan and a "Ruling with Regards to the Killing of Non-Fighting Kaffir Women and Children in the Situation of War" by Hassan El Rashid.³ Additional video and audio "jihad" material was also found at Ford's residence. For example, in Ford's VCR was the videocassette "The Martyrs of Bosnia Part 1" (a.k.a. *Al-Shuhadaa Al-Busnia*), produced by Azzam Publications UK, described earlier.

H. *Defendants' Admissions*

1. Jeffrey Battle

When arrested, Battle waived his Miranda rights and was interviewed by Joint Terrorism Task Force Agents. Although he initially claimed that his trip overseas was to further his religious education, Battle ultimately confessed to having attempted to go to Afghanistan to fight in a jihad against American and coalition forces and that he planned on martyring himself on the

³ Two books checked out from the Multnomah County Library, *Tactics and Duties for Trench Fighting*, and *Fundamentalism Reborn? – Afghanistan and the Taliban*, were also discovered at Ford's residence, along with collection notices for library fines. Agents also recovered documents showing that defendant Ford had requested a deferment of his student loans on the ground that his income was zero while he was traveling to China and wiring money to his fellow jihadists!

fields of Afghanistan. He identified Ford, Ahmed and Muhammad Bilal, and Al-Saoub as participants in the enterprise. He also indicated that another unidentified person whose name he did not know (Hawash) had also gone with them.

In his guilty plea, Battle admitted that during the Summer of 2001, he conducted martial arts training in order to prepare himself to fight a violent jihad in Afghanistan or in another location at some point in the future. He further admitted that he and the other defendants met at various times in the Portland, Oregon area and agreed with each other that they would all leave the United States and travel overseas to fight in Afghanistan against the armed forces of the United States, that he and others went to the gravel pit in Washougal, Washington to conduct shooting practice, and that the group decided that the best way to get to Afghanistan to fight American forces was to go through China into Pakistan and then to Afghanistan. He confirmed that after all obtained visas in Hong Kong for China, he and the others entered mainland China, went to Kashgar, and spent several days unsuccessfully trying to gain entry into Pakistan through several different methods. He further admitted that the group later decided to go to Beijing to obtain an entry visa from the Pakistani Embassy. In Beijing, the Pakistani Embassy turned down his request for a visa for Pakistan. He also admitted that he went to Bangladesh where he unsuccessfully attempted to find another way into Pakistan and Afghanistan.

2. Patrice Ford

Defendant Ford invoked his rights and did not make a statement when arrested. In his guilty plea, he admitted that during the Summer of 2001, he conducted martial arts training in order to prepare himself to fight a violent jihad in Afghanistan or in another location at some point in the future. He further admitted that he and the other defendants met at various times in

the Portland, Oregon area and agreed with each other that they would all leave the United States and travel overseas to fight in Afghanistan against the armed forces of the United States. He admitted that in order to prepare for war against the armed forces of the United States, he bought a shotgun and went shooting at the gravel pit in Washougal, Washington, with defendants Ahmed and Muhammad Bilal and that on a second occasion (September 29, 2001), he went with several of his co-defendants (Ahmed Bilal, Battle, and Al Saoub), to the gravel pit in Washougal, Washington to conduct shooting practice. He confirmed that after all of the jihadists obtained visas in Hong Kong for China, he and the others entered mainland China, went to Kashgar, and spent several days unsuccessfully trying to gain entry into Pakistan through several different methods. He further admitted that the group later decided to go to Beijing to obtain an entry visa from the Pakistani Embassy. In Beijing, the Pakistani Embassy turned down his request for a visa for Pakistan. He admitted to acting as the group's interpreter while in China. He further admitted that after he returned to the United States in November 2001 he wired \$500 through Western Union to defendant Al Saoub to further Al Saoub's continued efforts to get to Afghanistan to fight American forces and that he sent \$200 to defendant Ahmed Bilal in Indonesia. He also admitted that in January 2002 he wired an additional \$483 through Western Union to defendant Al Saoub in China.

SENTENCING GUIDELINES APPLICATION

The government and the defendants have stipulated in the plea agreements to the Sentencing Guideline calculations and the Probation Office has independently agreed with those calculations. Defendants Battle and Ford each have a Criminal History Category of I. There is no applicable guideline for a violation of Title 18, United States Code, Section 2384. Based

upon the underlying facts in this case, the most analogous guideline for this offense is U.S.S.G. § 2M1.1(a)(1) (Treason) which establishes a base Offense Level of 43. The parties stipulate, and the government moves, that pursuant to U.S.S.G. § 2X1.1(b)(2) that the offense level should be reduced by three levels for conspiracy, to Level 40. The government further recommends a three-level reduction for acceptance of responsibility. With a three-level reduction for acceptance of responsibility, the final Offense Level is 37 and the applicable sentencing range is 210-262 months.

THE APPROPRIATE SENTENCE

The government recommends a sentence of 18 years (216 months) for each defendant. The government does so, not just because it is part of the plea agreement, but also because it is the right punishment for these two defendants. These two defendants became fascinated with the concept of violent jihad, believing that they had some kind of twisted religious obligation to violently fight against non-Muslims. When the United States was attacked by Al-Qaida militants on September 11, 2001, the defendants chose to side with the enemy against their own country.

These two defendants were fortunate that they did not achieve their goal of entering Afghanistan and facing American forces where they most likely would have been killed. Nevertheless, a lengthy sentence is necessary to send a message to those who would make war against their own country. Eighteen years, close to the maximum 20-year penalty Congress chose for this offense, is an appropriate punishment for these defendants' ill-conceived mission as well as a warning to others contemplating a similar act of perfidy.

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CONCLUSION

For the reasons given above, the government requests that the Court sentence both defendants Battle and Ford to 216 months in custody.

DATED this 19th day of November, 2003.

Respectfully submitted,

KARIN J. IMMERGUT
United States Attorney

CHARLES F. GORDER, JR.
PAMALA R. HOLSINGER
DAVID L. ATKINSON
Assistant United States Attorneys

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have made service of the foregoing **GOVERNMENT'S SENTENCING MEMORANDUM REGARDING DEFENDANTS BATTLE AND FORD** on the party herein by causing to be mailed at Portland, Oregon, on February 15, 2012, a full copy thereof in a sealed envelope, with postage prepaid, addressed to:

Counsel for defendant Battle

Kristen L. Winemiller
Attorney at Law
1420 World Trade Center
121 SW Salmon Street
Portland, OR 97204

Counsel for defendant Ford

Stanley L. Cohen	Marc Sussman
Attorney at Law	Attorney at Law
119 th Avenue D, 3rd Floor	1906 SW Madison Street
New York, NY 10009	Portland, OR 97205

DATED this _____ day of November, 2012.

LORI McBRYDE, Paralegal Specialist