



IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA            )  
  )  
                  v.                            ) CRIMINAL NO. 03-296-A  
  )  
MUHAMMED AATIQUE,                    )  
  )  
                  Defendant.                )

PLEA AGREEMENT

Paul J. McNulty, United States Attorney for the Eastern District of Virginia, and Gordon D. Kromberg and David H. Laufman, Assistant United States Attorneys, and John T. Gibbs, Department of Justice Trial Attorney, and the defendant's counsel, Alan Bowman and William B. Moffitt, pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure, have entered into an agreement, the terms and conditions of which are as follows:

1. The defendant, MUHAMMED AATIQUE, agrees to plead guilty to Count Five and to the charge in the Criminal Information. Count Five of the Indictment charges the defendant with aiding and abetting Masoud Ahmad Khan and others in preparing for and beginning a military expedition to be carried out from the United States against India, a foreign state with whom the United States was at peace, in violation of Title 18, United States Code, Sections 960 and 2. The maximum penalty for this offense is a term of three years of imprisonment, a fine of \$250,000, full restitution, a special assessment, and one year of supervised release. The charge in the Criminal Information charges the defendant with use and discharge of a firearm during and in relation to a crime of violence, in violation of Title 18, United States Code, Section 924(c). The maximum penalty for this offense is a mandatory minimum term of imprisonment of 10 years, a

maximum term of life in prison, a fine of \$250,000, full restitution, a special assessment, and five years of supervised release. The defendant is aware that these supervised release terms are in addition to any prison terms the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

The defendant is also aware this case is governed by 18 U.S.C. §§ 3143(a)(2) and 3145(c). These provisions provide that a judicial officer shall order that a person who has pled guilty to an offense of this kind be detained unless there are exceptional reasons why such person's detention would not be appropriate.

2. Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

3. Restitution does not appear to be applicable in this case.

4. The defendant is aware that the defendant's sentence will be imposed in accordance with the Sentencing Guidelines and Policy Statements. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offenses to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is also aware that any estimate of the probable sentencing range under the sentencing guidelines that the defendant may have received from the defendant's counsel, the United States, or the probation office, is a prediction, not a promise, and is not binding on the United States, the probation office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence. The defendant is aware

that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Acknowledging all this, the defendant knowingly waives the right to appeal any sentence within the maximum provided in the statute(s) of conviction (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b).

5. The United States will not further criminally prosecute defendant in the Eastern District of Virginia for the specific conduct described in the indictment, criminal information, or statement of facts. Therefore, defendant has immunity only for crimes based on facts set forth in the indictment, criminal information or statement of facts. After the Court's acceptance of this plea, the United States will move to dismiss the remaining counts of the indictment against this defendant. Except where specifically noted, this plea agreement binds only the United States Attorney's Office for the Eastern District of Virginia and the defendant; it does not bind any other prosecutor in any other jurisdiction.

6. The defendant represents to the Court that defendant is satisfied that defendant's attorney has rendered effective assistance. Defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

a. If the defendant persisted in a plea of not guilty to the charges, defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be

conducted by a judge sitting without a jury if the defendant, the United States, and the judge all agree.

b. If a jury trial is conducted, the jury would be composed of twelve laypersons selected at random. The defendant and defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed innocent, that it could not convict the defendant unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.

c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established the defendant's guilt beyond a reasonable doubt.

d. At a trial, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence in defendant's own behalf. If the witnesses for the defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court.

e. At a trial, the defendant could rely on a privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from the refusal to testify. If the defendant desired to do so, the defendant could testify in the defendant's own behalf.

7. The defendant agrees to cooperate fully and truthfully with the United States, and provide all information known to the defendant regarding any criminal activity. In that regard:

a. The defendant agrees to testify truthfully and completely at any grand juries, trials or other proceedings.

b. The defendant agrees to be reasonably available for debriefing and pre-trial conferences as the United States may require.

c. The defendant agrees to provide all documents, records, writings, or materials of any kind in the defendant's possession or under the defendant's care, custody, or control relating directly or indirectly to all areas of inquiry and investigation.

d. The defendant agrees that, upon request by the United States, the defendant will voluntarily submit to polygraph examinations to be conducted by a polygraph examiner of the United States' choice. The defendant stipulates to the admissibility of the results of this polygraph examination if later offered in a proceeding to determine the defendant's compliance with this plea agreement.

e. The defendant agrees that the accompanying Statement of Facts is limited to information to support the plea. The defendant will provide more detailed facts relating to this case during ensuing debriefings.

f. The defendant is hereby on notice that the defendant may not violate any federal, state, or local criminal law while cooperating with the government, and that the government will, in its discretion, consider any such violation in evaluating whether a downward departure is appropriate.

g. Nothing in this agreement places any obligation on the government to seek the defendant's cooperation or assistance.

8. a. The United States agrees not to use any truthful information provided pursuant to this agreement against the defendant in any other criminal prosecution against the defendant in the Eastern District of Virginia. Pursuant to Section 1B1.8 of the Sentencing Guidelines, no truthful information that the defendant provides pursuant to this agreement will be used to enhance the defendant's guidelines range. The United States will bring this plea agreement and the full extent of the defendant's cooperation to the attention of other prosecuting offices if requested.

b. Nothing in this plea agreement restricts the Court's or Probation Office's access to information and records in the possession of the United States. Further, nothing in this agreement prevents the government in any way from prosecuting the defendant should the defendant provide false, untruthful, or perjurious information or testimony. Moreover, nothing in this agreement prevents the government from using such information in furtherance of any forfeiture action, whether criminal or civil, administrative or judicial.

9. This plea agreement is not conditioned upon charges being brought against any other individual. This plea agreement is not conditioned upon any outcome in any pending investigation. This plea agreement is not conditioned upon any result in any future prosecution which may occur because of the defendant's cooperation. This plea agreement is not conditioned upon any result in any future grand jury presentation or trial involving charges resulting from this investigation. This plea agreement is conditioned upon the defendant providing full, complete and truthful cooperation.

10. The parties agree that the United States reserves its option to seek any departure from the applicable sentencing guidelines, pursuant to Section 5K of the Sentencing Guidelines and Policy Statements, or Rule 35(b) of the Federal Rules of Criminal Procedure, if in its sole discretion, the United States determines that such a departure is appropriate. The parties agree that in cases where the United States does file such a motion, the United States reserves its option to file a further motion under 18 U.S.C. § 3553(e) to permit a departure under any applicable mandatory minimum sentence, if in its sole discretion the United States determines that such a further motion is appropriate.

11. The accompanying Statement of Facts signed by the defendant is hereby incorporated into this plea agreement. Defendant adopts the Statement of Facts and agrees that the facts therein are accurate in every respect and that had the matter proceeded to trial, the United States would have proved those facts beyond a reasonable doubt.

12. If the defendant fails in any way to fulfill completely all of the obligations under this plea agreement, the United States may seek release from any or all its obligations under this plea agreement.

13. If the defendant fails to fulfill the obligations under this plea agreement, the defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other federal rule, that defendant's statements pursuant to this agreement or any leads derived therefrom, should be suppressed or are inadmissible.

14. Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a

breach of the plea agreement by a preponderance of the evidence. The proceeding established by this paragraph does not apply, however, to the United States' decision whether to file a motion based on "substantial assistance" as that phrase is used in Rule 35(b) of the Federal Rules of Criminal Procedure and Section 5K1.1 of the Sentencing Guidelines and Policy Statements. The defendant agrees that the decision whether to file such a motion rests in the United States' sole discretion.

15. The defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

16. This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The United States has made no promises or representations except as set forth in writing in this plea agreement. The defendant acknowledges that no threats have been made against the defendant and that the defendant is pleading guilty freely and voluntarily because the defendant is guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

17. Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal indictment or criminal information. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines and Policy Statements which may apply in my case. I have read this plea



agreement and carefully reviewed every part of it with my attorney. I understand this agreement and I voluntarily agree to it.

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
MUHAMMED AATIQUE  
Defendant

18. Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending indictment or criminal information. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this plea agreement with

the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: \_\_\_\_\_

Alan Bowman  
William B. Moffitt  
Counsel for Defendant

Respectfully submitted,

Paul J. McNulty  
United States Attorney

By:

Gordon D. Kromberg  
David H. Laufman  
Assistant United States Attorneys

John T. Gibbs  
Trial Attorney  
Counterterrorism Section, Criminal Division  
United States Department of Justice

APPROVED:

\_\_\_\_\_

Date: \_\_\_\_\_

Plea Agreement (Revised April 30, 2003)

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA            )  
  )  
  ) v.    ) CRIMINAL NO.    03-296-A  
  )  
MUHAMMED AATIQUE,                    )  
  )  
  ) Defendant.                                )

STATEMENT OF FACTS

Were this matter to go to trial, the United States of America would prove the following facts beyond a reasonable doubt:

1. Beginning on or about September 15, 2001, and continuing thereafter up to in or about October 2001, within Fairfax County, Virginia, and elsewhere, defendant MUHAMMED AATIQUE unlawfully, willfully, and knowingly aided and abetted Masoud Ahmad Khan, Yong Ki Kwon, and Khwaja Mahmood Hasan as they began, provided for, and prepared a means for taking part in a military expedition and enterprise to be carried on from the United States against the territory and dominion of India, a foreign state with whom the United States was at peace, in violation of Title 18, United States Code, Sections 960 and 2.

2. In or about October 2001, in Pakistan, MUHAMMED AATIQUE knowingly used and discharged a firearm during, in relation to, and in furtherance of crimes of violence for which he may be prosecuted in a court of the United States. In specific, in or about October 2001, at a Lashkar-e-Taiba camp, MUHAMMED AATIQUE fired a semi-automatic pistol in relation to and in furtherance of a conspiracy to enlist and engage with intent to serve in armed hostility

against the United States and take part in military expeditions and enterprises to be carried on against the territory of India, a country with whom the United States was at peace, in violation of Title 18, United States Code, Sections 371, 960 and 2390.

3. AATIQUE started participating in paintball activities in late 2000. The group playing paintball received some military tactical training from Hammad Abdur-Raheem, Seifullah Chapman, Donald Surratt, and Randall Royer. Several members of the group had firearms and occasionally conducted target practice with those weapons at various ranges in the Northern Virginia area.

4. MUHAMMED AATIQUE understood that in 2000, Ibrahim Al-Hamdi and Randall Todd Royer traveled from the United States to join *Lashkar-e-Taiba* at its camps in Pakistan. AATIQUE understood that while there, Al-Hamdi and Royer used various weapons, including small arms, machine guns, and fired at Indian positions in Kashmir. MUHAMMED AATIQUE knew that, after Al-Hamdi and Royer returned to Virginia in 2000, each encouraged other conspirators to go to Pakistan to serve with Lashkar-e-Taiba as well. By the summer of 2001, AATIQUE viewed the prior paintball activities as a form of preparation for attending the Lashkar-e-Taiba jihad training camp. The paintball participation by Aatique concluded prior to the discussions regarding Lashkar-e-Taiba described in the second sentence of the next paragraph.

5. As a result of his participation in paintball, AATIQUE came to know that Randall Royer had fought in Bosnia. In July or August, 2001, AATIQUE told Royer that he wanted to attend a Lashkar-e-Taiba camp. After Royer made a phone call to an unknown individual affiliated with Lashkar-e-Taiba, Royer provided AATIQUE with a phone number in Lahore, Pakistan, for AATIQUE to call for further information. Royer also provided AATIQUE with a

reference letter that stated that Royer knew AATIQUE and he was of good character.

AATIQUE destroyed the letter out of fear that Pakistani and/or U.S. Customs might find it while AATIQUE was traveling to the camp. In the late summer of 2001, AATIQUE made arrangements to travel to Pakistan in late September. Aatique was still unsure that he actually wanted to attend the Lashkar-e-Taiba camp during this visit.

6. Shortly after the terrorist attacks of September 11, 2001, AATIQUE reconsidered the decision to attend the Lashkar-e-Taiba camp during his previously planned visit to Pakistan, thinking that it might be a poor time.

7. Sometime after September 11, 2001, Randall Royer asked MUHAMMED AATIQUE to come to a meeting at the house of Yong Kwon on or about September 15, 2001. At the meeting, Unindicted Conspirator #1 told MUHAMMED AATIQUE and the others gathered there that the mullah or emir of Afghanistan had called for Muslims to come to Afghanistan to help fight in their defense. Based on the comments of Unindicted Conspirator #1, MUHAMMED AATIQUE knew that the enemy against whom help was needed was the United States.

8. Unindicted Conspirator #1 stated that the attacks of 9/11 signaled that the final battle between Islam and the infidels as foretold in the Koran and Sunna was drawing near, and urged all in attendance to go and to fight in the coming war if able to do so. Unindicted Conspirator #1 advised that the final battle was to take place in Palestine, Saudi Arabia, Pakistan, India, and/or Afghanistan. AATIQUE was so moved by the comments of Unindicted Conspirator #1 that he decided to attend the Lashkar-e-Taiba camp during his previously planned visit to Pakistan.

9. Others at the meeting discussed that Lashkar-e-Taiba was a good place to receive combat training in order to later be able to fight in Afghanistan and elsewhere. AATIQUÉ told those at the meeting that, if anyone wanted to travel with him, he was leaving for Pakistan on September 19, 2001, and that he had previously made arrangements to attend military training at a Lashkar-e-Taiba camp. Kwon, Hasan, and Khan expressed their willingness to go to Pakistan as well and then possibly Afghanistan to defend the Taliban against possible attacks by U.S. forces or to Chechnya, Kashmir or other locations to engage in jihad.

10. By his conduct and affirmation by silence at that meeting, AATIQUÉ conveyed to the others that he possibly was going to fight after completing the training at the Lashkar-e-Taiba camp. AATIQUÉ's actions and words encouraged Kwon, Hasan, and Khan to attend the Lashkar-e-Taiba camp as well so that they could obtain training that would enable them to fight against American forces in Afghanistan and others perceived to be enemies of Islam.

11. On or about September 18, 2001, MOHAMMED AATIQUÉ hosted, at his house in Pennsylvania, Kwon, Hasan, and Khan, all of whom AATIQUÉ knew to be planning to travel to the Lashkar-e-Taiba camp. The next day, Kwon and Hasan departed AATIQUÉ's house to return to Virginia.

12. On or about September 19, 2001, MUHAMMED AATIQUÉ and Masoud Khan traveled from JFK Airport in New York, to Karachi, Pakistan. On or about September 20, 2001, they arrived in Karachi, Pakistan. Upon arrival in Pakistan, AATIQUÉ and Khan parted company, although AATIQUÉ understood that he would see Khan again at the Lashkar-e-Taiba camp that both were going to.

13. After arriving in Pakistan, AATIQUE stayed with his mother for approximately one week, and then telephoned the number that Royer had previously provided to him as a contact number for Lashkar-e-Taiba. In accordance with the instructions he received upon calling that number, AATIQUE flew from Karachi to Lahore, and then proceeded to the Lashkar-e-Taiba office in Lahore, where he stayed for two nights. Using the alias or “kunya” of Abu Omar, AATIQUE was then escorted by bus to Lashkar-e-Taiba offices in Islamabad and in Muzafabad, and then to Camp Masaud, a half-day hike up into the mountains from Lashkar-e-Taiba’s Muzafabad office.

14. At the Lashkar-e-Taiba camp, AATIQUE was provided with several manuals regarding different types of weapons that he was instructed to study. Following the manual training, he fired various weapons including an AK-47, a 12mm anti-aircraft gun, and a machine gun.

15. Three days after AATIQUE arrived at the camp, Khan, Kwon, and Hasan arrived. Furthermore, MUHAMMED AATIQUE learned that, in 2001, Seifullah Chapman served at the Lashkar-e-Taiba camp as well.

16. AATIQUE stayed at the Lashkar-e-Taiba camp for about 4 and ½ days. When AATIQUE left the camp he was escorted to a bus stop in Muzafabad, where he took the bus to Lahore and then flew to Karachi. AATIQUE departed Pakistan on October 7, 2001, to return to the United States.

Respectfully submitted,

Paul J. McNulty  
United States Attorney

By:

Gordon D. Kromberg  
David H. Laufman  
Assistant United States Attorneys

John T. Gibbs  
Trial Attorney  
Counterterrorism Section  
Criminal Division, U.S. Department of Justice

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

MUHAMMED AATIQUE

I am MUHAMMED AATIQUE's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

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Alan Bowman  
William B. Moffitt  
Attorneys for MUHAMMED AATIQUE



IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA            )  
  )  
                  v.                            ) CRIMINAL NO. 03-296-A  
  )  
MUHAMMED AATIQUE,                    )  
  )  
                  Defendant.                )

ORDER DISMISSING COUNTS

Upon motion of the United States of America, pursuant to a plea agreement between defendant MUHAMMED AATIQUE and the government, in which the defendant appeared before the Court and entered a plea of guilty to Count 5 of the indictment, and also to a criminal information, it is hereby

ORDERED that Counts 1, 16, 33, and 34 of the indictment are hereby dismissed with respect to defendant MUHAMMED AATIQUE only.

LEONIE M. BRINKEMA  
UNITED STATES DISTRICT JUDGE

Date: \_\_\_\_\_  
          Alexandria, Virginia

I ASK FOR THIS:

Gordon D. Kromberg  
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA            )  
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                          v.                    ) CRIMINAL NO. 03-296-A  
  )  
MUHAMMED AATIQUE,                    )  
  )  
                          Defendant.        )

CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

In or about October 2001, near Muzafabad, Pakistan, the defendant, MUHAMMED AATIQUE did unlawfully and knowingly use and discharge a firearm during, in relation to, and in furtherance of a crime of violence for which the defendant may be prosecuted in a court of the United States, to wit, the conspiracy charged in Count One of the Indictment against the defendant in Criminal No. 03-296-A, all in violation of Title 18, United States Code, Section 924(c).

Paul J. McNulty  
United States Attorney

By:

Gordon D. Kromberg  
David Laufman  
Assistant United States Attorneys

IN THE UNITED STATES DISTRICT COURT FOR THE  
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UNITED STATES OF AMERICA            )  
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  )  
                          Defendant.        )

WAIVER OF INDICTMENT

I, MUHAMMED AATIQUE, the above named defendant, accused of unlawfully using and discharging a firearm in relation to and in furtherance of a crime of violence, in violation of Title 18, United States Code, Section 924(c), being advised of the nature of the charge, the proposed information, and of my rights, hereby waive in open court prosecution by indictment and consent that the proceeding may be by information rather than by indictment.

Date: \_\_\_\_\_

MUHAMMED AATIQUE  
Defendant

Alan Bowman  
William B. Moffitt  
Counsel for Defendant

Before:  
LEONIE M. BRINKEMA  
UNITED STATES DISTRICT JUDGE