

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

UNITED STATES	)	
	)	
	)	
v.	)	Criminal No. 09-10017-GAO
	)	
TAREK MEHANNA	)	
	)	

**DEFENDANT’S MEMORANDUM ON THE APPROPRIATE SENTENCE  
UNDER 18 U.S.C. §§ 3553 AND 3661**

Defendant Tarek Mehanna, through undersigned counsel, submits the instant Sentencing Memorandum for the Court’s consideration and requests a sentence, as calculated and reviewed pursuant to Title 18, United States Code, §§ 3553(a) and 3661, that is sufficient but not greater than necessary to achieve the statutory goals of sentencing. Counsel respectfully submits the following Memorandum to assist the Court in fashioning Mr. Mehanna’s sentence.

Respectfully submitted,

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## **MEMORANDUM**

### **I. Outline**

#### **A. Introduction**

This Sentencing Memorandum is submitted on behalf of Defendant Tarek Mehanna in connection with his sentencing on April 12, 2012 at 10:00 am. For the reasons set forth below, we respectfully move that the Court impose a sentence of 63-78 months.

We set forth an analysis of each of the factors listed in 18 U.S.C. § 3553(a) that apply to sentencing – including Mr. Mehanna’s specific offense conduct, his background and history, the need for deterrence and the prospect of recidivism, the impact on innocent third parties, and the direction of the Congress to avoid sentencing disparities with similarly-situated defendants. A 63-78 month sentence would best achieve the five objectives enumerated in § 3553(a)(2), as it would reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence, and protect the public. Such a sentence would also satisfy § 3553(a)’s “parsimony clause,” which requires that the sentence be “sufficient but not greater than necessary” to accomplish those stated goals of sentencing.

The reasons supporting a 63-78 month sentence include the following:

- (1) Mr. Mehanna’s very low risk of recidivism, which the § 3A1.4 terrorism enhancement does not reflect;
- (2) The particular nature and circumstances of Mr. Mehanna’s specific offense conduct;
- (3) The comparison of Mr. Mehanna’s conduct to others charged with similar offenses and to the co-conspirators in this case;

- (4) Mr. Mehanna's history and characteristics, to which the letters attached attest, has been exemplary, non-violent, and principled, with the most frequent descriptions of him as "kind," "thoughtful," "patient" and "caring." Mr. Mehanna submits letters from his parents and brother (Exhibit A), himself (Exhibit B) and from the community (Exhibit C).
- (5) The devastating effect that incarceration of Mr. Mehanna would have on innocent third parties, specifically his family and community, who will suffer in his absence.
- (6) The severity of conditions under which Mr. Mehanna has been held and expects to be held upon being sentenced.

As set forth below, analyzed pursuant to the corresponding § 3553(a) criteria, these factors provide a compelling basis for a 63-78 month sentence.

#### **B. Statement of Facts**

The Court presided over a nine-week trial in which the facts were fully aired. The Court has also been provided with the Presentence Report completed by the Probation Department. In that report, the defendant took issue with many of the so-called facts the government provided in its statement of relevant conduct. Rather than reiterate the same facts yet again, the defendant refers the Court to the PSR. For convenience sake and in order to have a complete document, the defendant has appended his statement of relevant facts and opposition to the government's statement of relevant conduct in an attachment to this memorandum. *See* Exhibit D.

### C. Procedural Sentencing Framework

In *Kimbrough v. United States*, 128 S. Ct. 558, 570 (2007), the Supreme Court re-affirmed the sentencing regime announced in *United States v. Booker*, 534 U.S. 220 (2005), which requires district courts to consider the advisory Guidelines but also permits district courts to tailor a sentence in light of the other statutory concerns set forth in 18 U.S.C. § 3553(a). Under § 3553(a), district courts are directed to impose the minimally sufficient sentence to achieve the statutory purposes of punishment – justice, deterrence, incapacitation, and rehabilitation – by imposing a sentence sufficient but not greater than necessary to comply with the purposes set forth in 18 U.S.C. § 3553(a)(d). *Kimbrough*, 128 S.Ct. at 570; 18 U.S.C. § 3553(a). This “parsimony provision” is “an overarching provision,” representing a cap above which a district court is statutorily prohibited from sentencing – even when a greater sentence is recommended by the advisory Sentencing Guidelines, which, per § 3553(a), are statutorily subordinate to the parsimony principle. *See Kimbrough*, 128 S.Ct. at 570.

Thus, after properly calculating the advisory range under the Sentencing Guidelines, a factor which serves as only the “starting point” or “initial benchmark,” district courts must then consider each of the § 3553(a) factors to impose a sentence sufficient but not greater than necessary, to fulfill the purposes of sentencing. *Gall v. United States*, 128 S. Ct. 586, 596-97 (2007). The Supreme Court has explained that district courts may not presume the advisory Guidelines range to be reasonable. *Id.* at 596. Further, the advisory Guidelines range is to be given no greater weight than any other § 3553(a) factor. *Id.* at 602. The Supreme Court has rejected an appellate rule requiring extraordinary circumstances or the use of the mathematical formula to justify a

sentence outside the guidelines range. *Id.* at 595. The district court “must adequately explain the chosen sentence...to promote the perception of fair sentencing.” *Id.* at 598 and this justification must be “sufficiently compelling to support the degree of the variance.” *Id.* at 598.

District courts are afforded sentencing discretion because they are “in a superior position to find facts and judge their import under § 3553(a) in the individual case.” *Gall*, 128 S.Ct. at 598. The district court “judge sees and hears evidence, makes credibility determinations, has full knowledge of the facts and gains insights not conveyed by the record.” *Id.*

Furthermore, under 18 U.S.C. § 3661, “[n]o limitation shall be placed on the information concerning the background, character, and conduct of the person convicted of an offense” that this Court may “consider for the purposes of imposing an appropriate sentencing.” Thus, “when a party raises a specific, non-frivolous argument tethered to a relevant § 3553(a) factor in support of a requested sentence, then the judge should normally explain why he accepts or rejects the party’s position.” *Rita v. United States*, 127 S.Ct. 2456, 2468 (2007). Mr. Mehanna presents the following for the court's consideration relative to the factors outlined in 18 U.S.C. §§ 3553(a) and 3661.

## **II. Application of the 18 U.S.C. § 3553(a) Sentencing Factors**

### **A. Nature and Circumstances of the Offenses and the History and Characteristics of Tarek Mehanna**

In considering the nature and circumstances of the offenses and the history and characteristics of Mr. Mehanna, it is important to recognize that the facts of this case took place during the most volatile times of the war in Iraq. Most of what Mr. Mehanna wrote and spoke about was his reactions to the news of the war in Iraq and other conflicts, not

only what he learned from mainstream news sources but also from the Internet. It is therefore important for the court to consider not only case specific facts regarding Mr. Mehanna and his conduct but to consider pertinent world news to put this conduct in proper context.

The defendant acknowledges that the jury found that he went to Yemen to seek military training based on the conviction in Count Seven. This act also provided the basis for the defendant's convictions in Counts One, Two, Three, Four, and Five. Because the government intertwined Mr. Mehanna's activities in translating, posting and sending videos to others, it is impossible to know if the jury unlawfully convicted Mr. Mehanna for his speech related activities protected by the First Amendment. The government argued that such actions were not free speech but material support. The government opposed a special verdict slip which would have clarified this and as such, it should not be allowed to benefit from this lack of clarity. The defendant asserts that based on the jury's verdict, only his trip to Yemen was unlawful. This is important for many reasons.

### **1. Yemen**

First, the trip to Yemen occurred eight years ago when Mr. Mehanna was 21 years old. He was the youngest of the three men, including Ahmed Abousamra, who was clearly and repeatedly described as the most outspoken, charismatic and vehement of the three. It was Abousamra, not Mr. Mehanna, who had twice gone to Pakistan seeking military training. Even Hassan Masood was caught up in Abousamra's fervor and sought to accompany him to Pakistan. Kareem AbuZahra provided the funding for Jason Pippin to provide Abousamra with information about Yemen and for the airfare of the three travelers. Like many American Muslim young men, Mr. Mehanna led a sheltered life. As

a Muslim, he did not drink, date, attend clubs or concerts, or live in a dormitory away from his family. His trip to Yemen was an adventure proposed by Abousamra and paid for by AbuZahra.. But for AbuZahra's funding, Mr. Mehanna would never have gone to Yemen. By contrast, in *United States v. Amawi*, 06-CR-719-JGC, Northern District of Ohio, Western Division, the government argued that Amawi deserved a life sentence because, in part, he was "not an experimental young teenager trying this sort of idea out for the first time." Transcript of Sentencing Proceedings before Hon. James G. Carr, U.S. District Court, Northern District of Ohio, Western Division, October 20, 2009 at p. 34. See Exhibit E for relevant part.

It is not clear how much Mr. Mehanna was involved in the planning of the Yemen trip once there. Whatever information Jason Pippin had provided to Abousamra, there was no actual plan. The travelers had no specific address, person, location, date or time to meet. The government did not prove any specific connection to a training camp or to a battlefield. As Gregory Johnson testified, Al-Qaeda was essentially defunct in Yemen by 2004. Jason Pippin had last been there in 1998 and the information he provided to Abousamra seemed little more than a vague hope that Abousamra might locate someone.

Second, Mr. Mehanna, unlike other defendants who have been sentenced for obtaining training overseas, received no special training. He did not obtain skills in explosives or marksmanship. Contrast *United States v. Jayyousi*, 657 F. 3d 1085 (11th Cir. 2011) (Jose Padilla, "the dirty bomber," posed a heightened risk of recidivism because he received Al-Qaeda training).

Third, Mr. Mehanna did not go on to Iraq as Abousamra did. This is a critical fact. It did not take much more than a bus ride to get to Iraq. If Mr. Mehanna had truly sought

to kill Americans overseas, he would have gone with Abousamra. Instead, he parted ways from Abousamra, stayed in the United Arab Emirates a few more days and went home. He returned to his family and to school.

Fourth, once Mr. Mehanna returned home, he made no further efforts in this direction. He traveled to Egypt in 2006 with his family and did not seek to find a training camp or go to Iraq. He did not go to Somalia with Daniel Maldonado even though he knew in the summer of 2006 that Maldonado was leaving for what was at that time, a country run by Islamic law. Finally, he did not join Maldonado in Somalia after Maldonado called him in December 2006, beseeched him to come and join the fighting and provided Mr. Mehanna with advice on the best route to arrive. He never became in any sense of the word “operational.” He never planned or prepared for any operation. Mr. Mehanna adamantly denies any plot to attack a shopping mall or a military base and adamantly denies that he ever discussed this with AbuZahra. Daniel Spaulding, a witness called by the prosecution, testified that Mr. Mehanna was opposed to such an attack because it would violate Islamic law or *aman*. The government offered no recording, no email, no instant message, and no reference directly or indirectly by anyone concerning such a plot. In fact, the government never charged Mr. Mehanna with this supposed plot and did not mention it in the long lists of overt acts in the indictment.

Fifth, Mr. Mehanna returned home and committed himself to his schooling, his family and his community. He looked for a wife to marry. He did not separate himself from his friends and family and devote himself to planning and preparing for a violent attack. He did not surround himself exclusively with a group of people dedicated to one point of view. He taught at an Islamic Center in Roxbury run by a person who became a

government informant and who adamantly opposed jihad. He gave sermons on Friday at local universities that were solely about Islam with no political overtones. He taught basic and mainstream Islamic tradition, prayer and history at an Islamic school for young children. He went to the Al Maghrib Institute in New Jersey which presented mainstream Muslim concepts with no overtones of politics or jihad. He obtained a recommendation from the head of Al Maghrib to apply to the University of Medina in Saudi Arabia in order to study Islam. This University is strict in its policies and it does not tolerate political discussions concerning jihad.

Mr. Mehanna obtained a Ph.D, did internships in local hospitals, and made plans for his post-graduation career. He knew that he wanted to live in an Arab country, preferably in the Gulf. He obtained well-paying and prestigious employment at the King Fahd Medical City in Saudi Arabia, the largest center in the Mideast. He was hired to set up the first pharmaceutical division at the hospital for diabetes - a disease particularly rampant in the Arab world and from which Mr. Mehanna's mother suffers. Not only did the center give him employment, it also provided him with housing and other benefits. He would have worked primarily with Americans, both Muslim and non-Muslim, at the hospital and thus could have achieved the balance he longed for. He could have been accepted as a practicing Muslim in a country that stopped for prayer five times a day. He could have dressed as he chose, worn a beard and not have been viewed as an oddity. He could have married a Muslim woman who would have worn a head covering and raised children who would have been comfortable as Muslims. He could have also spent his free time, if he chose, studying with the many Islamic scholars living in Saudi Arabia. In a conversation with Bilaal McCloud, an informant used by the government to secretly tape



record conversations, Mr. Mehanna spoke about his excitement at working in a new hospital facility, his desire to travel throughout Saudi Arabia, his opportunity to study with scholars who resided there, and his desire to make the Hajj pilgrimage.

He left the United States to work as a pharmacist and to help other Muslims suffering from a chronic deadly disease. He did not leave to become a terrorist, or as the government suggests, to live in a country that did not have an extradition treaty. Further, Saudi Arabia is one of, if not the most, restrictive country in the Arab world. There is no political dissent. There is no freedom of speech. There has not been a terrorist attack there since 2003 after Saudi officials cracked down on potential suspects as well as clerics who were fomenting dissent. Osama bin Laden once stated that the only country he hated more than Israel or the United States was Saudi Arabia. This is not a place an extremist would go to live, work, and raise a family.

## **2. Translations, Videos and Postings**

Mr. Mehanna does not believe that his speech-related activities were unlawful. It is important, however, to look at their content in order to assess their role in sentencing.

Mr. Mehanna translated a video that had been produced by Al-Qaeda, entitled the Expedition of Umar Hadeed. He did so as an act of independent advocacy and not at the direction of or in coordination with Al-Qaeda or any other terrorist group. Cf. *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705 (2010). The government produced no direct link, no email, no instant message or other correspondence in which Mr. Mehanna was personally and directly asked by a member of Al-Qaeda to translate this video. Ever since *Buckley v. Valeo*, 431 U.S. 1 (1976) (per curiam) and more recently, in *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010), the Supreme Court has construed

independent advocacy broadly while construing “in coordination with” narrowly. For example, the Supreme Court has differentiated individual expenditures from “controlled or coordinated expenditures,” which are treated as contributions. *Buckley*, 431 U.S. at 46 n. 53. The Senate Report contained an example of an independent expenditure, the purchase of a billboard advertisement “not at the request or suggestion of the candidate or his agent's [sic]”; on the other hand, “if the advertisement was placed in cooperation with the candidate's campaign organization, then the amount would constitute a gift by the supporter and an expenditure by the candidate[.]” *Id.* at n. 53. Mr. Mehanna’s translation, which was not posted at the request of a foreign terrorist organization, cannot be considered in coordination with that organization. Mr. Mehanna is an individual much farther removed from Al-Qaeda than a Super PAC is from any political candidate. Super PACs, which arose after *Citizens United*, “can accept unlimited contributions and make unlimited expenditures aimed at electing or defeating federal candidates. Super PACs may not contribute directly to federal candidates or parties.” “*Super PACs*” in *Federal Elections: Overview and Issues for Congress*, Congressional Research Service Report (December 2, 2011) (available at <http://www.fas.org/sgp/crs/misc/R42042.pdf>). See also 11 C.F.R. § 109.20 and 11 C.F.R. § 109.21 (defining “coordinated” communications and contributions). Mr. Mehanna should be afforded at least the free speech rights of a Super PAC.

The value of this video that Mehanna translated is open to debate. The government’s expert, Evan Kohlmann, testified that this video was important to Al-Qaeda as a recruiting tool and the government described this video as a tool to recruit others to terrorism. Yet the government did not produce a shred of evidence, data, or

empirical study that showed that this video, let alone any other videos, was responsible for recruiting anyone to fight in Iraq or other countries. The Soviet-Afghanistan war recruited many Muslim fighters from all over the world when videos and the internet did not exist. The majority of recruits that fought against coalition forces in Iraq and Afghanistan came from Afghanistan and Pakistan, two countries where less than 5% of the country has access to the internet. Defense expert, Dr. Marc Sageman, testified that there are no empirical studies, no data, and no scientifically based research which provides a basis to conclude that videos result in recruits to terrorism. The fact that videos have been found on the computers of others convicted or charged with terrorism does not and cannot mean that terrorist groups actually recruited them through these videos.

It is also important to focus upon the types of videos that the defendant watched, translated and provided links to for others. While the videos were disturbing in their violence, none of them can be described as an “operational video.” Mr. Mehanna did not search for, download or send videos with subjects such as how to build a suicide vest or how to rig an explosive device.

As the Court knows, Mr. Mehanna strongly disagreed with most Al-Qaeda beliefs and many of their actions. He believed based on his own study and review of the Koran and scholars that the killing of innocent civilians through the use of bombs was forbidden. He believed that civilians who were in Muslim countries to teach or participate in civilian life were not to be harmed. He believed that as an American, he could not and would not take up arms against America, either overseas or in the United States, against civilians or armed forces. He recognized the pact between himself and the United States as a citizen that allowed him to grow up peacefully and his family to prosper. He strongly

and vociferously opposed the wars in Iraq and Afghanistan. However, he did not agree with the major tenet of Al-Qaeda – that the West must be attacked and conquered in order to end Muslim suffering.

Mr. Mehanna's beliefs matured over time and by 2006-2007, he was writing about the need for Muslims to study and learn about their religion and culture. He criticized people on web forums for focusing on battles across the world that had little to do with them personally. At the same time, he expressed himself crudely at times in instant messages about deaths of American soldiers and about his admiration for Bin Laden. That inconsistency is the hallmark of a young mind searching for answers and for a way to make sense of the world he saw around him. As the Court knows, his views became so moderate and contrary to those of Al-Qaeda that he was expelled from the Tibyan Publications web forum.

Mr. Mehanna not only disagreed with many aspects of Al-Qaeda's views, he also came to disagree with Abousamra's extremism. He complained to Daniel Maldonado about Abousamra, Spaulding and Masood's willingness to declare other people disbelievers or "takfir." He was upset when Abousamra ridiculed younger Muslims at a dinner about their moderate political beliefs.

Mr. Mehanna believed that his translations, his postings and his view of information on the internet were protected activities by the First Amendment. Even when Mr. Mehanna and a correspondent referred to the FBI as "Bob" or when he suggested that they not discuss certain issues, he always followed this up with a statement that they were being unnecessarily secretive because they were not doing anything illegal in expressing their opinions. Watching jihadi videos is not illegal. Sending videos to others is not

illegal. The videos in this case are available today on YouTube. The State of the Ummah was broadcast on Al Jazeera, the largest television network in the Middle East. However distasteful, expressing admiration for Osama bin Laden is not illegal. Espousing unpopular political views, even the views of Al-Qaeda, is not illegal. *Holder v. Humanitarian Law Project*, 130 S.Ct. 2705, 2730 (2010).

### **3. Lack of Harm**

No harm occurred to a single individual as a result of Mr. Mehanna's actions in this case. No individual was placed at risk by his actions. This was not a case where the government intervened in order to prevent a bomb going off or a defendant pushed the detonator to a fake bomb supplied by the FBI. Mr. Mehanna was left in the general population for years during this investigation, providing services to people at hospitals and pharmacies and teaching Islam to college students and young children at Islamic Centers. By the fall of 2006, the government had Mr. Mehanna's 2006 hard drive and the full cooperation of Kareem AbuZahra. By December 2006, it had the recording of Daniel Maldonado's telephone call from Somalia, Mr. Mehanna's interview with the FBI about Maldonado which formed the basis for the false statements charge, and the recordings between Abousamra, Maldonado and AbuZahra concerning their trip to Yemen. In short, the government had all of the evidence it used at trial by December 2006, and yet did not arrest Mr. Mehanna until May 2008. If he were truly so dangerous and deserving of a lengthy prison term, the government would not have left him free to pursue any activities for nearly a year and a half. As in *United States v. Hassoun*, in which the defendant was convicted of numerous material support charges, "[t]he interceptions and investigation continued for many, many years. He was questioned and never charged with a crime. The

government knew where Mr. Hassoun was, knew what he was doing and the government did nothing. This fact does not support the government's argument that Mr. Hassoun poses such a danger to the community that he needs to be imprisoned for the rest of his life." See Exhibit F, *United States v. Hassoun*, 04-CR-60001-MGC, Transcript of Sentencing Proceedings before Hon. Marcia G. Cooke, U.S. District Court, Southern District of Florida, January 22, 2008 at p. 8. Hassoun received a 15 year, 8 month sentence.

## **B. History and Characteristics of Tarek Mehanna**

### **1. Tarek Mehanna's Family**

Tarek Mehanna is one of two sons of Ahmed Mehanna and Souad Mehanna. Mr. Mehanna's parents have been married for over thirty years. Dr. Ahmed Mehanna is a well- respected and beloved professor at the Massachusetts College of Pharmacy. Mrs. Mehanna ran a day care center out of her home until her son, Tarek, was arrested. The family is extremely close. Both adult sons lived in the family home. They followed in their father's footsteps and obtained degrees in pharmacy, with Tarek Mehanna going on to obtain a doctorate.



Tarek Mehanna's parents emigrated from Egypt to the United States in 1981, and became U.S. citizens. They did so in order to raise a family in a country where they could enjoy the freedom to practice their religion and the freedom to express their opinions. They were very happy with their life in this country. The family returned in the summers to Alexandria where they had extended family.



While the family enjoyed their stays in Egypt, it was a relief to come home. When September 11<sup>th</sup> occurred, Ahmed Mehanna spoke at Lincoln-Sudbury High School with his family in the audience, denouncing the attack.

## **2. Tarek Mehanna's Education**

Tarek Mehanna attended public schools throughout his childhood and graduated from Lincoln Sudbury High School. He chose to attend the Massachusetts College of Pharmacy and studied for eight years to obtain his undergraduate degree and Ph.D. A grueling eight years of study is now lost. With felony convictions, Mr. Mehanna can never be licensed to work in this field.

## **3. Tarek Mehanna's Religious and Cultural Interests**

When Tarek Mehanna was a teenager, he was interested in "grunge" bands (e.g., Nirvana and Pearl Jam) and played guitar in one. He was well liked at school and enjoyed his American life. But he also was a Muslim. His family had always practiced their faith

and it was certainly not acceptable that he engage in other American behaviors that are typically associated with coming of age. He became more curious about what it meant to be Muslim and began to study his history, culture and religion. Salafism, which embodies a more strict interpretation of Islam, had spread from Saudi Arabia to the United States and other countries. This more rigid “black and white” view of the world appealed to Tarek Mehanna as it did to many other young people. He talked to friends from the mosque and attended Muslim classes. He began to read and study Islam.



He learned of the modern history of Islam and that his religion, which had spread to most of the world in its first centuries, had been defeated again and again by Western powers. There was great shame in the history of the decline of Islam, except for one moment in the modern world - the Soviet-Afghanistan war. The myth around this war extolled the defeat of a world superpower by Muslims on horseback. Men with rifles defeated tanks and helicopters. The sheer bravery of the mujihadeen made them heroes in the Muslim world - a world which had not seen heroes for a very long time. The myth of Osama bin Laden as a brave, pious warrior was created by Western journalists. Mr. Mehanna wanted to learn more about the Muslim world and the information was confusing. While mainstream American media discussed United Nations sanctions



against Iraq, only Al Jazeera showed children dying and the human cost associated with this political policy. He went to the internet to learn more about this human rights issue and tried to sort out truth from falsehood.

A former high school teacher of Tarek, Bill Schechter, described his curiosity best in a letter to the Court as follows:

When I taught Tarek, he was an adolescent who just beginning to open his eyes to the wider world around him. He was interested in the past and hungry to understand all the theories and interpretations of how we developed as a people and a country. Though he was not at that time the proficient student he would become, he distinguished himself by his intellectual curiosity and his by his willingness to question and to listen to all points of view. Growing up in a largely white, Christian suburb must have made it difficult for Tarek to find and forge his identity as a Muslim American. At that time, Sudbury was not as ethnically diverse as it is today. This was not an issue he talked about, but I do know that pursuing the perennial coming-of-age question, “Who am I?” preoccupies all adolescents. It can be particularly confounding, confusing and challenging for those who belong to minority groups. As a Jew who spent most of his life in predominantly Christian institutions, I can say that my own search for identity did not always proceed with equanimity or take place on level ground. Yes, this was turbulence, and, at times, overreaction.

(See Letters from the community attached herein as Exhibit C).

#### **4. The Impact of September 11, 2001**

In response to the September 11, 2001 terrorist attacks on our country, the Bush administration launched its “global war on terror” which included arresting Muslims as material witnesses without supporting evidence, investigating mosques and questioning individuals who had done nothing more than practice their faith. Muslims were afraid of their own government and a hostile American public.

The international aspect of this war involved at first invading Afghanistan, where Osama bin Laden was believed to reside under the protection of the Taliban. Mr. Mehanna, while unhappy that innocent civilians were caught in the cross fire, understood

the need to locate the person who had attacked America. It was the war in Iraq which shocked him to his core. Like many people, Muslim and non-Muslim, he could see no justification for this attack. Iraq had not attacked the United States and the wholesale bombing was killing thousands of Iraqi children and civilians. He became angry at the government for this unjustified war and he railed against it.

A longstanding family friend, Mazen Ramadan, expressed this best when he wrote the Court:

Tarek is one of the best people I've met in my life. Despite all the charges he was convicted of, interestingly enough, he remains one of the best people I've known. He's always made a sincere effort to be the best he can be – as a Muslim, as a friend, a son a brother, a student, a community member, and a teacher.

I'm not writing this letter on Tarek's behalf as a friend, but as one who understands what he went through as a young Muslim. I see many of our youth struggle and discuss the same ideas and concepts Tarek struggled with and discussed. The difference is now we are prepared to help and guide the younger generations because we went through the struggle ourselves.

I'd like you to take a moment to imagine the current state of Muslims in Massachusetts alone. Our Islamic Centers are cultural melting pots and adults often mix culture and politics with religion. In this state we have about 40+ mosques, Islamic centers, and prayer halls. At the same time, we've only had 2 resident scholars (Imams) in the entire state for the last few years! Furthermore, these Imams are immigrants who live sheltered lives and lack an understanding of our society. What happens to our youth who become inclined towards faith? Where do they go to learn Islam? Who can teach them?

Most end up on the internet where they learn from scholars in Saudi Arabia, Egypt and Yemen. Some scholars are mainstream, others walk a dangerous path. It's very hard for some to distinguish between the two because some scholars present a moderate view of Islam and slowly pull people into a more radical version. Many question or adopt these ideas, but go onto correct their beliefs as they further their studies. I myself have come across this phenomenon, but was fortunate because I was more seasoned and had the intellect and ability to access mainstream sources to challenge these ideas.

Frankly, I have little doubt that Tarek went through a phase where his views as a Muslim were questionable at best. Yet, at the same time, I know for a fact that he continued to develop and grow these views and he moved out of that questionable phase into what mainstream Muslims believe and follow. I've witnessed him (first-hand) grow as an individual, and develop his ideas to a point where he would challenge extremist scholars and speaks out against those brainwashing so many of your youth. He did so from a position of knowledge, understanding, strength and experience.

## **5. Who is Tarek Mehanna**

Some time ago in a bail hearing, the government tried to argue that there were two Tarek Mehannas. The prosecution could not reconcile the letters sent on his behalf with the statements he made in his instant messages, translations and postings in opposition to the war in Iraq.

These letters have been submitted to this Court. In them, he is repeatedly described as gentle, caring, kind and loving. One woman, Faten Ramadan, described him as follows:

Tarek is a role model for my sons and all young men and adolescents in our community. He is the most gentle, caring and loving human being I have ever had the pleasure to know. When I think of Tarek, I immediately visualize his big tender smile on his serene face. Tarek is an honorable example of honesty and fairness in dealing with others following the teaching of true Islam. He is both proud and humble. Mostly he is very respectful and tolerant.



Many commented on the sincerity of his beliefs, and his immense contribution to community activities. Dr. Mohammad Siddique and his wife Zakia Siddiqui wrote about Tarek and his family as follows:

Over the years, we have seen Tarek demonstrating the same qualities of compassion, caring and tolerance for others as practiced by his father. When meeting at family gatherings, we have found Tarek to be polite, courteous and gentle-natured. He has repeatedly demonstrated kindness, generosity and open-mindedness by volunteering his time in various inter-faith Islamic activities. While teaching at the Al'Huda Academy in Worcester, MA, Tarek was held in high esteem by his colleagues, staff and students for his polite manners, generous treatment toward others, and trustworthiness. He is looked up to as a role model of good character for young Muslims in our community, who teaches peaceful Islamic principles in day to day life and service to humanity. We have always felt proud of Tarek for his exemplary behavior, righteousness and kindhearted nature.

Osama Kazmi wrote to the Court about Tarek's volunteer work at the Islamic Center as follows:

Tarek was always looked up to as a respected mentor for the youth. He was someone to turn to whenever the burden of being a young Muslim growing up in a post-9/11 environment became too much to bear. He would never have attained that position at a moderate, liberal institutions such as the Islamic Center of Boston, had he espoused any violent views.

Tarek did not feel the need to hide his opinions, he knew his freedom of speech was protected by the First Amendment of the US Constitution. He sympathized with oppressed peoples of all religions and cultures. He never ever attempted to justify the targeting of innocent civilians; and all who know him can truthfully testify to this, provided they're not speaking under duress.

Doaa Mohamed wrote to the Court about Tarek's work at the Alhuda Academy where he taught young Muslim children as follows:

Dr. Tarek Mehanna is well known in our Worcester Islamic Center and in Alhuda Academy, where he used to teach the sons and daughters of my friends. All of the kids he has taught love him very much and constantly describe him as gentle and fun. He has been a role model and mentor to many of the kids and young adults he has come to know, all of whom he has encouraged to be well-behaved, respectful to their parents, and attentive to their studies. He is known and respected for his

good moral character, his honesty, and his devoutness to his work and his religion. He is truly one of the most generous and responsible people that my family has come to know.

As a mother, I can honestly say that my friends and I see Dr. Tarek Mehanna as someone who is a positive influence on our children and the young people in our community. He has given much to not only the Muslim community, but also to everyone who he knows in his academic and professional settings with his good character and his helpful nature. He is well-loved and very trusted by many. I am confident that he will continue to be an upstanding community member and human being. I hope that you take this into consideration and give Dr. Tarek Mehanna the lowest possible sentence.

Patricia Ward, a mother who had placed her child in Mrs. Mehanna's care, has corresponded with Tarek throughout his detention:

In our discussions on war and politics, we've had our share of disagreements, and the discussions have been rousing, intellectual and challenging. I find Tarek unfailingly honest and considered in his opinions. He is by no means "fanatic," and I do not find his opinions unsettling or disturbing. I can certainly say beyond any doubt that he would never support violence against civilians. His moral code is very clear.

In general, whether discussing politics or family or art, I find Tarek to be responsive, engaged, and thoughtful. He is a great listener, which again speaks to his generosity, given how easily a person might succumb to self-involvement in such circumstances. But in fact, if he ever does confess to frustration or fear, he is careful not to overwhelm, and even will apologize for burdening me. I find this remarkable and it touches me very much. He seems always concerned more for others than for himself,

There are not two Tarek Mehannas. The government simply refused to recognize that as a Muslim, Mr. Mehanna, truly felt the pain of fellow Muslims suffering from the war in Iraq and elsewhere. His caring and concern for others is what led him to want to do more for Muslims he did not know. As a young man with little experience and not much maturity, he went to Yemen on an ill-conceived adventure, accompanied by two people eager to find training camps. That same young man, sobered by this experience, returned, determined to finish his degree and to work and live in a Muslim country. He

wrote, translated and posted because he believed that words were lawful and that words can sometimes change the world. There is one Tarek Mehanna before this Court – a mature man dedicated to his faith, education, family and community.



**C. The Need for a Sentence to Reflect the Seriousness of the Offense, Promote Respect for the Law, Provide Just Punishment, Afford Adequate Deterrence, and Protect the Public from Further Crimes**

**1. Just Punishment Requires an Examination of Sentences in Similar Cases to Avoid Sentencing Disparity and to Promote Respect for the Law.**

A review of hundreds of terrorism cases reveals that the sentences vary widely, ranging from time-served to life in prison. It is clear that life sentences are reserved for those defendants whose behavior was profoundly violent and capable of causing severe harm. *See* attached table as Exhibit G. There has been only one terrorism case in this district: Richard Reid, the “shoe bomber,” who received a life sentence for attempting to detonate an explosive on an airplane. No defendant has been convicted in this district for charges similar to Mr. Mehanna’s. *See* attached table as Exhibit H.

A study of all terrorism convictions by the New York University Center on Law and Security reveals that the average sentence for material support offenses is 14 years. *See* Exhibit I. The wide-ranging sentences given in these cases, as the United States District Court for Minnesota has recognized, is significant when determining an

individualized sentence: “In short, while participation of any sort in a terrorist enterprise is a deplorable step, and is appropriately dealt with harshly under federal law, the nature of that participation will of course vary, and not every participant will merit equal punishment...In sum, when the record is reduced to those facts that have been sufficiently proven to play a role in a sentencing in the American criminal justice system, this Court simply finds nothing to suggest that Warsame merits a sentence at the higher end of those imposed on convicted terrorists.” *United States v. Warsame*, 651 F.Supp.2d 978, 981-982 (D. Minnesota 2009) (sentencing him to 92 months for a conviction under 18 U.S.C. § 2339B). Like Warsame, Mehanna is simply not on the same level as convicted terrorists such as Richard Reid, Faisal Shahzad (Times Square attempted car bomber), and Terry Nichols (Timothy McVeigh’s co-defendant), all of whom received life sentences. *See* Exhibit G.

It is also clear that guilty pleas result in sentences of 10 to 15 years. The government has accomplished this by dropping charges until the defendant is left with a charge that carries as maximum sentence of 10 or 15 years. The sentencing enhancement is still applied, but it is irrelevant because of the statutory maximum. This was done, for example, with Daniel Maldonado, who plead guilty to a single charge that carried a ten-year maximum sentence. While going to trial places a defendant in a different position than one willing to plead guilty, there cannot be a penalty for asserting the right to a jury trial. Insisting on a trial should not carry two-to-three-to-four times the sentence imposed after a guilty plea.

This case is unique because there are no comparable cases. There are instances in which individuals went to Pakistan, found and received training. In virtually all of those

cases, the individuals returned to plan for, prepare and sometimes commit acts of violence. There are no cases in which individuals went overseas for training, did not find any, returned and were charged with terrorism. There are no cases in which individuals were charged solely with speech-related activities. Mr. Mehanna summarizes cases below and identifies the distinctions that warrant a lesser sentence than the ones imposed in those cases. A review of cases in which appellate courts remanded for re-sentencing also provides some guidance.

**a. Amawi, Mazloun and El-Hindi (the Toledo, Ohio Case)**

In *United States v. Amawi, Mazloun, and El-Hindi*, 06-CR-719-JGC, Northern District of Ohio, Western Division, the Court after a two-day hearing, sentenced each defendant according to their individual characteristics and history, taking their individual conduct into account. In that case, the defendants became involved with a cooperating witness who provided them with training and plans to go overseas to Iraq. The government requested life sentences for all three defendants, who were convicted after trial. Instead, the court sentenced each defendant to a term far less than life.

Mazloun received a sentence of 8 years. Mazloun wanted to train in explosives and conduct ambushes. He went to a shooting range with the other defendants, offered his brother as a recruit and ordered a paint ball set to practice. He even pushed the cooperating witness to speed up the training. Mazloun did not go overseas, but he had every intention to go to Iraq to fight against the United States military. The Court found as important factors that he stopped engaging with the other defendants after a period of time. While he legally did not withdraw from the conspiracy, his interest in it waned and



he did not involve participation in violence. The Court believed a sentence of 8 years was sufficient and the risk of recidivism slight.

Here, Mr. Mehanna did not train in any way in the United States. His interest clearly waned after his trip to Yemen and even more so after 2006. By 2007, he had been removed from Tibyan and had turned his focus to his schooling.

El Hindi received a sentence of 13 years. He was a religious elder to younger Muslims. He had many jihadi videos and spoke fervently of his hatred for Israel and the United States. He posted violent and hateful statements on internet forums including asking God to kill Jews and Americans. He had a slide show of IED explosions from the Islamic Army of Iraq which he sent to the cooperating witness. In sentencing him to 13 years, the Court stated:

I think there is a difference between, for whatever reason, saying I hope the insurgency prevails; I hope they drive the Americans out of the Middle East forever. Clearly a difference between that, protected speech in this country, not popular, but so what; and saying, you know Maybe I'll go over there and help, that's how strongly I feel about it. That's when you begin to cross the line.

Amawi received a sentence of 20 years. Amawi was in Jordan in 2005. He had a large collection of jihadi videos, which Evan Kohlmann, the ubiquitous government expert, described as "world class in quantity and quality." He also researched the acquisition of weapons and manuals related to bomb making and explosives. He regularly communicated with others, including a Syrian jihadist with direct connections to the Mujihadeen. During the undercover investigation, he attempted to acquire an explosive substance requested by the Syrian. The trial judge noted at sentencing that he repeatedly expressed a desire to injure American soldiers and engage in conflict. He endorsed the concept of martyrdom and became enraptured with images of killings of Americans. The Court, however, noted that Amawi turned down an opportunity to become operational.

He was offered a job as a translator in Iraq where he could have gone on to fight. The Court also found significant mitigating factors in that Amawi did not make contacts to go to Iraq for a period of approximately 8 months after his return from Jordan until his arrest. The Court felt that a sentence of 20 years was a sufficient personal deterrent. The Court noted that it warned people that talk about killing Americans anywhere in the world can result in a serious prison term. The Court also noted the lack of real harm.

Here, Mr. Mehanna did possess jihadi videos, but none that were operational. He expressed no desire himself to kill American soldiers and instead wrote about the concept of *aman* and the pact of security that he honored as a religious Muslim. He spoke to Daniel Spaulding about it several times. Further, if the Court wants to send a message about chatter or fantasy, this prosecution has already succeeded in sending out a clear message. Daniel Spaulding testified at trial that he viewed Mr. Mehanna's arrest as a "wake up call" eventually causing, in part, his renunciation of Islam.

#### **b. Ehsanul Sadequee and Syed Haris Ahmed**

These two individuals' cases have similar facts but not identical charges as the ones brought against Mr. Mehanna. *See United States v. Ehsanul Sadequee*, 06 CR-00147-WSD, Northern District Georgia, *United States v. Syed Harris Ahmed*, Docket No. 06-CR-147-WSD, Northern District Georgia. They are important cases for comparison, particularly because the government did not charge Sadequee or Ahmed with all the counts that it easily could have brought. In the case of Sadequee, the government recommended a sentence far below the guidelines.

Sadequee received a sentence of 17 years. Sadequee traveled overseas for training. Sadequee tried to join the Taliban in 2001 and was active on forums including

Tibyan Publications where he was an administrator and translator. While he was in Bangladesh, he communicated with another co-conspirator, Younis Tsouli (who was referenced in Mr. Mehanna's trial). He was accused of videotaping landmarks as potential targets around Washington D.C. and sending these videos to Tsouli. He also supported a group that sought to establish Al-Qaeda in Northern Europe and supported an individual who had explosives in his apartment when he was arrested. Sadequee was found guilty of several counts of providing material support and conspiracy to provide material support. His guideline sentence called for life in prison. The government sought a 20 year sentence stating that it served the deterrence purpose for both the defendant and others.

Sadequee reiterated his beliefs in Islam at his allocution. In pronouncing a sentence of 17 years, the Court told Sadequee that his conduct was "calculated and dangerous, cunning and disturbing." *United States v. Sadequee*, Docket No. 06-cr-00147-WSD, Transcript of Sentencing Proceedings before Hon. William S. Duffey, Jr., U.S. District Court, Northern District of Georgia, Atlanta Division, December 14, 2009, at p. 43. *See* attached as Exhibit J. The government claimed in Mr. Mehanna's trial that Sadequee and Tsouli were known and convicted terrorists. Surely, Mr. Mehanna deserves a sentence less than people the government proclaims to be cyber-terrorists who actually plotted to destroy United States landmarks. The Court found that he "presented a real and visible threat to those who seek to live life according to the values of their cultures in free and peaceful communion with their neighbors... Your conduct was calculated and while occasionally halted, it always progressed forward." *See* Exhibit J, p. 44.

Ahmed received a sentence of 13 years. Ahmed engaged in various communications with Sadequee and others about jihad including exchanges of websites and publications that promoted jihad, trained with paintball guns in the North Georgia mountains, traveled to Canada and discussed a plan to obtain training in Pakistan. He and Sadequee made 62 videos of United States landmarks as targets in order to show their commitment to jihad and thus be accepted for training overseas. Ahmed went to Pakistan on a one way ticket but did not enter a training camp. He returned to the United States and lied to federal agents about his purpose in going to Pakistan. Upon his return, he continued to engage in internet communications. He also conducted online research regarding explosives, methods to defeat SWAT teams and ways to encrypt messages. Ahmed warned his co-conspirators that law enforcement was monitoring them and advised precautions. He encouraged them to read indictments in terrorism cases. After he was interviewed by the FBI, he warned Sadequee not to return from overseas.

The government stated at sentencing that they tried Ahmed on a single charge of material support, stating as its reason that Ahmed did not take up arms against anyone. The Guidelines placed Ahmed's conduct at a life sentence but the statutory maximum for his charge was 15 years. Ahmed was charged with four counts concerning material support but only one was tried before a judge in a bench trial. The remaining charges were dismissed. It is not known why Ahmed did not face all charges or why he was not charged with false statements. His conduct is remarkably similar to that alleged by Mr. Mehanna along with some more serious actions.

In its sentencing memorandum, the government requested a 15 year sentence. The defendant, representing himself at sentencing did not object to this. At sentencing, the

Court (Duffy, William, J.) spoke at length about his view of Ahmed and described him as “a myopic, self-interested person who seeks to achieve what you want to achieve at the cost of other people.” *United States v. Syed Harris Ahmed*, Docket No. 06-CR-147-WSD, Transcript of Sentencing Proceedings before Hon. Williams S. Duffey, Jr., U. S. District Court, Northern District of Georgia, Atlanta Division, December 14, 2009, at p. 61. *See* Exhibit K. In sentencing the defendant to 13 years, the Court stated: “I am convinced now more than ever that you personally need to be deterred. And I am certain that others like you – we don’t know where they are, but we know that they eventually emerge – to let them know that what you wanted to do and what you plan you put into place and the steps that you took are going to be dealt with harshly and severely, and it’s not worth the risk.” *Id.* at p. 66.

Ahmed and Sadequee were two individuals who sought training overseas but did not succeed. They made false statements to the FBI about the purposes of their trips. They came home and took far more serious actions than Mr. Mehanna, including filming landmarks as targets for terrorist attacks to prove their commitment and continuing to seek operational information through the internet and other co-conspirators. At the very least, this Court should view their sentences as the upper range to sentence Mr. Mehanna.

**c. Zeinab Taleb-Jedi**

Taleb Jedi was a registered agent for a federal designated terrorist organization that opposed the government in Iran. She traveled to the organization’s camp in Iraq in 2004 where she taught English classes, translated documents and was assigned to the Political Department. Taleb-Jedi was charged with providing material support. This charge was dismissed and she pleaded guilty to violation of an executive order and

received a sentence of time served (one to two days upon arrest) and supervised release for a period of one year. This is the only case in which an individual was prosecuted for speech related activities and travel to an FTO camp.

**d. Other defendants charged with speech related activities**

Saleh Elahwal and Javed Iqbal were charged with eleven terrorist related charges when they made arrangements for the Hezbollah television station to be seen in New York. Each pleaded guilty to one count of material support. Elahwal received a sentence of 7 months and Iqbal a sentence of 69 months. *United States v. Javed Iqbal, Saleh Elahwal* Docket No. 06-Cr-1054-RMB, Southern District, New York.

**e. Jose Padilla and co-defendants**

Kifah Jayyousi, Adham Amin Hassoun and Jose Padilla were all charged in the United States District Court for the Southern District of Florida with conspiring to kill overseas and providing material support to a terrorist organization. They were all convicted after a trial. *United States v. Padilla et al.*, 04-CR-60001-MGC. The evidence at trial established that Padilla traveled to Pakistan and trained with Al-Qaeda. Jayyousi published a newsletter, “The Islam Report,” and solicited funds for the defense of the Blind Sheik who was convicted of conspiring to blow up the World Trade Center. Hassoun sent Padilla money to go to Egypt where he connected with other terrorists. The sentencing guidelines placed Jayyousi and Hassoun at life imprisonment and Padilla at 360 months to life. The government requested a life sentence for each defendant.

The Court sentenced Padilla to 208 months - a significant departure from the sentencing guidelines. In doing so, the Court factored in that Padilla’s actions did not involve an act of terrorism directed to the United States; he did not personally kill maim or kidnap anyone; a variance was necessary to avoid unwarranted sentencing disparity;

Padilla did not complete Al-Qaeda training; and the nature of his pretrial detention was extreme. The 11<sup>th</sup> Circuit reversed the sentence as unreasonable in part because the Court did not take into account Padilla's significant criminal record including a murder as a juvenile. *United States v. Jayyousi*, 657 F. 3d 1085 (2001). Padilla also posed a heightened risk of future dangerousness due to his training and thus he was considered "far more sophisticated than an individual convicted of an ordinary street crime." Alvarez, Lizette, "Sentence for Terrorist is too Short, Court Rules," New York Times, September 19, 2011 (available at <http://www.nytimes.com/2011/09/20/us/jose-padillas-prison-sentence-too-short-appeals-court-says.html>). He has not been resentenced as of this date.

Adham Amin Hassoun was sentenced to 15 years and 8 months. The Court found at sentencing that he was a devout Muslim. He had also never been arrested or convicted of a crime. His fellow employees and employer described him as smart, compassionate and caring. The plight of Muslims throughout the world pained and moved him, motivating him to violate the statutes in his case. The Court noted that he had immigrated to the United States, married and had a family. He had worked with many employees of many different religions and ethnicity and there was never any evidence of conflict. The Court noted the length of time he was investigated and not arrested which indicated that the government did not believe him to be particularly dangerous. The government did not appeal his sentence.

Kifah Jayyousi received a sentence of 12 ½ years. The Court found at sentencing that Mr. Jayyousi was a devout Muslim. He had lived in the United States for 30 years, served in the Navy and had become a citizen. He was married with a family. He had

obtained a Ph.D and worked in the United States and abroad on sophisticated engineering projects with possible access to sensitive and confidential information. Many people wrote letters of support. Like Mr. Mehanna, he was a person willing to discuss religion with others without conflict. The Court found it significant that he stopped his involvement in the conspiracy before his arrest. He had been intercepted and investigated for over several years; yet the government made no effort to intervene. The government did not appeal his sentence.

#### **f. Guantanamo Detainees**

Even persons convicted in the Guantanamo Bay military commissions received sentences well below life. Salim Hamdan, the driver for Osama bin Laden in Afghanistan, was convicted after trial and sentenced to time served (approximately five years). David Hicks, who pleaded guilty to material support to Al-Qaeda in Afghanistan following the September 11, 2001 attacks, received a seven-year sentence (which amounted to an additional seven months served in Australia upon his release after five years at Guantanamo Bay). Omar Khadr, who hurled a grenade that killed a US soldier and planted road side bombs in Afghanistan, received an eight year sentence. The only person to receive a sentence of life after a trial was Ali Hamza al-Bahlul, who helped Al-Qaeda produce propaganda and handled media relations for bin Laden and refused to participate in his trial. He was convicted in November 2008 of multiple counts of conspiracy, solicitation to commit murder and providing material support for terrorism, and is serving a life sentence at Guantanamo.



**g. Mehanna's Conduct in this Case**

The difference between all of the above-named defendants and Mr. Mehanna is that Mr. Mehanna did not *do* anything that could be legitimately considered a meaningful, concrete step towards an unlawful, terrorism-related goal. This fact is a serious failing of our conspiracy laws where the alleged overt act sufficient for conviction can be as nominal as a single hiking trip, the possession of graphic videos depicting the casualties of war, or posts on the Internet. This fact illustrates that as opposed to the above defendants who were similarly charged and tried, Mr. Mehanna did nothing even close to their conduct.

Mr. Mehanna did not attend any terrorist training camp. He did not give money to a terrorist organization. He did not purchase or attempt to purchase any type of firearms. He neither had nor attempted to have any association with a designated terrorist organization. He did not surveil any prospective target, let alone identify any target for any unlawful purpose. In fact, he publicly dissuaded American Muslims from taking that sort of action.

Sentences in terrorism cases span from a few years to life in prison. This is because the conduct involved in each case also spans broadly. Being convicted of a terrorism-related offense is not a mandate for a life sentence as the sentencing guidelines may suggest. After *Booker*, there can be no rubber-stamped sentences. Each defendant must be assessed individually. Mr. Mehanna's alleged conduct in this case, when compared with the conduct outlined above, simply does not fall at the high end of any sentencing calculation. To find otherwise would create an unlawful sentencing disparity.

#### **h. Co-Defendants' Conduct in this Case**

The Court should consider the treatment by the government of the witnesses who were similarly situated to Mr. Mehanna in this case. As the Court is aware, all of the civilian witnesses who testified against Mr. Mehanna were labeled as co-defendants. Most of them were not even punished, let alone charged, despite their commission of far more serious acts than Tarek Mehanna.

Jason Pippin received military training in Pakistan. He provided Abousamra with a name of a possible contact in Yemen and received \$5,000 for this information. There was some discussion that he intended to go to Yemen with Tarek Mehanna and the others.

Kareem AbuZahra had provided money to Abousamra in 2002 when he went to Pakistan to give to a terrorist organization. He gave Abousamra \$5,000 to give to Pippin. He went to Yemen but left and upon leaving, gave both Mehanna and Abousamra money. He paid for their tickets. He suggested a plot to attack a shopping mall and Hanscom Air Force Base. He met with Maldonado to request guns to further his plans. He spoke with Abousamra about killing Condoleezza Rice and John Ashcroft. Despite all of these actions, far more serious and far reaching than any committed by Tarek Mehanna, he was not charged with a single crime. It is likely that had the FBI seized his computer, similar (if not more inflammatory) instant messages and emails, which so concerned the government with respect to Mehanna, would have been found.

Hassan Masood provided Abousamra with contacts to his relatives in Pakistan, who were involved in Lashkar-e-Taiba, a foreign terrorist organization. He intended to go to Pakistan with Abousamra in 2002, but his parents took away his passport. He lied

repeatedly under oath at immigration hearings about whether he supported jihad. He too was not charged by the government.

Daniel Maldonado actually participated in military training with Al-Qaeda and engaged in jihad. He received a ten-year sentence when he pleaded guilty to a crime that carried a ten-year maximum. He was not charged with providing material support to terrorism even though he had monitored and posted on jihadi web forums.

Finally, Spaulding and Aboubakr wrote highly inflammatory posts in support of jihad on the internet. Aboubakr expressed support of jihad, his admiration of Bin Laden, and his desire to fight in Chechnya.

The government, of course, may choose whom it charges with criminal activity. But it cannot describe Mr. Mehanna as so dangerous and so in need of a lengthy sentence when it so easily allows individuals like Jason Pippin, Hassan Masood and Kareem AbuZahra free to live in society without any reservations.

## **2. No Mandatory Minimum**

There is no statutory mandatory minimum sentence to be applied in this case. Certainly, if Congress intended that all terrorism convictions be treated alike, it could have passed such legislation. A lack of mandatory minimums indicates that Congress recognized the need for individualized sentencing based upon the individual and the crime.

## **3. Tarek Mehanna Poses a Very Low Risk of Recidivism**

Mr. Mehanna is 29 years old. Unlike many federal defendants, he has absolutely no prior adult or juvenile criminal convictions or arrests. These factors, along with the

recidivism findings of the United States Sentencing Commission, demonstrate that Mr. Mehanna is unlikely to recidivate and poses very little risk of harm to the public in future.

In *United States v. Nellum*, 2005 WL 300073 at \*3 (N.D. Ind. Feb 3, 2005), the district court acknowledged that 18 U.S.C. § 3552(a)(2) required it to consider at sentencing the likelihood that a particular defendant might offend again. In that case, the defendant fell within criminal history category III, but was 65 years old at the time of sentencing. *Nellum*, 2005 WL 300073, at \*3. To determine the likelihood of his recidivism, the district court consulted “*Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines*,” a report issued by the United States Sentencing Commission. *Id.* (available at [http://www.ussc.gov/Research/Research\\_Publications/Recidivism/200405\\_Recidivism\\_Criminal\\_History.pdf](http://www.ussc.gov/Research/Research_Publications/Recidivism/200405_Recidivism_Criminal_History.pdf)). In its report, the Sentencing Commission concluded that the chance of recidivism for a middle-aged person with a criminal history category III to be 19.8%. *Id.* The court ultimately found it appropriate to consider this relatively low risk of recidivism when crafting Nellum’s sentence. *Id.* at 3, 5. In addition to the Sentencing Commission’s recidivism report referenced in *Nellum*, the Sentencing Commission issued a report entitled “*Recidivism and the First Offender*” available at: [http://www.ussc.gov/Research\\_Publications/Recidivism/200405\\_Recidivism\\_First\\_Offender.pdf](http://www.ussc.gov/Research_Publications/Recidivism/200405_Recidivism_First_Offender.pdf). In that report, the Sentencing Commission determined that **93.2%** of offenders who had never before been arrested did *not* recidivate. *Id.*

A defendant’s total lack of criminal history, like Mehanna’s, should thus be an even more significant factor that a court takes into account at sentencing. Mr. Mehanna, like almost all defendants with zero criminal history points, should be assigned to

criminal history category I. However, U.S.S.G. § 3A1.4(b) directs that Mr. Mehanna automatically be placed in criminal history category VI without taking into account his non-existent criminal history. This particular enhancement is inappropriate. Mr. Mehanna's *true* criminal history points and his *true* criminal history reflect his *truly* low likelihood of recidivism based upon his actual and not unfairly enhanced criminal history category. Probation Officer Sinclair also suggested in her report that the Court reconsider this enhancement as it may well overstate the defendant's criminal history. *See* PSR at p. 37.

People with no criminal record have the lowest rate of recidivism. Applying the Sentencing Commission's "First Offender" statistics to this case, the Sentencing Commission finds that there is a **93.2%** likelihood that Mr. Mehanna will *not* recidivate.

#### **4. Incarceration is More Significant for a "First Offender" than Upon a Repeat Offender**

Mr. Mehanna also asks the court to acknowledge that prison time is more significant for a "first offender" than it is upon an offender who has previously spent significant time in prison. This is a proper factor to consider under 18 U.S.C. § 3553(a). In *United States v. Baker*, 445 F.3d 987 (7<sup>th</sup> Cir. 2006), the Court held that a 78 month prison term would mean more to Baker, convicted of child pornography, than to a defendant who had been previously imprisoned. *Id.* The Seventh Circuit also noted this factor is consistent with 18 U.S.C. § 3553's directive that this sentence reflect the need for "just punishment" and "adequate deterrence." *Id.*

In *United States v. Willis*, 479 F.Supp.2d 927 (E.D.Wis. 2007), the district court sentenced Willis to one year and one day of imprisonment instead of the 120 months recommended by the sentencing guidelines, in part, on a finding that the "sentence

provided a substantial punishment for someone like [Willis], who had never before been to jail and who engaged in no violence.” *Willis*, 479 F. Supp. 2d at 937. Likewise, in *United States v. McGee*, 479 F. Supp. 2d 910 (E.D. Wis. 2007), the district court imposed a sentence for heroin distribution below the advisory Guidelines range, in part, because McGee “had never before been to prison and ‘[g]enerally a lesser period of imprisonment is required to deter a defendant not previously subject to lengthy incarceration than it is necessary to deter the defendant who has already served serious time yet continues to re-offend.’” *McGee*, 479 F. Supp. 2d at 912 (quoting *United States v. Qualls*, 373 F. Supp. 2d 873, 877 (E.D. Wis. 2005)). Mr. Mehanna asks this Court to take into account that he has *never* before been imprisoned for any length of time.

**5. Severely Long and Harsh Terms of Incarceration Significantly Reduce the Likelihood that a Defendant Will Be Able to Pursue a Viable, Relatively Conventional Life After Release**

A sentence of no more than 63-78 months imprisonment would sufficiently reflect the seriousness of Mr. Mehanna’s offense conduct, promote respect for the law, and provide just punishment for his offense. In that context, the conditions of confinement to which Mr. Mehanna has been and will be subjected to throughout the term of his sentence constitutes a critical factor. These unusually harsh conditions make each day of Mr. Mehanna’s incarceration more onerous and, in effect, constitute greater punishment than ordinary defendants suffer in ordinary cases. The restrictions have been “significantly more onerous than the conditions faced by the ordinary pretrial detainee.” *Warsame*, 651 F.Supp.2d at 982. As the district court found in *Warsame*, this Court should also treat Mehanna’s “difficult time in [jail] as comparable to a longer period of time served in federal prison.” *Id.* In *Stewart*, the 2<sup>nd</sup> Circuit upheld the district court’s consideration of

the defendant's, Sattar's, solitary confinement and its conclusion that "the severity of the conditions of confinement would increase the severity of the punishment and the amount of deterrence associated with a given term of imprisonment in light of the particular conditions of confinement under which Sattar is incarcerated." *United States v. Stewart*, 590 F.3d 93, 144 (2<sup>nd</sup> Cir. 2009).

Mr. Mehanna has been in solitary confinement for the nearly two years before trial and through today (and as an aside, it should be noted that Mr. Mehanna had has no disciplinary problems in prison despite the harsh conditions of solitary confinement). He is confined to a cell approximately eight feet by ten feet. He remains in the cell alone for 23 hours a day 5 days per week. For the remaining 2 days per week, he is restricted to his cell for 24 hours each day. He is permitted to leave his cell for one hour of recreation at no specified time. He may make telephone calls, take a shower or get some exercise in that same window of time which can be at 5 am or at any time in the prison's discretion. He is allowed to see his parents behind glass for half an hour twice a week. *See Stewart*, 590 F.3d at 143 (describing the severity of Sattar's conditions including "being kept in a cell for 23 hours a day and under constant surveillance.").

Upon sentencing, he will likely be transferred to a Supermax prison or a Communication Management Unit (C.M.U.) which operate at federal prisons in Terre Haute, Indiana and Marion, Illinois. The units hold approximately 80 inmates. Visitors have no physical contact with inmates and there is a strict monitoring of mail, email and telephone calls. "Since 2006, the Bureau of Prisons has moved many of those convicted in terrorism cases to two special units that severely restrict visits and phone calls." Shane, Scott, "Beyond Guantanamo, a Web of Prisons for Terrorism Inmates," New York

Times, (December 10, 2011). *See* Exhibit L. The alternative is the extremely harsh and isolating conditions at Supermax facilities such as in Florence, Colorado. These facilities have been the source of concern for human rights activist and media. *See, e.g.*, “Out of Sight, HRW Briefing on Supermaximum Prisons” (hereinafter “*HRW Briefing*”), at p. 1, available at <http://www.hrw.org/reports/2000/supermax/>.

The harsh conditions of administrative detention facilities have been cited by several courts in determining sentences. *See Bell v. Wolfish*, 441 U.S. 520 (1979); *United States v. Gallo*, 653 F. Supp. 320, 336 (E.D.N.Y. 1986); *United States v. Behr*, 2006 WL 1586563 (S.D.N.Y. 2006). *See also United States v. Farouil*, 124 F.3d 838, 847 (7<sup>th</sup> Cir. 1997) (harsh conditions of confinement constitute valid ground for departure).

The Supreme Court has stated that conditions of confinement in a supermax facility “impose atypical significant hardship under any plausible baseline.” *Wilkinson v. Austin*, 545 U.S. 209, 223 (2005). Human Rights Watch has observed that in Supermax facilities, “[t]he conditions of confinement are unduly severe and disproportionate to legitimate security and inmate management objectives; impose pointless suffering and humiliation; and reflect a stunning disregard of the fact that all prisoners - even those deemed the ‘worst of the worst’ - are members of the human community.” *See HRW Briefing* at p. 1.

The conditions in the Supermax facility have been described by one commentator as follows:

Supermax conditions are harsher in maximum-security facilities. While conditions in different facilities vary, several features remain constant. In general, inmates live in cells eight feet by ten feet in area. Stark concrete cells are equipped with a metal sink and toilet, but no shower. Food is passed to the inmate through a small, locked slot in the solid door. Metal flaps may be placed around the door to complete the sense of isolation. If there is a window, it is small and



often placed high in the cell so that it is difficult for the inmate to peer out. The light is always on, although it may be dimmed. Cells are monitored constantly.

Inmates are usually permitted to leave the cell for up to one hour, three times a week, for a shower and exercise. Guards chain an inmates' hands to their waists and shackle their feet through the slot in the door before opening the cell door. Once the inmate leaves the cell, he is constantly guarded by two or three officers and has no contact with other inmates. These brief encounters, while shackled, are the only physical human contact the inmate is afforded. Exercise usually occurs alone in a small locked cages or cement bunkers; exercise areas contain no equipment.

Bishop, Maximilienne, "Supermax Prisons: Increasing Security of Permitting Persecution?" Arizona Law Review, Vol. 47:461, at 467-468 (internal citations omitted).

Beyond the physical restrictions a supermax facility imposes, the physiological and psychological effects of solitary confinement are well documented. For example, as reported in The New Yorker, "[a] U.S. military study of almost a hundred and fifty naval aviators returned from imprisonment in Vietnam, many of whom were treated even worse than [Sen. John] McCain, reported that they found social isolation to be as torturous and agonizing as any physical abuse they suffered." Gawande, Atul, "Hellhole," The New Yorker, March 30, 2009, at p. 3 (hereinafter "Hellhole"), available at [http://www.newyorker.com/reporting/2009/03/30/090330fa\\_fact\\_gawande](http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande), see Exhibit M.

The article added that:

[a]nd what happened to them was physical. EEG studies going back to the nineteen-sixties have shown diffuse slowing of brain waves in prisoners after a week or more of solitary confinement. In 1992, fifty-seven prisoners of war, released after an average of six months in detention camp in the former Yugoslavia, were examined using EEG-like tests. The recordings revealed brain abnormalities months afterward; the most severe were found in prisoners who had endured either head trauma sufficient to render them unconscious or, yes, solitary confinement. Without sustained social interaction, the human brain may become as impaired as one that has incurred a traumatic injury.

*Id.*

Stuart Grassian, M.D., a former Professor at the Harvard Medical School of Psychiatry for more than 25 years and an expert on solitary confinement, reports that “[i]t has indeed long been known that severe restriction of environmental and social stimulation has a profoundly deleterious effect on mental functioning[.]” Grassian, Stuart, M.D., “Psychiatric Effects of Solitary Confinement,” 22 WASH. U. J.L. & POL’Y 325, 327 (2006) (hereinafter “Grassian-Psychiatric Effects”).

According to Dr. Grassian, “[a]fter even a relatively brief period of time in such a situation [as solitary confinement] an individual is likely to descend into a mental torpor or ‘fog,’ in which alertness, attention, and concentration all become impaired.” *Id.* at 331. Elaborating, Dr. Grassian explains that:

[a]n adequate state of responsiveness to the environment requires both the ability to achieve and maintain an attentional set and the ability to shift attention. The impairment of alertness and concentration in solitary confinement leads to two related abnormalities: the inability to focus, and the inability to shift attention. The inability to focus (to achieve and maintain attention) is experienced as a kind of dissociative stupor - a mental “fog” in which the individual cannot focus attention, and cannot, for example, grasp or recall when he attempts to read or to think.

*Id.*

Dr. Grassian concludes that “the use of solitary confinement carries major psychiatric risks.” Grassian, Stuart, M.D., “Psychopathological Effects of Solitary Confinement,” *Am. J. Psychiatry*, 140:11, November 1983, 1450, 1454. Similarly, Dr. Haney, a Professor of Psychology at the University of California at Santa Cruz and a lawyer, reports that “there is not a single published study of solitary or supermax-like confinement in which non-voluntary confinement lasting for longer than 10 days, where participants were unable to terminate their isolation at will, which failed to result in

negative psychological effects.” Haney, Craig, “Mental Health Issues in Long-Term Solitary and ‘Supermax’ Confinement,” Crime and Delinquency, Vol. 49, No. 1, 124-156 at 132 (Jan. 2003).

Moreover, the quality of life – or, more appropriately, the lack thereof – under a supermax regime cannot fully be appreciated by resort to mere sterile description of logistics, physical space, schedules, or constraints on movement and activity. Even diagnoses are insufficient to drive home the extent to which Supermax incarceration imposes punishment well beyond that experienced by ordinary inmates in ordinary institutions.

Mr. Mehanna also asks this Court to consider research that indicates that imposition of a lengthy sentence can actually *promote* recidivism. The JFA Institute conducts justice and corrections research for effective policy-making. *http: www-jfa-associates.com*. It works in partnership with federal, state, and local government agencies, as well as philanthropic organizations to evaluate criminal justice practices and design research-based policy solutions. *Id.* The JFA reports:

Enduring years of separation from family and community – deprived of material possessions, subjected to high levels of noise and artificial light, crowded conditions and/ or solitary confinement, devoid of privacy, with reduced options, arbitrary control, disrespect, and economic exploitation – is maddening and profoundly deleterious. Anger, frustration, and a burning sense of injustice, coupled with the crippling processes inherent in imprisonment, significantly reduce the likelihood that prisoners are able to pursue a viable, relatively conventional life after release.

JFA Institute, “Unlocking America, Why and How to Reduce America’s Prison Population,” p. 10 (Nov. 2007) (available at *http://www.jfa-associates.com/publications/srs/UnlockingAmerica.pdf*).

It is clear that the extreme conditions of Mr. Mehanna's lengthy confinement satisfy the deterrence purposes of § 3553(a)(2)(A). The isolation, deprivation, and dehumanization resulting from the conditions of Mr. Mehanna's imprisonment are compelling factors in determining the length of a sentence that is "sufficient, but not greater than necessary" to accomplish the goal of sentencing, including punishment and recognition of the seriousness of the offense.

Even prior to *Booker*, courts held that presentence confinement conditions could in appropriate cases constitute a permissible basis for a downward departure. *See United States v. McCarty*, 264 F.3d 191 (2<sup>nd</sup> Cir. 2001); *United States v. Farouil*, 124 F.3d 838, 847 (7<sup>th</sup> Cir. 1997) (harsh conditions of confinement are valid grounds for departure); *United States v. Hernandez-Santiago*, 92 F.3d 97, 101 n.2 (2d Cir. 1996). *See also United States v. Brinton*, 139 F.3d 718, 725 (9<sup>th</sup> Cir. 1998); *United States v. Mateo*, 299 F.Supp.2d 201 (S.D.N.Y. 2004); and *United States v. Francis*, 129 F. Supp. 2d 612, 616 (S.D.N.Y. 2001), *citing United States v. Sutton*, 973 F. Supp. 488, 491-495 (D. N.J. 1997).

Mr. Mehanna's conditions of imprisonment will likely be the harshest available within the United States. Mr. Mehanna ask this court to also consider the harshness of his imprisonment upon him and the devastating effect a longer prison term will have upon him.

## **6. Collateral Consequences of Imprisonment**

It is also important to note that Mr. Mehanna's parents and brother all live in the Boston area. They have visited Mr. Mehanna in prison twice a week for every week he has been in jail. He will be moved thousands of miles away from them after the

imposition of this sentence. The expense, travel difficulties, and prison logistics will effectively prohibit his family from visiting or speaking to him on any regular basis while he is incarcerated.

There is no question that incarceration imposes alienation between inmates and their families. This is a common collateral consequence. However, as this court knows from the Mehanna family's daily attendance at trial and at all pretrial hearings, this drastic separation from his parents and brother will impose greater hardship on all of them than the typical criminal defendant and the typical defendant's family suffer.

### **III. Conclusion**

Mr. Mehanna requests that the Court impose a sentence that is "sufficient but not greater than necessary" to achieve the statutory purposes of punishment, as required by 18 U.S.C. § 3553(a), and one that reflects a fair and sound application of the Guidelines. A sufficient sentence and one which would send a message of deterrence to others is 63-78 months. As Omar Abdala stated in his letter of support:

I can think of no better moderating influence to these youth than a man who has been through the process, went right to the edge of joining international Jihad (Tarek certainly had the capacity to continue his search for Jihad in Yemen, Iraq, across the red sea in Somalia, etc), then made a conscious decision that this was the wrong path, returned to reform and refocus his life and eventually come to a new understanding of what Jihad means to him which is more centered on building and service rather than destruction.

Respectfully submitted,

TAREK MEHANNA  
By his attorneys,

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Dated: April 9, 2012

**Certificate of Service**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on or before the above date.

/s/ J. W. Carney, Jr.  
J. W. Carney, Jr.

Sudbury, April 3<sup>rd</sup> 2012.

**Dear respected honorable Judge O'Toole, United States Federal Judge,**

My name is Ahmed S. Mehanna, father of Tarek A. Mehanna, whom your justice presided over his trial last year. Unfortunately the trial has ended by a very unhappy ending, at least for us, the family, with Tarek's conviction on December 20, 2011. As your majesty is aware, he is awaiting sentencing on April 12, 2012 and that is the reason for my letter to your honor. I hope this letter will find the necessary attention of your honor considering it is from a father who is badly hurt by his son's ordeal, and never had a chance to stand in front of the court during the trial to explain what type of person Tarek is. I have divided the letter into several segments to make it easier for your honor to read.

### **I. History of Tarek's Birth and Education:**

I want to address the court on some aspects of Tarek's history and character. Tarek was born in the city of Pittsburgh, state of Pennsylvania, USA on October 13, 1982. Tarek grew up and was raised at our home and in our custody (myself and my wife, Souad) like any American child who is born to a Muslim family. All his developmental stages were as normal as it can be, starting with day care enrolment in Pittsburgh (1984-1987), joining elementary school in Richmond Virginia (1988-1990) and Winchester Massachusetts (1990-1993), Middle school in Sudbury Massachusetts (1994-1997), and High school in Sudbury Massachusetts (1998-2000). After his high school, Tarek joined the Doctor of Pharmacy program at the Massachusetts College of Pharmacy (where I have been working as a professor since 1990), and earned his Doctorate of Pharmacy degree in 2008. He succeeded in obtaining a job offer to work as Doctor of Pharmacy in Ryad Saudi Arabia with a 6 figure salary. Regrettably the unfolding of events that followed his graduation denied him that dream.

### **II. September 11 and its unfortunate effects on Muslim Americans:**

During his teenage development and more specifically during the high school educational period, Tarek and several other Muslim young men used to get together through family gatherings and religious ceremonies in different mosques scattered around the greater Boston area. He, and others, were keen to know about this religion they inherited from their parents and how can they make it fit into the culture they were born and got their education in. Unfortunately, by the time they seriously began to explore the religion of Islam, the terrible incident of 911 had occurred with the well known backfire on all American Muslims. Tarek, along with his other friends, were upset by the unjust persecution of Muslims throughout the world and the frequent and massive genocide incidents that Muslims around the globe were subjected to. His view was amplified by two factors: the wars that the United States waged against Afghanistan and Iraq, and the bad advice from older Muslim friends surrounding him. His perspective was further affected when he used to watch Arabic Satellite channels that frequently showed the ugly face of the war with children and women dying and the nations' infrastructures bombed and destroyed. This was enough reason for any Muslim, young or old, and even many non-Muslims, to be upset and disturbed by the horrific scenes shown on television.



At this time (2001-2003), Tarek was looking for his identity as a young Muslim. He started to read more in depth about Islam and the history of Muslim's persecution around the world. He found what he was looking for as answers for his puzzle in the holy book the Quran, which states that it is mandatory and the duty for all Muslim to resist injustice and help oppressed people to regain their dignity. This is the basic tenet of the controversial concept of Jihad, which was later equated with the very scary label of "terrorism" although they are completely two different ideas. Tarek's reaction to the overwhelming injustice to Muslims was to encourage the oppressed to resist the injustice as much as they can, and I believe this outlook is embraced by most of our fellow Americans, as well as by the United States government, when it continuously engages in fighting injustice everywhere around the world. After 911, my son, as did so many other young American Muslims of his age at that time, 17-years old, took the freedom of speech as their constitutional right to disagree with their government. Tarek's antigovernment attitude took a peak between 2002 and 2004, with a gradual subsiding towards moderation after realizing that he can do a better job of propagating Islamic teachings among non Arabic speaking persons by translating documents and books from Arabic to English.

### **III. Tarek as a young man of integrity with kind heart and clean life history:**

If I speak about Tarek as a person, I am sure your honor will think that I am defending him because he is my son. However, I can assure you that everything I am relating to your honor truly reflects the character of this young man who is waiting for a just judgment to be delivered by your honor on the whole episode on April 12. Tarek in his childhood grew up like any other American youth, enjoying his life with all available hobbies and entertainments including playing soccer, karate, basketball, playing video games, going to the movies with friends, traveling with us to Disney World, reading books, partying with friends, Muslim and non-Muslim, playing and listening to music. Tarek throughout his 29-years of life showed nothing but love and respect to any person who got to know him. When he was in his teens as well as a young man, believe it or not, he never spoke a bad word, never insulted anyone with inappropriate slurs or expression of profanity. Simply, he was raised clean, and stayed like so even during his current ordeal. Tarek never took drugs nor ever got into the business of drinking or committing any unlawful activities people of his age usually indulge in. His dealing with me and his mother was and still is an exemplary role model for any person on how to treat his parents and be good to them, applying kindness and help to us whenever we needed him. We cannot imagine our life without him. Among things that I used to praise Tarek for doing is his continuous desire and willingness to help and support others, Muslims and non-Muslims, both morally and financially. When he was young, he used to donate the allowance that he used to get from me to the first poor or needy person he identifies. It is very difficult for me and the family to see him described by this horribly perceived title of "Terrorist", a label that Tarek is the last person on earth to be described with because he is an extremely decent and peaceful individual.

**IV. A plea from a father to your honor:**

I have great deal of confidence and faith in your honor's fairness and objectivity. I am appealing to your honor to apply a merciful ruling for this young man who has hurt no one. Tarek in our eyes as a family and in the eyes of a lot of people is not a criminal at heart. He was a victim of ill advice from older Muslims who later testified against him. Your honor, I must confess that when I started my life in the United States in 1978, I was full of pride that I belong to this great country because of the high moral values and fairness expressed by its constitution. I will not be lying if I tell your honor that my confidence in the justice system, which I greatly respected, started to degrade because of what I have experienced through Tarek's and our ordeal. However, I am holding a lot of hope in your honor to help restore that confidence. I am full of hope that you will treat and judge Tarek for what he is as a decent young man who deserves a second chance to live his life as free person, not as a criminal who will spend the best years of his life behind bars in a prison.

Finally, I apologize for my long letter and appeal, but at this point, I found it necessary on my part to convey my feelings to your honor since you are the only person who can help us get to the end of this nightmare.

Sincerely yours,

Ahmed S. Mehanna

A handwritten signature in black ink that reads "Ahmed S. Mehanna". The signature is written in a cursive style with a large, stylized 'A' and 'M'.

Father of Tarek Mehanna  
6 Fairhaven Circle  
Sudbury MA 01776

Sudbury MA, April 3<sup>rd</sup> 2012.

**Dear Honorable judge O'Toole, United States Federal Judge,**

Thirty years ago when my husband and I moved to the United States, I was so happy to see all these beautiful dreams picturing my future were coming to be true. I was looking forward to start my own family. I devoted my youth, my energy, heart and my entire life to my children. I planted the seeds for a future righteous offspring who can be my reward in life for what I have sacrificed. I was dreaming of when the time will come to enjoy the fruit of my hard work and finally sit back and watch my boys growing, graduating, getting married, and bringing me home my grandchildren. Tarek is the heart of our home; nothing is the same without him. He is a kind and caring son, brother and friend. He took care of his brother, spending every night with him, when Tamer was hospitalized with a rare genetic condition. Tarek filled our home with happiness, love, joy and peace. Life without him is unbearable and meaningless; what happened to my family is a nightmare by all what the word means.

Tarek's conviction was like an earthquake that not only has affected my family but the entire community as a whole. Tarek is the kindest, most cheerful and giving person anyone can meet in life. He was ready at all times to sacrifice anything just to help others and make their life easier. I remember many times when Tarek used to pack whatever he can of food from my kitchen for the poor people he meets. I also remember a day when he had a final exam the next day and he went to drive someone who was not even a friend to a hospital for an emergency because he had no ride. He waited for him and was late for his exam. I remember we had an argument about that but he insisted to go. Later, I felt so embarrassed from that position I had taken from his act when I now know that he saved his life by taking him to the hospital in the right time.

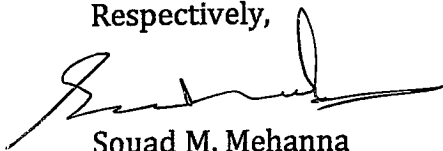
I miss Tarek terribly, I am missing his presence in the house, and I am missing his hugs and the touch of his hands. I found my family and my son Tarek facing the hardest test in life. All of our dreams were taken away from us. I raised my son, and I was with him day by day under my wings. I assure your honor that he is not what they say about him. Tarek is no terrorist, no criminal, but a decent exemplary human being who was incorrectly read. I am the one that implemented in him the good, the right, the truth, the pride, the generosity, the honesty, the fear of god. I planted his seed. I beg your honor to believe me, Tarek poses no danger to his community or his fellow citizens. Even if you want to punish him please do it kindly. Tarek does not belong to the environment of prison, he belongs to a place in the society where can benefit people at both the professional and the humanitarian fronts. Please respected Judge O'Toole, give him a chance of a better life and future. My son never posed, and will never be, a threat to society.

I am his mother and I am speaking to your heart, please give him a chance. Your honor I am appealing to your wisdom and your awareness of the humanitarian law before the written law. As a Judge, you can understand and forgive and give my son a chance to redeem his life again.

Your honor, I, as his mother, beg you to bring back my son. I need him and I can't go on in life without him taking care of me. He is the light of my eyes. Please be merciful with me and save my life or whatever is left of it. I humbly beg your heart-felt consideration of everything I have said about my son Tarek and ask for your compassionate leniency on the sentencing day of April 12. If you let me talk about Tarek, I can write long statements and say endless stories about the horrors and disappointments that I lived by since he was taken from my arms, but I will stop here and let you say the last word.

I have full trust in the good forgiving side of your honor's character .

Respectively,

A handwritten signature in black ink, appearing to read 'Souad M. Mehanna', with a stylized flourish at the end.

Souad M. Mehanna

Mother of Tarek A. Mehanna

Scheduled for sentencing to the unknown on April 12, 2012.

Dear Judge O'Toole,

My name is Tamer Mehanna, and you may remember me from the two month long trial of my brother, Tarek Mehanna. Tarek's attorney, Jay Carney, asked me to write this letter to you to help you understand just how this entire experience has impacted my parents.

My father has been a professor of medicinal chemistry at Massachusetts College of Pharmacy for as long as I can remember. His list of accolades and awards is longer than my arm. In two decades at MCPHS, where each year's class is 300 students, my father has made it his responsibility to ensure that over 6,000 pharmacists walked through his door with the training to save lives and treat illnesses here in the Commonwealth of Massachusetts. For all the students who ever feel distress at MCP, they inevitably stop by his office because he has always been ready to help, with a warm smile and support that strengthens the spirit and calms the nerves.

My mother has spent an equal amount of time providing daycare in our home during which time she nurtured infants and toddlers of all faiths, ethnicities and walks of life. Our basement has always been full of portraits of all the children she has raised and reared, and of the parents of those children, who have gotten to know us and grown to love our family like they love their own. Today, however, things are different.

Souad Mehanna: *"My heart is broken."*

Ahmed Mehanna: *"My heart is broken, and my mind is broken."*

My parents spoke these words at a public rally three weeks ago. My father does not smile anymore. The light and warmth in his eyes have been extinguished. You probably don't know this but he was only 16 years old when his parents passed away, leaving he and his six siblings orphaned and saddled with inherited debt. My dad bootstrapped as best he could and he made sure they didn't just survive, but that they prospered again. I can only imagine the irony he must feel now, to have toiled so hard to ensure the survival of his first family, only to come now to the land of Liberty and Justice to lose his first born son. It is not only his spirit that is broken, but his mind, his confidence, his sense of dignity. He feels he cannot protect his family. How is he supposed to look anybody in the eye? That is what he asks me.

I mentioned earlier that he had been the strongest and sturdiest person I had ever known. Today he cannot for the life of him hold his emotions in check. He cannot keep his composure long enough for us to complete a conversation.

My mother cries most nights. Everybody in this house is always sad. I am certain she will be in even worse shape after the sentencing. Last time we were in the

courtroom was the day the verdict was announced, and my mother collapsed four times before getting out the door. Once she could finally walk on her own, she stood outside the courtroom and stamped her feet while beating herself on the side of the head. This is not normal, Your Honor, not even in our Muslim culture. A son should never have to see his mother like that. As I sit here typing this, I can hear her upstairs sobbing.

Sincerely,

Tamer Mehanna

To Judge George O'Toole:

During the course of this case, I was arrested on two separate occasions. I would like to highlight the circumstances under which those respective arrests took place.

On the first occasion, I was at Logan International Airport, with my mother & father. I was en route to the city of Riyadh, the capital of the Kingdom of Saudi Arabia. I was on my way there because for nearly a decade beforehand, it had been my aspiration to settle in the Muslim country upon completing my education. As I neared the date of my college graduation, I was one day contacted by the pharmacy director of the largest, most advanced hospital in the entire Middle East, the King Fahd Medical City. He offered me the task of establishing a new diabetes treatment clinic for the blossoming facility, and I accepted the offer-before I had been threatened with the arrest by the FBI. My contract was impressive: a starting salary of \$75,000 (tax-free), free health & dental care, housing/food/transportation and other living expenses all paid for by my employer, round-trip tickets to visit my family in America each year, and since Riyadh is just hours away from the sacred cities of Makkah & Madinah, I would also have all-expenses paid pilgrimage to these cities each weekend. I would essentially be living in the luxury in the region's wealthiest nation, in the environment I was most comfortable and best of all, I would be making a living alleviating the suffering of others. This is the conduct which was interrupted by my first arrest, in late 2008.

Months later, after my release on bail, I had obtained a teaching position at a local Islamic private school. I was responsible for teaching math, science, and religion to children in grades six through eleven. Over the course of my nine months at the school, I established a unbreakable bond with the children I taught each day. Without doubt, it was the most fulfilling experience of my life. And it was as I prepared to leave the house one morning to continue that experience that I was arrested the second time.

My intention in highlighting the above is to provide snapshots of my life that share a common theme, and were not highlighted by the government at the trial. Both occasions of my arrest represent how two very different worlds collided: the world in which my body currently resides, and the world which my heart will never leave.

Tarek Mehanna



## BOSTON COLLEGE

PHILOSOPHY DEPARTMENT

Feb. 14, 2012

The Honorable George A. O'Toole, Jr.  
U. S. District Court  
1 Courthouse Way  
Boston, MA 02210

Your Honor,

This is a letter attesting to the good, exemplary character of Tareq Mehanna, who is scheduled for a sentencing hearing before you on Apr. 12, 2012, after having been found guilty of giving aid to terrorists and lying to the FBI by the court. I live in Natick, MA, and I have been a professor of philosophy at Boston College for over 40 years. I am a former Jesuit priest who has long been associated, not just with bringing up my own children and getting them through college and graduate school as good and honorable citizens of the U. S., but also with teaching and judging the character as well as the learning of thousands of young people coming from all walks of life from all parts of the world, not just in the university but in public life as well. I have always been interested in young people and I have always been glad to meet more and more of them year after year to do good with them and to build up our community.

I did not come to know Tareq in my function as a professor at Boston College, but as a participant in an Interfaith Discussion Group with Muslims at the Mosque in Weston, MA, where my wife and I first came into contact with him and his family and became good friends long before the events of 9/11 and their aftermath, which has brought so much trouble and suspicion in our ethnic and ecumenical relations as Americans of diverse origins and diverse faiths, though not between our family and that of the Mehanna's. Throughout all those troubles our relations with the Mehanna family have been, not just cordial, but warm and friendly, and enriching both spiritually and religiously for us. We have visited with them in Sudbury and they have visited with us in Natick, and Tareq was there in the midst of it all until he was taken away to be incarcerated in 2009, much to our chagrin and surprise.

We found Tareq to be more devout in his Muslim faith than perhaps his brother or his father, though all were deeply religious as the mother has always been. We learned that Tareq was not just a Doctor in Pharmacy, like his brother and his father, but also very learned in his faith and devoted to it and to learning ever more about it. We also learned that he was involved in social work among the less



advantaged Muslims of the Worcester area, even as he kept up the strict religious observances he was committed to as a Muslim, and that he had gone to Yemen in pursuit of more learning about Islam.

Our friendship with the Mehanna's did not stop when Tareq was incarcerated, but became more intense, and Tareq did not drop out of it. In fact, it intensified with him through a flow of correspondence in which we shared experiences of patience in suffering and, yes, prayerfulness before God. We marvel at his integrity as a faithful Muslim, at his gentleness and lack of rancor toward those who have betrayed him to keep themselves out of jail, and at his constancy in refusing to betray anyone else to get himself out of the trouble he finds himself in.

This is not a man we have to fear if we let him out of prison. Nor do we have anything to gain as a society by keeping him in a penitentiary for years and years, much less for life. In fact, we have so much to gain by setting him free again to resume his work as a pharmacist and as a spiritual leader in our community. I am not convinced that he has done all that he is alleged to have done by the FBI, but whatever it may have been that aroused their suspicion, there is so much more good and kindness on the other side of the ledger for him to warrant ample leniency and clemency in the sentencing.

He has the will and the religious fiber to survive whatever we do to him, as he has shown by his comportment in court, his concern for his family and friends, and his patience in solitary confinement. But let us not demean ourselves further by imposing on him the maximum sentence that some may want for him.

Yours sincerely as a Christian American,

A handwritten signature in black ink, reading "Oliva Blanchette". The signature is written in a cursive, flowing style with a large, decorative initial "O".

Oliva Blanchette

28 Florence St.  
Natick, MA 01760  
February 15, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
I Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

Dr. Tarek Mehanna and his family have been friends for several years. I met them while I was participating in an Interfaith Group at the Islamic Center in Wayland. They have been guests at my home and my husband and I have enjoyed the hospitality of their home many times. We have become very good friends over the years and I am in frequent contact with his parents, Dr. Ahmed Mehanna and Mrs. Souad Mehanna.

One of the things I enjoyed about teaching young people over a 30-year career in Catholic schools was their idealism. Dear Tarek has that in spades. We often (and still do via mail) share exchanges about our religious faiths. He is a warm and generous man, eager to continue to do good as he has already done in so many ways.

During his two years plus in solitary confinement, he has managed to make the best of his situation; reading, studying and encouraging his friends and family. What strength of character!

Dear Judge O'Toole, please be lenient in your sentencing of Tarek. He will be a credit to his community and his profession.

Thank you for giving attention to my remarks. In attending the trial, I got quite an education in how the court system works. Now I will watch "Law and Order" with a jaundiced eye!

A handwritten signature in cursive script that reads "Dorothy Kennedy". The signature is fluid and elegant, with the first name and last name clearly distinguishable.

Dorothy Kennedy

February 13, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02110

Your Honor:

I am writing this letter in the hopes that it will help you to see what kind of person Tarek Mehanna is, despite the transgressions that led us all to this point.

My name is Ranwa Raad, I live in Boxborough, MA and I am a Software Engineer and Tax Professional. I have known Mr. Mehanna and his family for over fifteen years now, and we are close family friends. I believe I am in a position to speak about Mr. Mehanna's moral character, so I hope you will take this letter into account when making your decision.

In short, Mr. Mehanna is a good person with the kindest eyes. He has always been cheerful, generous and dependable with others. He has a strong sense of duty, which applies in his family, and community. He also possesses a great deal of integrity, and constantly strives to make sure he is doing the right thing. He is an honorable person and an active participant in community activities.

I hope you will look at my letter and the countless others you're receiving, and understand that Mr. Mehanna is the kind of person around whom people rally, regardless of race, religious belief or ethnicity. That has to say something, so please let that be a factor in your decision.

Thank you,

A handwritten signature in black ink, appearing to read 'Ranwa Raad', with a stylized, flowing script.

Yours Sincerely,  
Ranwa Raad

Iftekhhar H. Kazmi  
10 Bradford Road  
Framingham Ma 01701

To,  
The Honorable George A. O'Toole Jr.  
US District Court  
I Courthouse Way  
Boston, MA 02210  
Feb. 15, 2012

Honorable Judge O'Toole,

I am a US citizen who migrated to Boston MA in 1975, residing in the Greater Boston area with my family, for the last ~~30~~ years.

I am writing this letter because of my concern for the future and well being of Tarek Mehanna. I know Tarek and the Mehanna family because of my affiliation with the Islamic center of Boston, Wayland, MA. The Mehanna's are religious and devout members of the Islamic center of Boston in Wayland,. A few years ago I used to go to the ICB Wayland for the Isha (night time prayer) It was a small group of people (10-12) who attended this prayer. Tarek Mehanna was there most of the time and devoutly prayed with the congregation. Tarek was always well behaved and helped to spread the rugs for the prayers. After the prayers he would help fold the rugs and put them back in proper place, I always found Tarek to be thoughtful concerned and well behaved.

The Mehanna family is currently under great stress because of the mistakes that Tarek made. Also, Tarek's brother was diagnosed with cancer in the GIT, and part of the intestine was removed to rid him of cancer.

Tarek is a well educated person, he has a PHD in Pharmaceutical sciences. Please show leniency in sentencing so he can be a productive member of the society.

Sincerely



Iftekhhar H Kazmi

February 15, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02110

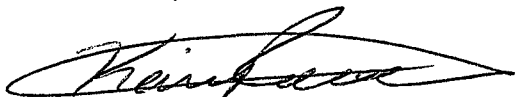
Your Honor:

I am writing this letter in the hopes that it will help you to see what kind of person Tarek Mehanna is, despite the transgressions that led us all to this point.

My name is Karim Raad, I live in Boxborough, MA and I am a Sales Executive at Hewlett Packard. My wife and I have known the Mehanna's for more than 15 years. Tarek has always been a gentle and respectful young man, always polite in conversations, passionate about his beliefs and a huge contributor to his community, friends and family.

Tarek was brought up in a very humble and loving home, his parents and brother have always been close and a model to our community, showing unwavering integrity and respect of others. I humbly request your honor you take my 15 years experience with this young man to be a factor in your decision.

Thank you,

A handwritten signature in black ink, appearing to read 'Karim Raad', with a stylized, flowing script.

Yours Sincerely,  
Karim Raad  
Boxborough, MA

February 15, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02110

Your Honor:

I am writing this letter in the hopes that it will help you to see what kind of person Tarek Mehanna is, despite the transgressions that led us all to this point.

My name is **Dima** , I live in **Northborough**, MA. and I am a **Pharmacist**. although I never met Mr. Mehanna , I believe I am in a position to speak about Mr. Mehanna's moral character, Because I always heard people talking about how great and professional he is at School , and how great person he is , ,truthful , honest , respectful , and lovable . always strives to do his best and he is very active in the community .

**I strongly Believe that Mr. Mehanna is a good citizen , good person . so please let that be a factor in your decision.**

Thank you,

Yours Sincerely  
Dima Khoury .

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

My name is Mazen Ramadan and I am a resident of Northborough, Massachusetts. I was born and raised in this area and went on to higher education at the University of Massachusetts Amherst. I worked full time as a Resident Assistant for the university and as an Operations Manager at Professional Marketing Associates while taking a heavier course load towards graduating with two B.A. degrees.

After, I went on to run a Multiple Listing Service firm for the real estate industry. My father founded the firm in the late 80's and if you bought a house back then, the real estate agent probably used the software he invented to help you find a home. My father graduated from M.I.T. with a Master's Degree in Civil engineering. When he was younger he created construction management software and supervised the development of about half the red-line in the Boston area. Currently, he works developing real estate and I work as a consultant.

When I was about 12 years old, my parents started to become more attached to their faith. They began taking me to the Islamic Center in Sudbury, MA to study Arabic and Religion. That is where I met Tarek Mehanna, a person I've known now for about 18 years. We were childhood friends up until our late teens when we parted ways to go off to college. After we finished our studies, we met again as members of the Worcester Islamic Center and we became close friends.

For as long as I've known him, Tarek has been an honest, sincere and upstanding citizen. He's at times quiet and introspective and at others outgoing and social. He's always been very intellectual and spent a lot of time time learning. He never shied away from challenging ideas, concepts and the political state of the world. He's very vocal about his beliefs, not just for the sake of being vocal but to grow and develop his ideas further. We often had discussions where we used each other as bouncing boards.

Tarek is one of the best people I've met in my life. Despite all the charges he was convicted of, interestingly enough, he remains one of the best people I've known. He's always made a sincere effort to be the best he can be - as a Muslim, as a friend, a son, a brother, a student, a community member, and a teacher. He always has a big smile drawn on his face. He's kind, courteous, and sensitive to other people's needs. He also has the unique ability to treat people well, he's a role model for his friends, and he's very playful with children and pets. He's very easily one of the most wonderful people I've known.

I'm not writing this letter on Tarek's behalf as a friend, but as one who understands what he went through as a young Muslim. I see many of our youth struggle and discuss the same ideas and concepts Tarek struggled with and discussed. The difference is now we are prepared to help and guide the younger generations because we went through the struggle ourselves.

I'd like you to take a moment to imagine the current state of Muslims in Massachusetts alone. Our Islamic Centers are cultural melting pots and adults often mix culture and politics with religion. In this state, we have about 40+ mosques, Islamic centers, and prayer halls. At the same time, we've only had 2 resident scholars (Imams) in the entire state for the last few years! Furthermore, these Imams are immigrants who live sheltered lives and lack an understanding of our society. What happens to our youth who become inclined towards faith? Where do they go to learn Islam? Who can teach them?

Most end up on the internet where they learn from scholars in Saudi Arabia, Egypt, and Yemen. Some scholars are mainstream, others walk a dangerous path. It's very hard for some to distinguish between the two because some scholars present a moderate view of Islam and slowly pull people into a more radical version. Many question or adopt these ideas, but go onto correct their beliefs as they further their studies. I myself have come across this phenomenon, but was fortunate because I was more seasoned and had the intellect and ability access to mainstream sources to challenge these ideas.

Frankly, I have little doubt that Tarek went through a phase where his views as a Muslim were questionable at best. Yet, at the same time, I know for a fact that he continued to develop and grow these views and he moved out of that questionable phase into what mainstream Muslims believe and follow. I've witnessed him (first-hand) grow as an individual, and develop his ideas to a point where he would challenge extremist scholars and speaks out against those brainwashing so many of our youth. He did so from a position of knowledge, understanding, strength and experience.

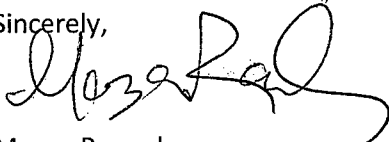
These issues faced by our youth are one of the very reasons my father built the Worcester Islamic Center. These issues are also why I spend time volunteering at the center and why Tarek spent time teaching our youth. Thankfully, now the situation has been improving with the development of American Muslim community.

I write all this to put a little first-hand perspective on Tarek's situation. He may have been confused and misguided for a short time while learning, but he corrected himself and went onto benefit our society in many ways - one of which is to continue living amongst us as a peaceful citizen for at many, many years. Tarek also went on to teach and correct others and he's truly an asset to our society.

Please keep in mind that I'm not in any way questioning or criticizing the conviction or that he should be sentenced. I believe that we have the best justice system in the world. Even more so, I believe America became the nation it is because of our justice system. Without justice and peace, there cannot be social or economic prosperity. What I am trying to do is put a little perspective on the entire situation as someone who knows him well and as someone who truly understands the confusion American Muslims experience growing up.

Tarek's one of the most truthful, dignified, and upstanding people I know and I'm writing this letter not to ask for a get-out-of-jail-free card, but rather to seek leniency. As people, we all make mistakes, we develop and grow. I'm simply asking you to not take this young man's life away for mistaken beliefs he already corrected.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mazen Ramadan', with a stylized, flowing script.

Mazen Ramadan

85 Newton Street, Northborough, MA 01532 ! Phone: (413) 695-4867



February 15, 2012

The Honorable George A. O'Toole Jr.  
United States District Court,  
1 Court house way,  
Boston, MA 02210

Ref.: Tarek Mehana, Pharm D.

Dear your honor judge O'Toole,

We are writing this letter on behalf of Mr. Tarek Mehana who is waiting to be sentenced in April for several terrorism charges. We had the opportunity to attend a significant part of his trial and see for ourselves how a young man could patiently and helplessly face all of these alleged charges, while others, who had committed worse crimes than what he did, going so far as to materialistically plan, fund, and push for them to occur, are sitting free on the witness chair protected by undeserved legal amnesty.

We got to know Tarek since 1999 through our close personal friendship with his parents Dr. Ahmed Mehana, professor of pharmacy at Massachusetts College of Pharmacy, and Mrs. Soad Mehana. Over the years, we have seen Tarek grow up in front of our eyes, from an innocent and active childhood to his prosperous and responsible manhood within a very caring and humble family - a family that set the bar high for their kids to achieve the highest standards of inter and intrapersonal ethics. His parents paved the route for him and his brother to excel not only by supporting their education up and through a prestigious college, but also by teaching them how to be role models within their neighborhood, among the circle of their friends, and within the community at large.

Tarek not only challenged himself to achieve such high standards, but also strived never to upset his family in any way or in any manner. You can see this vividly through his excellent achievements in schools and in college. Despite his birth in the US, Tarek was always eager to learn about his parents' culture, which he admired. I remember how happy he was as a child and adolescent, when he was finally able to formulate a few sentences in Arabic and communicate them to his father's friends. How proud he was while expressing his dreams of graduating and traveling to a place where he can master the Arabic language and get to be in touch with another culture that is close to his heart but he knows nothing about.

When our 14 year old son was sick and was on the verge of death at the children's hospital Intensive Care Unit, Tarek came to support him and surrounded him with his prayers and best wishes, giving him hope for his recovery. That is the quality of this pure and peaceful man. He was supportive to every one; young or old, and he was beloved by the entire Muslim community. That is why these charges came as a dreadful shock to all of us, as no one in the Muslim community could believe that this man could harm his country in any way or in any form. My son came to one session of the trial, looked at Tarek and simply could not believe that Tarek would find himself in prison for years to come.

We can imagine how this sentence will be a shattering shock to his family, to the Muslim community, and to every one who got to know this gentle and humble young man. How painful it will be to one day in April read the newspaper, with his name and the number of years. That is why we are writing this letter with the desperate hope that you consider clemency in the matter of his sentence to be within one digit of years. Any sentence harsher than that will definitely disappoint every American Muslim and will lead them to believe that it was their religion on trial, not him, and that the young people in the Muslim community should be afraid to be the next ones in court.

● Page 2

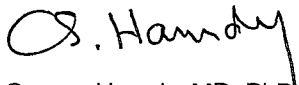
February 15, 2012

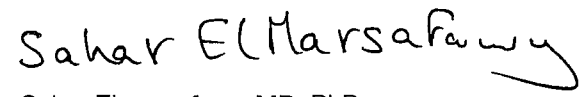
We can sympathize with a man who sees his dreams turn to nightmares. We know there is no heart in the law, but the individuals that carry the law over the people should be the soul it lacks, and I believe you are one of them. That is why I ask for your mercy on his sentence. As close family friends, we only hope that you look to this case by the eyes of a parent seeing their son's future blighted, rather than a judge sentencing a criminal.

Believe us; Tarek is an excellent young American man that only seeks a second chance. He is on the edge of either starting a new life, a new job, and a new path in a few years, or he could lose everything if he were to receive a harsh sentence. I can not imagine how he and his family would cope with this unbearable stress for the first time in their peaceful life.

We trust your wisdom and respect your lawful judgment. We only dream that he will be released one day, back to his peaceful family and to the life that he dreamed of one day.

Kind Regards,

  
Osama Hamdy, MD, PhD

  
Sahar Elmarsafawy, MD, PhD

To: The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

From: Faten Ramadan  
15 Edmunds Way  
Northborough, MA 01532

Dear Judge O'Toole

My name is Faten Ramadan and I have known Tarek Mehanna and his Family since 1998. I have been residing in the USA since 1976 and obtained my education in Boston with BSEE from Northeastern University in 1980 and an EMBA from Boston University in 2002. I am currently Director of Global Sales Operations for Avaya, a global communication and call centers applications company with revenue exceeding \$5B annually.

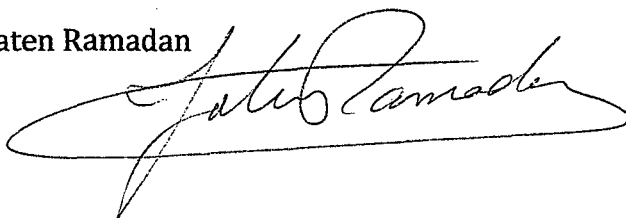
It is my duty and pleasure to tell you what I know about Tarek Mehanna. Tarek is a role model for my sons and all young men and adolescents in our community. He is the most gentle, caring and loving human being I have ever had the pleasure to know. When I think of Tarek, I immediately visualize his big tender smile on his serene face. Tarek is an honorable example of honesty and fairness in dealing with others following the teaching of true Islam. He is both proud and humble. Mostly he is very respectful and tolerant.

As one of his mom's best friends, I have watched him grow hoping that my sons will follow his track in wanting to know what true Islam is all about, to be wary of the many erroneous interpretations and to be proud of their believes. My sons and I are very proud American citizens and we continue to love and strive to protect what our country stands for: Liberty and Justice for All – without regard to race, religion or gender.

Thank you for your considerations,

Sincerely,

Faten Ramadan

A handwritten signature in black ink, appearing to read 'Faten Ramadan', with a large, sweeping underline that extends across the width of the signature.

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

02/14/2012

Re. Tarek Mehanna.

Honorable George A. O'Toole:

My name is Abrar Syed, a practicing veterinarian and resident in the United States for the past 38 years. I am writing in regards to Tarek Mehanna's sentencing on April 12<sup>th</sup> 2012.

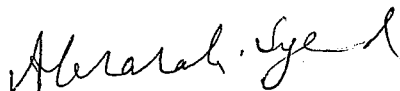
I am a founding member, past President and Board of Director of the Islamic Center of Boston (ICB) in Wayland, Massachusetts, the same Islamic Center that Mr. Mehanna attended before his arrest. As such, I have known Mr. Mehanna and his family since he was just a child. My wife and I put all four of our children through Sunday School alongside Mr. Mehanna, where they participated with him in the Islamic Center's various community activities and events.

Because of my deep involvement with ICB, I personally knew most of the children who attended the center. I met Mr. Mehanna when he was a young boy and watched him grow into a bright high school student and, later, a poised college graduate. Despite how busy his life was with school and such, Mr. Mehanna always stayed connected with his community at ICB. I viewed him as I would my son; he was just a normal, Muslim American boy. Like me and my wife, Mr. Mehanna's parents migrated to the United States. And just like Mr. and Mrs. Mehanna Sr., my wife and I raised our children in America in a suburb of Boston and tried instilling in them good Muslim values. Like my children, Mr. Mehanna was active in his community, well-educated, and completely "normal". Not once in my knowing Mr. Mehanna did I witness any unusual behavior, and was thus shocked upon news of his arrest for terrorist activity. At the time of his arrest, I immediately figured there was a mistake or a mix-up. Unfortunately, since then the case has become more involved but I have remained informed of the progress of the case.

Your honor, I am requesting your leniency in sentencing Mr. Mehanna. I truly believe that he deserves a second chance. He is an intelligent, young and well-educated professional and has the opportunity to be a productive member of society. Moreover, he should be given the chance to give back to the country that he was born, raised, and educated in. Thank you for considering this letter on his behalf.

Sincerely,

Abrar Syed



222 Salem Street  
Andover, MA 01810  
(978) 475-7561

Feb. 13, 2012

The Honorable George A. O'Toole, Jr.  
US District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Honorable Judge O'Toole:


I am writing to you about the recent judgment against Tarek Mehanna. I am a professional Engineer and have been in the Boston area for the last seventeen years. My wife has worked in the financial sector for many years.

We have known Tarek as he was growing up in our community. We have found Tarek to always uphold the principles of his belief. He is honest, truthful, and has a very helpful nature. He has contributed immensely in community activities. As a professional, his achievements speak for themselves, having earned a Doctorate at a very young age. We have known young Tarek to be a boy, and later, a man of integrity who does not compromise on his principles. We have, and continue to trust Tarek, and know that his honesty is completely genuine.

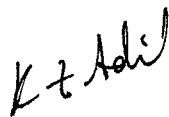
We write to ask that the sentencing against him be not too harsh. It would be a loss to the community, and to the community's trust in the sentencing process if he is sentenced to many many years in prison. We are sure he will be more productive when he gets back to the task of helping in the schools and the programs, as he has always done before.

Thank you and hope you will consider our request.

Sincerely,



Zahir & Kausar Adil  
17 Cold Spring Rd.  
Billerica MA 01821



Shamsa Izhar Kazmi  
15 Bower Road #D2  
Quincy, MA.02169  
12<sup>th</sup> February, 2012

The Honorable George A. O'Toole Jr.  
U.S. District Court  
1 Courtway House  
Boston, MA.02210

RE:Tarek Mehanna

Dear Judge O'Toole,

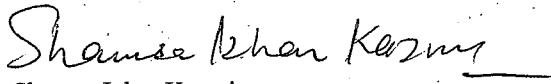
This is the first time in my life that I am writing a letter to a judge. Up until this time, the need never arose, nor was I living in a country where such a practice is accepted.

I do not know Tarek Mehanna personally. I only became acquainted with him due to the notoriety of his case. I have also heard about him from friends and family who happen to worship at the same mosque, the same one where Tarek and his family also worshipped. I really learnt a lot about Tarek when I attended a meeting addressed by his lawyer Mr. J.W. Carney JR.

I understand that most of the charges Tarek has been convicted of were committed while he was very young. I further understand that most of the words he wrote and spoke were written and spoken by an immature and angry young man.

In view of the above, I request that you be kind and lenient when delivering his sentence.

With kind regards,

  
Shamsa Izhar Kazmi

Ahmad Bereika  
55 Edgewater Drive  
Quincy, MA 02169  
12<sup>th</sup> February, 2012

The Honorable George A. O'Toole Jr.  
U.S. District Court  
1 Courtway House  
Boston, MA.02210

RE:Tarek Mehanna

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With kind regards,



Ahmad Bereika

Izhar H.Kazmi  
15 Bower Road #D2  
Quincy, MA.02169  
12<sup>th</sup> February, 2012

The Honorable George A. O'Toole Jr.  
U.S. District Court  
1 Courtway House  
Boston, MA.02210

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With kind regards,

  
Izhar H. Kazmi



Mohammad M. Siddiqui, MD  
16 Flanagan Drive  
Framingham, MA 01701

February 13, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Honorable Judge George O'Toole Jr,

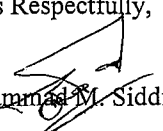
Your Honor, kindly allow us to introduce ourselves. My name is Mohammad M. Siddiqui, and my wife is Zakia Siddiqui. We are U.S. citizens and residents of Framingham, MA. By profession, I am a physician and have been practicing internal medicine in Holliston, MA for the last 34 years. We consider ourselves to be Americans, upstanding citizens and feel that the nation's security is a matter of the highest priority.

We are writing this letter on behalf of our beloved friend, Tarek Mehanna. Tarek and his family are personally well known to us for over thirty years. We consider his father, Dr. Ahmed Mehanna, to be our close personal friend with a noble, honest character who upholds the highest of moral values. The Mehanna family is well-respected in the community for their profound Islamic knowledge and efforts to spread tolerance and understanding of the Islamic faith via involvement in inter-religious activities. It is within this environment of peacefulness and open-mindedness that we have watched Tarek Mehanna grow up from a small boy under the righteous guidance of his parents.

Over the years, we have seen Tarek demonstrating the same qualities of compassion, caring and tolerance for others as practiced by his father. When meeting at family gatherings, we have found Tarek to be polite, courteous and gentle-natured. He has repeatedly demonstrated kindness, generosity and open-mindedness by volunteering his time in various inter-faith Islamic activities. While teaching at the Al'Huda Academy in Worcester, MA, Tarek was held in high esteem by his colleagues, staff and students for his polite manners, generous treatment toward others, and trust worthiness. He is looked up to as a role model of good character for young Muslims in our community, who teaches peaceful Islamic principles in day to day life and service to humanity. We have always felt proud of Tarek for his exemplary behavior, righteousness and kindhearted nature.

Tarek's benevolent nature would not allow him to cause any harm to others, or become involved in anything that would jeopardize society's safety or security. The Tarek that we know would be moved only to actions of peace, tolerance, and justice. Your Honor, the fate of this kind young man now lies in your hands. We feel helpless in watching the events unfold before us, and feel sympathetic to the sorrow of Tarek, his family and the community, therefore we humbly beseech your kindness and generosity, Your Honor, in determining Tarek's future.

Yours Respectfully,

  
Mohammad M. Siddiqui, MD and Zakia Siddiqui

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Feb 12, 2012

Dear Judge O'Toole,

My name is Osama Kazmi, a naturalized U.S. citizen having lived here for 20 of my 23 years. I am a 2010 graduate of Bentley University and currently employed as an insurance agent for Consumer United LLC. I reside in Ashland, MA with my mother and father.

I have known Tarek and his brother Tamer for over 12 years. I was a regular student at the Islamic Center of Boston in Wayland, MA. Both Tarek and Tamer served as exemplary role models for the youth at the Islamic Center. They both volunteered their free time to educate us on how to contribute to society as young American Muslims.

Tarek was always looked up to as a respected mentor for the youth. He was someone to turn to whenever the burden of being a young Muslims growing up in a post-9/11 environment became too much to bear. He would never have attained that position at a moderate, liberal institution such as the Islamic Center of Boston, had he espoused any violent views.

Tarek did not feel the need to hide his opinions, he knew his freedom of speech was protected by the First Amendment of the US Consitution. He sympathized with oppressed peoples of all religions and cultures. He never ever attempted to justify the targeting of innocent civilians; and all who know him can truthfully testify to this, provided they're not speaking under duress.

In the end I would like to thank you very much for taking the time to read my letter.

Sincerely,

  
Osama Kazmi.

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Feb 12<sup>th</sup>, 2012

Dear Judge O'Toole,

My name is Sadia Kazmi and I work for a PPO network called Multiplan located in Waltham , MA. I live in Ashland, MA with my husband and son.

I have known Tarek Mehanna and his family for the past 17 years or so, from the Islamic Center in Wayland. Tarek is a few years older than my son, the two used to go to Sunday School together. After having graduated from Sunday School, Tarek used to conduct meetings for the youth of the Muslim Community where he talked about Islamic Values. He has never encouraged violence or indicated any negative thoughts against Americans. Tarek has always been an advocate of peace and has always encouraged his fellow youth to follow the path of peace. I have always admired his honesty, his unselfishness & his devoutness to Islam.

Tarek's father has been an active member of the community since I have known him. He and his wife are very caring, loving & respectable people. It is unthinkable that such good parents would raise a child to hate anyone or to commit acts of violence.

I understand that Tarek has been convicted of conspiring to provide material support to a terrorist organization and for making false statements to the FBI. I also understand that he is being considered for a life sentence in a Supermax prison.

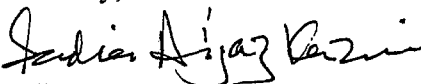
I write this with the utmost of conviction that an honest and caring person like Tarek who is so devoted to Islam , who has been raised by such caring and loving parents, would never conspire to harm his fellow citizens in America.

I request that his sentence be reconsidered. A wonderful and honest person like Tarek does not deserve to be in any prison at all, much less a maximum security prison.

I hope that this testimony will help in the evaluation of Tarek's character.

Thank you for taking the time to read this letter and for your consideration.

Sincerely,

  
Sadia Kazmi

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Feb 12<sup>th</sup>, 2012

Dear Judge O'Toole,

I am Aijaz Kazmi, a naturalized U.S. citizen. I have been working with the TJX Cos. for the past 15 years. Ashland, MA. is home to my family and me for over 10 years now.

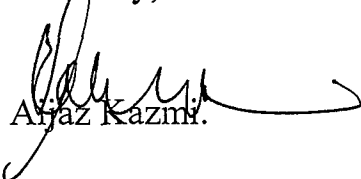
I have known Tarek and his family for 17 plus years, mostly through the Islamic center of Wayland, MA., Tarek's father is someone who has always commanded great respect in our community as well as the Interfaith communities in the neighborhood.

I first knew Tarek as a student at the Sunday Islamic School in Wayland and then as some one who stayed in touch with the School and community even after his graduation. Tarek used to send very informative e-mails to the members of the Wayland Islamic center, explaining the teachings of Quran and those of the Prophet Mohammed (pbuh). I enjoyed reading Tarek's e-mails, appreciated his knowledge and was never concerned about his views.

It is my opinion that some one as enlightened as Tarek, someone who has learned good values from his family would never envision anything evil against the country he calls home.

In the end I would like to thank you very much for taking the time to read my letter.

Sincerely,

  
Aijaz Kazmi.

Zainul A.Syed

Hoor B. Syeda

11 Edmunds Rd., Apt # 315

Framingham, MA 01701

Feb, 12, 2012.

Honorable Judge George A. O'Toole, Jr

U.S. District Court

One Court House Way, Boston

Honorable Judge O'Toole Jr,

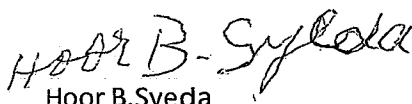
With respect, we would like to state that we the senior citizens have known Dr. Ahmed Mahana, the father of Tarek Mahana, and the family for the last 25 years. Dr. Ahmed Mahana is a professor and a teacher at Boston School of Pharmacy and has been promoting moral ethics to the community along with his teaching job. We have always found him and the family to be very honorable and noble. We humbly request that you be merciful whilst pronouncing the punishment of Tarek Mahana and oblige the community and save the noble Ahmed Mahana from any further distress.

Thanking you.

Respectfully,



Zainul A.Syed



Hoor B.Syeda

12A Trotting Horse Drive  
Lexington, MA 02421  
February 16, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Court house Way  
Boston, MA 02210

Dear Judge O'Toole Jr:

My name is Zahid Mohammed Khawja and I am a U.S. Citizen since 1976. I am one of the many Muslim American immigrants, who have been cherishing the GOD given bounties that have been showered upon on this great country of ours, United States of America.

Your Honor, it is indeed the land which opens its arms to accept millions of immigrants who could come and fulfill their dreams with hard work, honesty and patriotism. I was recently laid off due to budget cuts from MIT Lincoln Laboratory, located in Lexington, MA, where I worked for nearly five years. During this period with MIT Lincoln Lab I acquired a Secret clearance from the Department of Defense, which indeed reinforces my firm belief that if one works hard and respect the law of the land is bound to be rewarded and respected. I felt that granting me the secret clearance is honoring my dignity.

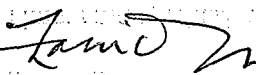
I know many Muslim families in the Boston area who firmly believe in the opportunity and freedom this country offers and as such they are very successful and law abiding citizens; one family I want to mention is Dr. Mehanna's family.

I know Dr. Mehanna and his family since 1990; he taught at the Islamic Center of Boston, Wayland, MA, where I had the opportunity to know Tarek Mehanna better from that point on; I found Tarek loving, caring, respectful, extremely intelligent person. He is compassionate toward others and has a very good sense of humor. This is the young man from whom one could always expect the best for others. It is indeed heart wrenching to find him in the current situation.

Your Honor, if I may seize this opportunity to humbly request you to be kind and forgiving toward Tarek Mehanna's sentencing on April 12, 2012. I would be indebted with tons of gratitude toward you, if you kindly set him free so that he could have a bright future and his loving family is relieved from this adversity.

I thank you for reading this letter, and may GOD bless you and your family a very happy, healthy and long life.  
Amin.

Truly yours;



Zahid M. Khawja

To: The Honorable Gorge A. O' Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O' Toole,

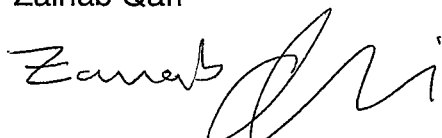
My name is Zainab Qari. I am a staying home mom raising three kids in Brentwood, NH. I know Tarik's parents for over 14 years since where we used to live in Waltham MA. Tarik was young back then, very sweet, kind and polite kid. Suad and Dr Showky were very kind and loving parents. I always admired the way the Mehana's raised their kids. Many times we where invited to their home for dinner and met great people. Dr Showky and Suad where well known for their hospitality and honesty. All these values where engraved in their kids. We moved to NH 10 years ago, but we stayed in contact.

Two years ago when I learned about Tarik issue, I almost choked, I could not believe it. Knowing Suad and her family, this could have been true. I deeply believe that Tarik is innocent, and I pray day and night for his innocent.

Through visiting with them and several speeches made by Dr Showky during Islamic events, I found the Mehanna's to be moderate Muslims and loving to all peoples with various ethnic backgrounds. They raised Tarik to be a good, caring and Loving young man. I remember when I used to visit Suad with my daughter (she was 2 years old) and Tarik used to play with her, I found him a very gentle kid. No way a kid with that gentle loving heart would even think of doing any of what have been said in the media..

Regards,

Zainab Qari

  
2/16/2012

*[Faint, illegible text at the bottom of the page, possibly a stamp or bleed-through from the reverse side.]*

Naheed I. Kazmi  
10 Bradford Road  
Framingham MA 01701

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse way  
Boston, MA 02210

February 15, 2012

Honorable Judge O'Toole:

I am a U.S. citizen, living here since 1978. I have known Tarek and his family as a member of the Islamic Center of Boston in Wayland. for at least 20 years. I attended his fathers monthly Koran discussions. I always saw him attending prayer regularly and attending other activities. When I read about the allegations I was very surprised, because I knew him as a peaceful man.

Honorable Judge O'Toole, I request to you as a mother of three girls to please consider leniency in his sentence and give him a second chance as any young man deserves. I am confident that with his education background he will be a productive member of society, God-willing!

Sincerely

*Naheed I Kazmi*

Naheed I. Kazmi



The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

February 17, 2012

Honorable George A. O'Toole:

My name is Dris Djermoun, and I have been living in the United States for over 34 years. I have been working in the Computer Science and Engineering field for over 30 years.

I am writing this letter about the case of Tariq Mehanna and the upcoming sentencing, scheduled for April 12, 2012.

I am a former two-time President of the Islamic Center of Boston, Wayland, Massachusetts, and also a former Director of Education and Principal of the Center's School.

It is at this Center, where I volunteered for over 20 years, that I had the privilege to meet with the respectable and highly regarded Mehanna family.

Tariq attended the school at the Center, along with many other children from our community, including my own two daughters.

Over the years, I have always known Tariq, from the time he was a growing child to becoming a young adult, to be a very well behaved, loving, caring, respectful and considerate person.

He went on to be a very dedicated and knowledgeable student, volunteering as a teacher assistant, and helping others. He pursued his studies at the college level, and finally graduated with a Doctorate degree in Pharmacy.

When I think of Tariq, I always think of someone with kindness and righteousness, someone who loves to educate others, help his community by teaching and volunteering on weekends, and being a good citizen.

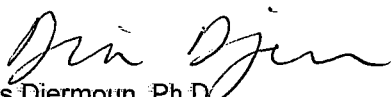
As Americans, including people of all faiths, we are blessed and grateful to live in this great country of ours, to practice our faiths, to exercise our freedom of speech, and to give back to our respective communities and others, and to our nation as a whole.

I really believe that Tariq can give so much back to his community and others, and be a valuable and productive member of society.

Your honor, I am simply and humbly asking for your leniency in sentencing Tariq Mehanna.

I would like to thank you for taking the time to read my letter, and I greatly appreciate your considering its contents, and giving Tariq a renewed opportunity to help his birth country, USA, back sooner than later.

Most respectfully, and most sincerely,

  
Dris Djermoun, Ph.D.  
60 Woodcrest Drive  
North Andover, MA 01845  
(978) 688-5032

**The Honorable George O'Toole, Jr.**  
**U.S. District Court**  
**1 courthouse way,**  
**Boston, Ma 02210**

Dear Judge O'Toole,

My Name is Doaa Mohamed, I live in Shrewsbury, MA. I am a house wife and mother of 2 kids.

I have had the pleasure of knowing Dr. Tarek Mehanna's family for years. During these years, I have seen that they are a family that values professionalism and community involvement. Dr. Tarek Mehanna's father, Dr. Ahmed Mehanna, is active in both his college community, where he is a professor, as well as the local Muslim community, where he has been helpful to many and seen as a respected figure to go to with questions. Dr. Tarek Mehanna's mother, Souad Mehanna, is very kind and caring. She has always been warm and welcoming. She works especially well with children and even had her own home daycare. I have heard that the parents of the children she cared for were very pleased with the good morals and behavior that she taught them. I have seen those same values reflected in her own children.

Dr. Tarek Mehanna is well known in our Worcester Islamic Center and in Alhuda Academy, where he used to teach the sons and daughters of my friends. All of the kids he has taught love him very much and constantly describe him as gentle and fun. He has been a role model and mentor to many of the kids and young adults he has come to know, all of whom he has encouraged to be well-behaved, respectful to their parents, and attentive to their studies. He is known and respected for his good moral character, his honesty, and his devoutness to his work and his religion. He is truly one of the most generous and responsible people that my family has come to know.

As a mother, I can honestly say that my friends and I see Dr. Tarek Mehanna as someone who is a positive influence on our children and the young people in our community. He has given much to not only the Muslim community, but also to everyone who he knows in his academic and professional settings with his good character and his helpful nature. He is well-loved and very trusted by many. I am confident that he will continue to be an upstanding community member and human being. I hope that you take this into consideration and give Dr. Tarek Mehanna the lowest possible sentence.

Thank you for your time,

Doaa Mohamed

Dear Judge O'Tool

I am a member of the Wayland Mosque ever since its inception. Mr Tarek Mahenna's Parents also attend that mosque. I have attended several of his father's lectures. Who Teaches truth and honesty.

I am asking for mercy and leniency in the sentence for Tarek Mahenna.

I am also a mother and a senior citizen of Massachusetts.

Respectfully

A handwritten signature in cursive script that reads "Tahira Servaes".

(Tahira Servaes)

11 Putnam Road

Burlington Mass 01803

2/6/2012

February 1, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA – 02210

Re: Dr. Tarek Mahenna

Dear Judge O'Toole:

My name is Nafees Khusro. I am a physician. My husband and I have been active members of the Muslim Community for about fifty years. We are U.S. citizens and live in Andover, Massachusetts forty (40) years.

We have known the Mahenna family for almost three decades. We have witnessed Tarek grow up through the years. Tarek's parents told us they migrated to U.S. because of the religious freedom and the freedom of speech here. They have been active members of the community and have made numerous contributions in Wayland Center and the Sunday school. Tarek's parents are outstanding individuals and have raised their children with excellent social and religious values. They have raised Tarek to be a good human being, with excellent manners and generous spirit, to be helpful and be socially conscious as a good U.S. Citizen.

Page 2: Tarek Mahenna's character.

I have known Tarek since he was child. He is an outstanding young man and an excellent U.S. citizen. This is the man I know. It is totally incredible that he would be involved in any activity that would hurt U.S. He may have panicked and said things that were untrue. I can vouch for his moral character and his loyalty to U.S.A. He is an excellent role model for young men and women in our society. U.S.A. would be a better place if there were more young people like him. Tarek has an excellent moral compass. Based on my personal knowledge of Tarek, he would never do anything to hurt United States. He is an outstanding young man and deserves a chance to redeem himself.

Sincerely,

A handwritten signature in black ink that reads "Nafees Khusro" followed by a stylized mark resembling a checkmark or a flourish.

Nafees Khusro, M.D.  
182 Jenkins Road  
Andover, MA -01810

Tel: 978-207-1899

February 1, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA – 02210

Re: Dr. Tarek Mahenna's character

Dear Judge O'Toole:

I have been an active member of the Muslim Community for about fifty years. I am a founding member of the Wayland Islamic. I am married. My wife Nafees Khusro is an MD who has retired recently. We live in Andover, Massachusetts forty (40) years on a horse farm. We have raised one child, Imran, who went to Pike School, St. John's Prep, Boston University and Whittier Law School. He is married to Asma who is an attorney. They are appearing for the Massachusetts Bar Exam at the end of this month.

We have known the Mahenna family for many years. We remember when Tarek was a child and we have seen him grow up through the years. His parents have been active members of the community and have made numerous contributions in Wayland Center and the Sunday school. Tarek's father, Ahmed, is a professor at the Massachusetts College of Pharmacy. He and his wife Suad are outstanding parents and have raised their children with utmost love and care and with excellent social and religious values. They have raised Tarek to be a good human being, with excellent manners and generous spirit, to be helpful and be socially conscious as a good U.S. Citizen.

Page 2: Tarek Mahenna's character.

Dr. Tarek represents all the good human values that any human being can dream of. He is an outstanding young man, an excellent U.S. citizen ready to help anyone, Muslim or non-Muslim alike. This is the young man we know. He is a professional pharmacist and an academic. It is totally incredible that he would be involved in any activity that would hurt the U.S. He may have panicked and said things that were untrue. His heart is clean and unblemished. I can vouch for his moral character and his devotion and loyalty to our great country. I wish there were more young people in our country that would be good and loyal citizens like Dr. Tarek. Based on my personal knowledge of Tarek, he would never do anything to hurt United States. He is an outstanding young man and deserves a chance to prove himself.

I am always available to answer any questions you may have about Tarek.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Khusro".

Mohammed Khusro

A founding member of the Wayland center.

182 Jenkins Road

Andover, MA -01810

Tel: 978-207-1899

Patricia Ward  
30 Thompson Street  
Maynard, MA 01754

February 11, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

I am writing this letter in support of Tarek Mehanna, in the hopes that you will be as lenient as possible when sentencing him on April 12.

I am a writer and book artist, and my husband is in finance. We are both Lebanese-American. We moved from Beirut, Lebanon to the U.S. for college and have lived here ever since. We now live in Maynard, MA.

We first became acquainted with the Mehanna family in 2009 when we were seeking childcare for our toddler, Zack. We felt immediate kinship with Souad Mehanna when we visited her daycare. We were aware at the time that her son was under house arrest, but after researching the case and speaking about it with Souad, we placed Zack in her home without any reservations.

Zack was with Souad for about four months, until the day of Tarek's re-arrest in October 2009, after which she closed her daycare to be able to focus on her son. I never had the chance to meet Tarek, but the other parent whose children were with Souad had met him and said he is a warm and gregarious person, always full of smiles.

After Tarek's arrest, I visited with Souad and Ahmad many times. Mindful of the loneliness of solitary confinement and the extreme duress Souad's son was facing, I began a correspondence with him that has continued to this day.

Our first volley of letters were mainly about politics and war, during which I was struck by Tarek's intelligence and writing ability, as well as his thoughtful responses to my discourses on the civilian experience of war. We also discussed his faith, and my lack thereof. For example, as an agnostic, I became concerned that he assumes I am going to Hell, which makes for a rather awkward balance in a friendship. He very patiently explained his belief system, reassuring me, making me laugh, and educating me on the subtleties of Islam. Even though I am not a believer, I am touched and impressed by his faith, and find him to be a remarkably strong person for it, as well as generous with his



knowledge, which he shares with great patience and without a shred of proselytizing. His attitude in general is "to each his own."

In our discussions on war and politics, we've had our share of disagreements, and the discussions have been rousing, intellectual, and challenging. I find Tarek unfailingly honest and considered in his opinions. He is by no means "fanatic," and I do not find his opinions unsettling or disturbing. I can certainly say beyond any doubt that he would never support violence against civilians. His moral code is very clear.

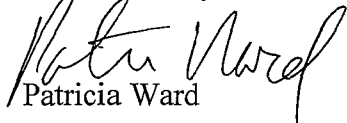
In general, whether discussing politics or family or art, I find Tarek to be responsive, engaged, and thoughtful. He is a great listener, which again speaks to his generosity, given how easily a person might succumb to self-involvement in such circumstances. But in fact, if he ever does confess to frustration or fear, he is careful not to overwhelm, and even will apologize for burdening me. I find this remarkable and it touches me very much. He seems always concerned more for others than for himself.

After writing each other on average one letter every two weeks for over two years, I consider Tarek a friend. Everyone who knows him personally says he is generous, kind, and sympathetic, and I find all these qualities in his correspondence.

I think about Tarek every day, and am constantly aware of my physical freedom in contrast to the confinement he is enduring. He is a braver person than I will ever be, and I respect him greatly for it.

I hope so very much that you will be as lenient as possible.

Most Sincerely,



Patricia Ward

February 12, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston MA 02210

Dear Judge O'Toole,

I was Tarek Mehanna's high school history teacher at Lincoln-Sudbury Regional High School, in Sudbury, Massachusetts. I am writing to ask that his sentence be leavened with compassion, mercy, and leniency.

When I taught Tarek, he was an adolescent who was just beginning to open his eyes to the wider world around him. He was interested in the past and hungry to understand all the theories and interpretations of how we developed as a people and country. Though he was not at that time the proficient student he would become, he distinguished himself by his intellectual curiosity and by his willingness to question and to listen to all points of view. Growing up in a largely white, Christian suburb must have made it difficult for Tarek to find and forge his identity as a Muslim American. At that time, Sudbury was not as ethnically diverse as it is today. This was not an issue he talked about, but I do know that pursuing the perennial coming-of-age question, "Who am I?" preoccupies all adolescents. It can be particularly confounding, confusing, and challenging for those who belong to minority groups. As a Jew who spent most of his life in predominantly Christian institutions, I can say that my own search for identity did not always proceed with equanimity or take place on level ground. Yes, there was turbulence, and, at times, overreaction.

My main recollection of Tarek relates to his kindness. He was not just as nice as the other kids. He was *markedly* kind to all. Never once did I see him ever become disagreeable with a fellow student. Never did I see him put someone else down to score points with his own circle of friends. He was always actively courteous, respectful, and supportive of both teachers and peers. That's the Tarek I came to know. When I think back to Tarek, I recall a smiling, warm, friendly presence. Violent inclinations? The desire to hurt others? Those are the last things I would ever associate with him. When I had the chance to meet his parents at Lincoln-Sudbury's annual Open School Nights, it became apparent to me how he had developed into the good, gentle, and thoughtful person I knew. As his teacher, I continue to believe Tarek has much to give to the world.

In evaluating my words, here is something important to know about me: On September 11, 2001, I was teaching at Lincoln-Sudbury. The first person I spoke to minutes after the attack was our assistant principal, whose parents would die later that day in Pennsylvania. A day later, I learned that an alumnus I knew had been killed in the Towers. That year, and for five years thereafter, it was I who organized the official school remembrances of 9/11 at Lincoln-Sudbury. After all, I am a New Yorker. My city was attacked. Yes,

September 11 is a national tragedy but for me it is something very personal. Moreover, while I was raised to respect all religious faiths, I was taught by my parents to deplore the fanaticism that can infect all religious traditions. Killing is abhorrent to me, the killing of innocents especially so.

After my retirement in 2008, I began working as a volunteer tutor in a Boston public school and as a CASA in juvenile court abuse cases. I mentor teachers through Wheelock and I supervise student teachers for Tufts. This is who I am. I care too much about the world to ever lend my support to a person that I considered undeserving of mercy and second chances or lacking the possibility of redemption.

I am not an expert on this case, but I do know that Tarek Mehanna is a human being with a deep core of personal decency and with much to give the world. He also tries to be a person of principle in the way he conducts himself—whether mistaken or not, I leave for others to determine.

As someone who has spent his life in public education, working with young people and believing in the capacity for growth and change, and as one who has always valued peace and non-violence, I respectfully request—I implore—that mercy be shown to my former student, Tarek Mehanna, when the time for sentencing arrives.

Very sincerely,

A handwritten signature in black ink that reads "Bill Schechter". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Bill Schechter  
History Dept.  
Lincoln-Sudbury Regional H.S.  
1973-2008/ Retired

76 Brook St.  
Brookline MA 02445

Aleem Siddiqui  
70 Pacific St  
Cambridge, MA 02139

March 22, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Honorable Judge George O'Toole Jr,

I'm writing to you imploring leniency in the sentencing of Tarek Mehannan who has recently been convicted of crimes that are totally inconsistent with the person who I have know all my life.

Allow me to first introduce myself. I am a 34 year old graduate student at the Massachusetts Institute of Technology working toward a Doctoral degree (Ph.D) in Electrical Engineering and Computer Science with a specialty in high power, ultra-fast laser systems. Through my long experience at MIT, I have encountered the full range of views on politically divisive issues, and by interacting with people, I have come to appreciate and respect the role of compassion, peace, and especially nonviolence in solving these problems. I have known Tarek as a person who upholds these values. I have only known him as good person who is thoughtful and contemplative, and it is because of this, that I wish to ask for leniency in his sentencing

I have known Tarek Mehannan from my childhood. Our parents are friends and frequently we would visit each other and have dinner together at each other's houses. I have always enjoyed our time together. Frequently our visits would follow a pattern. The parents would dine in one area and the children (Tariq, his brother Tamer, and my twin brother and I) would dine in another. We would joke with each other and then proceed to the living room to play video games and watch t.v. Through college I would meet up with Tariq for dinner, see him at the mosque, and often catch him and his family during Ramadan prayers. I have even visited him and his brother at his parent's apartment in Egypt when I vacationed there.

In the entire time I have known him, I have found him to be an intelligent, contemplative, compassionate individual with a good sense of humor. I find his personality and character to be consistent with all the people I have met during my studies at MIT. He is an asset to the community and is an individual who can promote understanding. I have never encountered anything in him that is violent or ugly. I have never heard him condone violence of any kind, even when he gave me a tour of Alexandria. As I have known him, his relation with his religion is definitely a peaceful one. I remember clearly when he took me to a local mosque in Alexandria for the pre-dawn prayer. The mood and tone of the experience was peaceful, simple and serene; and yet there was still room for joking and fun. I remember him insisting on carrying my 40 lb backpack for the entire day with a smile on his face joking about its weight and how it made me look like so much of a tourist. I remember him walking into the train station with me right up to the door of the train to make sure I got on the right train as I left Alexandria for southern Egypt. Tariq to me is a friend from my childhood, who I associate with feelings of kindness and good humor, someone who is relatable and approachable, and whose presence I miss terribly.

Your Honor, I urge you to grant leniency in his sentencing. The idea of him being in prison for a long period of time is devastating to me personally, and is completely incompatible with the Tariq who I have come to know over all these years. Through the course of the trial and his incarceration, I have felt helplessness and sorrow for him and his family because here is a person who is a close friend who is in circumstances that are so difficult for me to digest. My entire family and the Muslim community feel this way. The impact of a long prison sentence for Tarek would be felt by all of us. His family effectively loses a son and brother, and the community loses a teacher and active member, and I lose an irreplaceable friend with whom I share a long history. I urge you to grant him a lenient sentence.

Thank you,

A handwritten signature in black ink, reading "Aleem Siddiqui". The signature is fluid and cursive, with the first name "Aleem" and last name "Siddiqui" clearly distinguishable.

Aleem M. Siddiqui  
Graduate Research Assistant  
Optics and Quantum Electronics Group  
Research Laboratory of Electronics at  
Massachusetts Institute of Technology  
617-699-5728

Matheen Siddiqui  
745 Summit Ave E,  
Seattle WA 98102

March 21, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Honorable Judge George O'Toole Jr.,

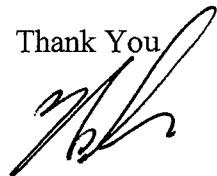
Your Honor, my name is Dr. Matheen Siddiqui. I presently am a resident of Seattle, WA, but I was born and raised in Framingham, MA. I have spent the majority of my youth in and around the city: I attended Boston University for a BS, in Computer Systems Engineering and an MS in Electrical Engineering, before obtaining my Doctorate in Computer Science from USC in Los Angeles. Though I have pursued a technical profession as a researcher, I have made an effort to inculcate the values of citizenship and volunteerism, within the Muslim community, the interfaith community, as well the larger community where I reside.

Presently, I am writing in regards to Tarek Mehanna. I have known Tarek since our younger days, as we were part of the same circle of family friends. I have fond memories of playing video games, and talking about movies and comic books, while our parents conversed of more serious matters in the other room.

Even as a child, Tarek was generous and gracious, often gifting me from his personal comic collection, without prompt or seeking something in return. It is simply his nature. From that, I watched Tarek mature into a man imbued with character, faith, and moral fortitude as strong as they are rare. Tarek has consistently demonstrated himself to be a contributing member of our community, generous with his time and energy and even during this difficult time I have found him, through correspondence, to be cheery, optimistic, and hopeful.

His present circumstances deeply sadden me, as I know Tarek's true self is that of kindness, and moves him to peace, tolerance, and justice. And so I, along with the community, await your decision. His fate now lies in your hands, and I humbly ask for your kindness and generosity in its determination.

Thank You



Matheen Siddiqui

10 Waldron Road  
Braintree MA 02184

March 25, 2012

The Honorable George O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston MA 02210

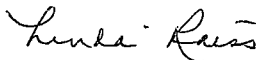
Your Honor:

I write to request your consideration of the following comments in the case of Tarek Mehanna. While I do not know Mr. Mehanna [nor am I acquainted with any of his family members] and, therefore, cannot comment on his character, over the past three years I have followed the unfolding account of his arrest, detention and trial in The Boston Globe.

I believe in some measure Mr. Mehanna has been caught up in the hysteria surrounding the aftermath of "9/11." As a young man he seems to have reacted to this hysteria in an inappropriate manner, which led to his arrest and trial. Found guilty, he should be sentenced to time in prison. However, I have heard it stated that among the sentences he faces is one without the possibility of parole.

It does seem to me that incarcerating him for life would be an injustice and I would urge you to impose a sentence of a shorter duration, especially one that would include the possibility of parole at some time in the future.

Most respectfully,



Linda Raiss

Cathy Zouval  
18 Oak Ridge Way  
Shrewsbury, MA 01545

Honorable Judge George O'Toole  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

February 17, 2012

Honorable Judge George O'Toole:

Hear My Cry! As a mother, I humbly request leniency when sentencing Tarek Mehenna. Seeing someone like Tarek sent to jail is confusing to say the least.


Having first met Tarek at my local mosque, The Worcester Islamic Center, he left a great impression on me. One could tell he was raised in a loving home with strong social and moral guidance. Tarek is a bright young man who speaks with a great deal of compassion about matters of faith. His gentle nature, strength of character, and great sense of humor penetrated my heart.

About 2 years ago, he wanted to adopt a cat. I remember him talking about it for weeks always asking questions about proper cat care. Finally, the exciting day arrived, and we happen to meet at a local eatery. He asked me if I wanted to meet his kitten, a cute honey coated feline by the name Asaal (honey in Arabic). His smile said it all. He was a proud and affectionate young pet owner. Now, Asaal provides comfort to his mother and father in Tarek's absence.

Several times, I spoke to him for advice about my asthma, and he was always willing to help me understand the medications my doctor prescribed. Whenever I spoke to him since, even while he was in jail, first he would ask me how I was doing. I never understood how my health could be more important than his current condition. Tarek's mindfulness and respect for others is admirable. He is a responsible and mature young man with good intentions.

Furthermore, Tarek is a cordial, dignified and peaceful person. Seeing him in any type of trouble is unimaginable. I hope you will see him in the same light that I have during the last couple of years. Prison is the last place I expected Tarek to reside. People with such gentle character and good nature should not be locked away. That is why, Honorable Judge O'Toole, I ask you to strongly consider a light sentence.

Respectfully,

  
Cathy Zouval



2/17/12

To whom it may concern,

I am writing this letter to share important information about the Mehanna family that I strongly would like to bring to your attention and include when deciding upon a sentence that will greatly affect Tarek, his future, his family, the Muslim community, the American community and the rest of the world.

We have known Tarek's family for over 20 years. We celebrated special occasions and holidays together. In all of the years that we have known the family, I can say with complete certainty that the Mehanna family did everything and all that they could to raise responsible, contributing, and well rounded kids both Tarek and Tamer. And I can say that they have done a great job with them and continue to.

Tarek is an ambitious, responsible, and knowledgeable young man. He could bring a lot of value to this country and world and to help educate other Muslims to not be misled by anyone. He can be a great asset to the country in helping to enrich the community with his experience to help raise awareness and prevent anyone from falling down the same path or even worse.

We have faith and trust in the system that you will deliver justice to Tarek and his family. And please as a mother and a friend of Tarek's parents, and as a human being I am begging you to please take into consideration the entire family and how devastated they are and they would be.

I hope you take this letter with consideration into deciding Tarek's future since the fate of this young man's life is now in your hands. I am sure you can make the right decision that is fair and just and reflects the true values of our great nation.

Best regards,

A handwritten signature in cursive script that reads "Aisha A. Rahman".

Aisha Abdul-Rahman

The Honorable George A. O'Toole Jr.

US. District Court

1Courte House Way

Boston,MA 02210

Dear Judge O'Toole Jr.,

This is Dr.Essam Khedr who lives in the town of West Boylston (Worcester County); I work as a Podiatry physician.

I'm writing this letter on behalf of Dr. Tarek Mehanna whom I have known him for more than four years as a friend and a teacher for my children. Tarek Mehanna is a man of great integrity. He is extremely dedicated to his family, his job, his community and his country. He is an entirely peace-loving, hardworking and caring person. Furthermore, I have always seen him help his friends with their needs.

As a teacher of my children, Dr. Tarek Mehanna taught them excellent manners, good citizenship, to extend a helping hand to others in need, and over all to be a peace –loving person to all humanity. I can confirm that Dr. Tarek Mehanna is a role model for all the youth in the community.

Sincerely,

Dr. Essam Khedr,DPM

The Honorable Judge George A. O'Toole, Jr.  
U.S District Court  
1 Courthouse Way  
Boston, MA, 02210

Dear Judge O'Toole,

My name is Rewana Khedr and I am a young woman studying biology and biotechnology at WPI. My parents, who were both doctors in our homeland, gave up everything to come to America to give us the opportunity to learn and to live. I live in West Boylston, MA, with my three brothers, parents, and my cat, Meiu. When I'm not busy, I volunteer at St. Vincent Hospital in Worcester and the Worcester Art Museum. I love to read, run, and swim.

I also believe Tarek Mehanna is innocent.

This might seem like a radical statement, given the items he was charged with and the security measures taken against him in prison. However, I knew this man for many years and I, as well as many others who personally knew him, could tell you that no man has matched his decorum.

Tarek Mehanna was my brothers' and friends' math and science teacher at Alhuda Academy for two years. Although I barely knew him at the time, I remember my brother would always joke and tell my mother how school was survivable because Br. Tarek was their teacher. They all called each other by nicknames that ranged from Special K (to the kid who's name started with K) to Agent "gibna bida" meaning "White, sour cheese" (to the girl who was obsessed with that type of cheese.) Class was fun, understandable, and joyful.

In 2009, I went to an Islamic High School where I heard Br. Tarek was going to be my religion teacher. I was ecstatic because of all the positive things I heard from my brothers: about him being funny, nice, and easygoing. By then, I had known him better. He had dedicated his time to help a couple of my friends with their SATs and sciences homework. A week after school started, we learned that he was seized by the government for terrorist charges. We hoped there was a grave misunderstanding. However, the accusations stayed and it turned into a nightmare.

Dr. Andrew March, an associate professor of political science at Yale University. He received his DPhil in politics at the prestigious University of Oxford. As outlined on his personal page on the Yale University website, he has a deep interest in Islamic law, political thought, and theory. He has published numerous articles surrounding issues in Islam law, Muslims as a minority, Muslims in the West, and Islamic thought. He teaches classes in Islamic law and has done intense research in many areas of Islam. If this professor's name was replaced with 'Tarek Mehanna' and the degree and school was replaced with 'PharmD from MCPHS,' we would have two people with very similar interests. Yet one of them has been awarded for his interest in religious studies, and the other is in solitary confinement awaiting a sentence.

Another side of the story is the KKK and white supremacists. The names of the individuals in that group, their thoughts, and their beliefs are blatantly known. Yet, because of the first

amendment, they are not allowed to be taken into custody unless they act on their beliefs. In other words, they can spew hatred on any group of people in public, yet because they have not physically hurt anyone, they cannot be charged with anything. This is understandable because they are protected by the constitution. However, is Tarek Mehanna not a citizen of the same country protected by the same constitution? Although I believe he is innocent, the items he was charged with are the same items that any member of the KKK could be charged with. Yet, one group is free to roam as long as they do not hurt anyone no matter what they say, and the other is held in solitary confinement.

Raymond Davis, a CIA agent, killed two parents in Pakistan without cause and with significant proof. Yet, he is now free to roam the streets in exchange for money to Pakistan.

What then separates the one who has committed a treacherous deed from one who has never hurt a soul?

Dear Judge, I have faith in the American justice system and I have faith in you. I firmly believe Tarek Mehanna is an innocent man. His lawyers were in tears when the verdict was reached, and while they could've easily went their ways, they continue to help and are convinced of his innocence.

Tarek Mehanna was a man just starting his life. If he is given a long sentence, his parents will lose a dear son, his brother would lose his closest friend, and we would lose a man we considered our brother and loved one. Tarek Mehanna was nothing but a man who was passionate about his religion, and learning his way into life. He has never hurt anyone and has never been a man with a temper. Instead, he was seen as one easy to smile and easy to forgive.

Our forefathers welcomed people of all backgrounds and thoughts. Someone once said, "John Adams hailed the Islamic prophet Muhammad as one of the great "inquirers after truth." Benjamin Rush, who wanted a Bible in every school, also said he would rather see the opinions of Confucius or Mohammad "inculcated upon our youth" than see them grow deprived "of a system of religious principles." Benjamin Franklin once declared: "Even if the Mufti of Constantinople were to send a missionary to preach Mohammedanism to us, he would find a pulpit at his service." Even George Washington personally welcomed Muslims to come work for him at Mount Vernon." We can't let Islamophobia win.

Sincerely,

Rewana Khedr

The Honorable Judge George A. O'Toole, Jr.  
U.S District Court  
1 Courthouse Way  
Boston, MA, 02210

Dear, Judge O'toole Jr.,

My name is Mustafa Khedr and I live in West Boylston, Massachusetts. I'm ten years old and I'm in 5th grade in Alhuda Academy school where Mr. Tarek Mehanna taught my two brothers science and religion.

Mr. Tarek Mehanna had really great personality and is respectful, he is also very nice. I knew Mr. Tarek Mehanna for two years through school he is a man of a great heart and has love for everybody and I do not think he is a terrorist. We used to play basketball with him and he would always hang out with us.

Sincerely,

Mustafa Khedr

Dear, Judge O'Toole Jr.,

My name is Ahmed Khedr. I go to a private school called Alhuda Academy. I live in West Boylston. I'm in the eighth grade. I'm 13 years old.

Brother Tarek was my science and Religion Teacher. He was a great teacher. He would explain everything into details. He is one of the funniest teachers I've seen before. Mr. Tarek Mehanna is very honest, generous, and has a great personality. He was my favorite teacher. I was shocked when the verdict came out. I know that he would never to these horrible actions. He is very nice. I have known him for 4 whole years. I know that he is a good person and doesn't deserve these horrible allegations

Sincerely,

Ahmed Khedr

Dear Judge O'Toole;

I'm Mohamed Khedr and I'm a student at Saint John's High school. I am fifteen years old, and I was one of Mr. Mehanna's students. He was a very nice and pretty cool guy to be with. He was many people's role model, and he acted like one to. He taught us about respecting others and how to be kind to one another. He helped those who needed help, he taught those that were ignorant, and he guided the astray. Mr. Mehanna was a gift to the community he changed the whole place 360 degrees.

*Sincerely, Mohamed Khedr*

The Honorable Judge George A. O'Toole, Jr.  
U.S District Court  
1 Courthouse Way  
Boston, MA, 02210

Dear Judge O'Toole,

My name is Maha Megahed and I am a mother of four. I was a doctor in Egypt and now teach science at Alhuda Academy. I live in West Boylston, MA with my family and love to cook, read, and teach. I am writing to you about Dr. Tarek Mehanna.

Dr. Tarek Mehanna was my colleague for two years at Alhuda Academy. I saw nothing but purity and good judgment in his heart. He was my sons' teacher and my sons loved him very much. They would tell me that the best thing about school was Dr. Tarek Mehanna. He is an amazing individual. He would help anyone in need and he was loved among the Muslim and nonMuslim community. This is a man that has never hurt anyone and a man who would give up his time to tutor the youth and play and hang out with them. He was a very social and very well respected member of the community.

I ask you to see Dr. Tarek Mehanna as how he was in the community, not as the media had portrayed him. I am convinced of his innocence.

Sincerely,

Maha Megahed



Omneya Abdel-Rehim  
37 Airport Rd.  
North Grafton, MA 01536

37 Airport Rd

The Honorable George A. O'Toole Jr.  
US District Court,  
1 Courthouse Way ,  
Boston, MA 02210

February 16, 2012

Dear Honorable Judge O'Toole,

My name is Omneya Abdel-Rehim. I am one of the Muslim community in Worcester. I am an electrical engineer by training. Presently, I work as a Math teacher at Alhuda Academy, where Tarek Mehanna used to work.

I met Tarek in the school department meetings a few times before his arrest. He is a respectable person, humble, devoted to his mission of guiding and inspiring students to be better Muslims and better citizens. He was able to have that great special connection with the students, which is very hard to achieve at that turbulent age. Even though he taught them for short while before the arrest, they still talk about him till now. They talk about his great qualities and how he was a truly great teacher. They consider him their role model. I read few of their letters where they expressed that the saddest part of that year was when they lost their favorite Teacher.

I have also seen how Tarek was involved in our community. I saw him speaking about Muslims in tough situations, how he stressed the need to feel sympathy for your fellow human beings in their suffering. I saw how would gladly volunteer his time to those in need.

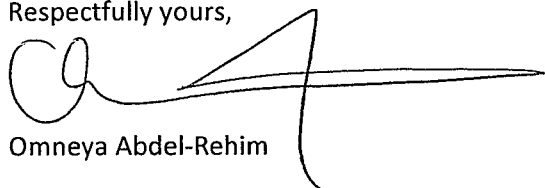
I was shocked when I heard the news of his arrest, because a person with such great qualities cannot possibly be a terrorist.

I became closer with his family after the arrest, and the more I get to know his mom and dad, the more I respect them for raising that fine young man. They are very kind, peaceful people .They are respected by everyone in the community. His mom is a woman with a soft heart who loves children and had this beautiful daycare in her home which shows how caring she is. During the toughest situations when the media was monitoring their house, they remained calm, and dealt with everyone with the utmost respect. That is the type of people they are.

Tarek is still a great inspiration to me even as he sits in solitary confinement. I read most of the letters that he sent and was posted on Facebook. His letters reminded me of the beautiful things we have in life that we take for granted. He reminded me of how we should be patient in tough times. How we should appreciate the life we're living no matter what happens. His writings touch the heart of any person because you can feel the sincerity in them. Tarek's writings bring a person to their inner peace. After being locked up in solitary confinement for more than 2 years, he still maintains a beautiful smile on his face.

I have great respect to the United States judicial system, I would respectfully ask your honor to consider giving Tarek the shortest possible sentence, considering that he never actually committed any heinous crimes.

Respectfully yours,

A handwritten signature in black ink, consisting of a stylized 'O' followed by a long horizontal line that curves upwards at the end.

Omneya Abdel-Rehim

Yusuf Badereldin

105 Afra Dr.

West Boylston, MA 01583

Sunday 02/12/12

Honorable Judge George A. O'Toole, Jr.

U. S. District Court

1 Court House Way

Boston, MA 02110

Honorable Judge O'Toole,

My name is Yusuf Badereldin and I am a sixth grader at Alhuda Academy. I am also part of the Free Tarek Committee. I write to you to tell you a little about the Tarek that I know. I have known Brother Tarek for about four years, through my family, as a family friend; as well as a teacher to me. All the while he was always kind, generous, thoughtful, and sweet and an overall nice person. He would always have a smile on his face, and even if the situation was bad, he would try to make it better.

When he taught us, he would teach us kindly and gently in a fun way. He was always a good person in the community who would help the needy. This is among his many good qualities.

He was also a very active person in the community who took part in many activities. He would donate money to the poor and he would teach little children the words of God and the stories of the Prophets.

He also cared for his family and always proved to be the good son who did not burden his family, and he always just kept calm in hard situations, like the one he is in now.

I do hope and pray that Tarek will receive the lightest of sentences so that he may return to his community to do good once more.

Sincerely,

Yusuf Badereldin

A handwritten signature in black ink, appearing to read 'Yusuf Badereldin', with a stylized flourish at the end.

Kareem Abdelkader  
30 Latura St.  
Shrewsbury, MA 01545

February 16, 2012

Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

My name is Kareem Abdelkader and I am a high school student at St. John's High School in Shrewsbury, Massachusetts. I am writing this letter on behalf of my teacher and friend Tarek Mehanna. I have known Brother Tarek for several years through my middle school, Alhuda Academy as well as the Worcester Islamic Center. As a teenager trying to navigate my way in the world, I often looked to Br. Tarek for advice and as a role model who exhibited a high moral code of ethics, which helped me come to grips with my own faith. I have fond memories of Br. Tarek teaching us, while keeping the class fun and inspirational.

As a young American, I want you to consider the positive roles someone like Br. Tarek could potentially have on other young people.

I pray that you will consider this too, as you come to your decision on his sentence by making it the shortest possible sentence. Please do not deprive us of having him amongst us.

Respectfully,



Kareem Abdelkader

Yusuf Abdelkader  
30 Latura St.  
Shrewsbury, MA 01545

February 16, 2012

Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

My name is Yusuf Abdelkader and I am a high school student at St. John's High School in Shrewsbury, Massachusetts. I am writing this letter on behalf of my teacher and friend, Brother Tarek Mehanna. I have known Brother Tarek for several years through my middle school, Alhuda Academy as well as the Worcester Islamic Center. I have to say that I have never had a nicer or more fun teacher than Br. Tarek. He helped me understand that I can be a good person who does not sacrifice his beliefs, while still having fun. Br. Tarek's devotion and sincerity in helping others is rare in our lives. I proudly and lovingly hang his letters on the wall of my room.

As a young American, I want you to consider the positive roles someone like Br. Tarek could potentially have on other young people.

I pray that you will consider this too, as you come to your decision on his sentence by making it the shortest possible sentence. Please do not deprive us of having Br. Tarek amongst us.

Respectfully,  


Yusuf Abdelkader

Omar Abdelkader  
30 Latura St.  
Shrewsbury, MA 01545

February 16, 2012

Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

My name is Omar Abdelkader and I am a Doctor of Pharmacy candidate at Northeastern University in Boston, Massachusetts. I am writing this letter on behalf of my friend Tarek Mehanna. I have known Tarek for several years through the Islamic Center in Worcester, as well as through hearing him give talks and sermons at religious services at different universities throughout Boston. In the age of people living for their instant gratifications and pleasures, I was genuinely touched by Tarek's sense of selflessness and strong willingness to give to the community at large. He would always stand and lend a sympathetic ear to anyone who needed help. But beyond that, he would give from his time and money to help anyone in need. He chose a profession that involves caring for people in need of help; which partially impacted my decision in choosing the same major in college. I have always found Tarek's morals and values to be beyond reproach.

We as a family have also had the pleasure of knowing Tarek's family, who are very well respected members of their community.

As a young American, I want you to consider the positive roles someone like Tarek could potentially have on other young people. Our communities are thirsting for people like him. I implore you to give him a sentence that is in the single digits so he can return to help the fraying communities.

I am confident that you will take into consideration all of Tarek's positive roles in the lives of so many others as you come to your decision.

Respectfully,

A handwritten signature in black ink, appearing to read 'Omar Abdelkader', with a long horizontal flourish extending to the right.

Omar Abdelkader

Nana Abdelkader

30 Latura St.

Shrewsbury, MA 01545

February 15, 2012

Honorable Judge George A. O'Toole, Jr.

U. S. District Court

1 Court House Way

Boston, MA 02110

Honorable Judge O'Toole,

My name is Nana Abdelkader. I am a teacher and administrator at Alhuda Academy in Worcester, MA. I write to you Sir in support of Tarek Mehanna. I have known Tarek on different levels. I have known Tarek as a coworker where he volunteer-taught children at Alhuda Academy. I have known Tarek and his family for several years. I have also had the opportunity to know Tarek through his interactions with the students at my school; as well as my own children. Throughout my life, I have met very few people like Tarek. To describe Tarek as kind, gentle and dedicated would be understatement. I have seen how the children flock to him and around him because of his gentle demeanor and pleasant manners.

As a mother, I see Tarek as a dream child, one who puts others before himself; one who has a strong God consciousness; one who is respectful to his parents and others young and old. Most importantly, he lived a Godly life through his devoutness to his faith, which made everyone who dealt with him, whether professionally or personally feel highly respected. The letters he has exchanged with my son always spoke of strength of faith and character. Tarek altruistically offers advice on grades, schoolwork, good behavior and God. My son lovingly displays these letters on the walls of his room. I know that our faith in Tarek has not been shaken through this whole ordeal.

As Tarek's sentencing approaches, I would like to beseech you to keep his sentence in the single digits. We need Tarek to be back in the community for the sake of the children and the adults he inspires with his patience, perseverance, and good nature.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Abdelkader', followed by a long horizontal flourish.

Nana Abdelkader

Khaled Abdelkader, MD  
30 Latura St.  
Shrewsbury, MA 01545

February 16, 2012

Honorable George A. O'Toole, Jr.  
U. S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

My name is Dr. Khaled Abdelkader. I am an attending physician at Wing Memorial Hospital- an affiliate of the U-MASS Memorial Health Care System- for the past seventeen years. I am also a member of the Board of Trustees of the Worcester Islamic Center (WIC); as well as the Chairman of the Board of Directors of Alhuda Academy, also in Worcester.

I have had the pleasure of knowing Tarek and his family for the past several years. As an active member of our community, Tarek was instrumental in religious educational activities, especially for the youth. He also helped as a math and Islamic studies teacher at Alhuda Academy, a full time Islamic school. He was admired by all, students and colleagues alike, and was considered a role model by his students. He exhibited high moral and ethical standards with everyone who interacted with him; to a level that everyone aspired to reach. My son who graduated from Alhuda Academy considered Mr. Mehanna to be his all time favorite teacher.

After two and a half years of solitary confinement, he is waiting for final sentencing. I think that for Mr. Mehanna, who never hurt anyone, or committed any actual act of terrorism, that he and his family have suffered enough. I ask you, Your Honor, to consider the lowest possible sentence and maximum leniency in this case. Your consideration and understanding for the special circumstances of this case will be greatly appreciated by the family and the Muslim community at large.

Thank you for your time and consideration

Respectfully,



Khaled Abdelkader, MD

The Honorable George O'Toole, Jr.  
U.S. District Court  
1 courthouse way,  
Boston, Ma 02210

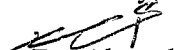
Dear Judge O'Toole,

I am Dr. Ahmed Hussein, I live in Shrewsbury, MA, and I am a dentist.

I am writing this letter as the least thing I can do to demonstrate my deep concern about the fate of Dr. Tarek Mehanna, I have known Dr. Tarek since 2008, when he used to teach at Alhuda academy, when he was looked up to by his student as a role model, and his fellow Muslims as a sincere honest member of our community, he doesn't hesitate to help others in need. I know his family well, they are very respectable, kind and caring family.

I was shocked and deeply saddened by the accusations that were pointed at him, although non of it I might consider to be outside the frame of practicing his right and freedom of speech warranted to him by the very first amendment, I consider his case to be a contradiction to our believe in our land of freedom. I hope that Tarek will receive the lowest possible sentence as he doesn't deserve to live the rest of his life in prison.

Sincerely



Dr. Ahmed



# AFFIDAVIT

**To The Honorable Judge George A. O'Toole, Jr.**

**U.S. District Court**

**1 Courthouse Way**

**Boston, MA 02210**

## **Regarding Tarek Mehanna**

**Full Name: Ibrahim Badr**

**Relationship: Family's friend**

**Contact information: 508-310-5240**

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Comment on character:

My name is Ibrahim Badr. I am a citizen of The United States of America, and Manager at Lifeline's Emergency Response Center and I have been working at the same organization for the last 12.5 years. I am very successful at my job, my life and maintain excellent relationships with the Mehanna's family, my co-workers as well as my friend's and neighbor's.

I have known the Mehanna's family for the past 17 years and they are a great, well-educated family. I can confirm that Tarek is a man of great integrity, well-educated and he is extremely dedicated to his family, his studies, his friends and the community. Tarek is an entirely peace- loving, hardworking, caring, respectful, responsible and very warm person. Furthermore, I have always seen him helping his family, his friends and the community with their needs.

Thank You,

Sincerely,

Ibrahim Badr

Date: 02/16/2012

  
(Signature)

The Honorable Judge O'Toole,  
U.S. District Court  
1 Courthouse way,  
Boston, MA 02210

Dear Judge O'Toole

My name is Haytham Mohamed. I live in Shrewsbury MA. I am the chief of anesthesia and perioperative service at Athol memoiral hospital and former assisstant professor of anesthesiology and pediatrics at Universty of Massachussetts Medical School in Worcester MA.

I lost a son, a baby son five years ago. He was four months when he passed away. The burial cerimonies was held at Wocester Islamic Center. To this day I still remember the condolences and support from four members in particular. Tarek Mehanna was one of them. Tarek, whom I did not know before, struck me as a sincere and a very caring person. Although I am older than Tarek by age, it felt like he was a wise, kind older brother. Which as time passed and I came to know him better, proved to be true. Tarek as I know him is very kind, polite, very intelignet, sincere and a true role modle. I was shocked when I knew of the acuisations against him and deeply saddend to the conclusion of the jury verdict.

During the past three years I came to know his family even better. Tarek comes from a great family. It did not surprise me at all how great and honorable his family is. Now I know him and his family very well.

Judge O'Toole, Had my son lived to be a man of Tarek's age I would have love him to be a man like Tarek in his integrity, sincerity and love for everyone.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Mohamed" with a stylized flourish at the end.

Dr. Haytham Mohamed

Amira Farrag  
27 Sylvan Lane  
Boylston MA 01505

February 10, 2012

The Honorable George A. O'Toole  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

My name is Amira Farrag. I was born in Providence Rhode Island, but I have been a member of the Muslim community in Worcester for fourteen years. I am currently a senior at Notre Dame Academy in Worcester MA. My mother's immediate family grew up in New Jersey. My mother graduated from New York University. Both uncles on my mother's side are United States Marines; one has served multiple times in Iraq. My father is a neonatologist in Pennsylvania. I am an American. I do embrace my middle eastern traditions and take pride in where I come from, however America is my home.

I have known Tarek Mehenna for three years. Tarek helped me study for a math final my freshmen year. A few months before he was arrested in 2009, he tutored me and a couple of my friends in math and science. Tarek was an amazing teacher. He never raised his voice and he could easily relate to me and my friends because he was young and had a great understanding of our generation. Tarek is one of the best teachers I ever had. He was kind, patient, funny, and calm.

I have written to Tarek multiple times since his arrest. I told him about a few problems I was facing with my faith and relating to people who don't have to worry about combining two very different cultures. In one letter, Tarek helped me find a middle ground between the two cultures. In a few moments, Tarek helped me with something that my parents have been trying to help me with for four years. He helped me come to terms with who I am. He helped me reestablish my faith as a young Muslim. Tarek told me about his high school years. He loved music, he played guitar, he hung out with his friends. He was a typical teenager, and he really related to me.

It is extremely rare to find someone like him in our everyday communities. Most people who are religious are too strict; they are also in their forties and therefore can't relate to the youth. Tarek is a jewel. He is a gift. I honestly believe that every Mosque nationwide should have someone like Tarek. If you ask anyone else, they will tell you the same: Tarek is a loyal, honest, trustworthy, helpful, unselfish, generous, brave, patient, kind, and God-fearing member of the community. He cares about his family and friends. He is an important part of our lives. Please give him the shortest sentence possible.

Sincerely,

*Amira Farrag*  
Amira Farrag

16 February 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

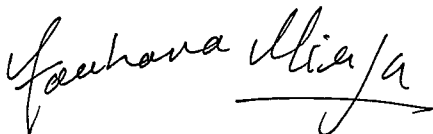
Dear Judge O'Toole,

My name is Farhana Mirza; I have been a resident of Framingham, Massachusetts for over 25 years; I work as a healthcare professional, and am a member of the Islamic Center of Boston in Wayland. I teach at the Sunday School there (at ICB Wayland) and I am also a member of an interfaith group called the Weston-Wayland Interfaith Action Group. I am also a Muslim facilitator at an Interfaith Youth Leadership Camp.

I have known Tariq for 20 years, and have always admired Tariq for being a young, practicing Muslim American with good, sincere character who has been able to speak out against injustice. He is a caring, loving, respectful, and thoughtful young man. He always has a smile on his face and eyes that brighten your heart whenever you see him. He is so respectful and considerate, never have I ever seen any misbehavior from him. He has so much knowledge that I sometimes used to ask him for explanations of certain issues.

Tariq used to teach at the ICB Wayland Sunday School, give sermons and talks with his vast knowledge of Islam. Young kids used to enjoy his class. You will never see him passing by without greeting you with his wonderful smile. He is such a soft-hearted and God-fearing young adult. I always used to mention to his Mom and Dad that how wonderful your son Tariq is and you could see the glow and shine in his mom's eyes and face.

Sincerely,

A handwritten signature in cursive script that reads "Farhana Mirza". The signature is written in dark ink and is positioned above the printed name.

Farhana Mirza

February 15, 2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02110

Your Honor:

I am writing this letter to reach out to your heart and mind to explain the true person Tarek is.

My name is Rasha Boura, I live in Northborough, MA and I am a real estate agent. I met the Mehannas through Sunday school where my daughter attended as well. I have known the family for about 20 years. I also had interaction with Tarek while growing up. I would hope that you would consider my words in your decision. I do realize that you have a very tough position and your decisions do change people's lives and in this circumstance a fine young man's life. I am certain you are highly qualified and the whole community does look up to you. I do ask you however to consider our humble outreach to you regarding this matter.

Through my many encounters with Tarek; whether when he was a child, and adolescent or the young man that he is; Tarek was always and remained to be very polite, courteous, and well mannered. He respected adults, his parents and everyone else he contacted. He is kind and very sensitive to others needs. On a lighter note, he could play with his kitten for hours on end.

Tarek is loved and respected by his peers and the community at large. I would be proud if my son would grow up to be as kind and loving as Tarek is.

Thank you,

A handwritten signature in black ink, appearing to read 'Rasha Boura', written in a cursive style.

Yours Sincerely,  
Rasha Boura

February 18, 2012

The Honorable Judge George O'Toole, Jr.

U.S. District Court

1 Courthouse Way

Boston, MA, 02210

Dear Judge O'Toole,

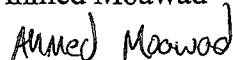
My name is Ahmed Moawad. I moved here with my family from Riyadh, Saudi Arabia in the summer of 2008, and I am currently a Junior at Lexington High School in Lexington, MA. I am 16 years old, and have gotten to know the Mehanna family very well since we have moved here. My mother and father have been close friends with the Mehannas since 1981, where they attended college in Pittsburgh together. They have also known Tarek and his brother, Tamer, since they were born.

Shortly after we moved here, we were invited to have dinner at the Mehannas house. That day was the first time I met Tarek, after hearing so much about him. I was taken aback by his manners and kindness. I got to know him better over the past few years, and he has always treated me as his younger brother.

We were all extremely happy for Tarek when we learned that he received a job offer in Riyadh, the city where we used to live. He was ecstatic about his new opportunity, and we all couldn't wait for him to leave and start his new job. I was stunned when I heard about all the things Tarek is being accused of, because it does not sound anything like the Tarek I know, and I know for a fact that he would never do any of these things.

Thank You,

Ahmed Moawad



2234 Lexington Ridge Drive, Lexington MA, 02421

Dear Judge O'Toole,

My name is Hala Saleh. I am a mother of 4 Kids. I live in Worcester Ma. I got to know Tarek 3 years ago when I met him in a social gathering. What made me really amazed & decided to know this young man was the great manners that were obvious in his way of talking & dealing with others.

I was amazed how polite a young guy like him was to the extent that I told my husband at the end of the event that I wish I have a son who would grow up to be as polite, gentle & respectful this young man was.

By that time, I knew nothing about his case. I was then introduced to his family. And I wasn't surprised at all to find them a great family. Nice, sincere, honorable & best friend one could ever wish for.

I hear from his students, who happen to be my friends Kids, how great he is as a role model. How he changed them to be better persons with their families, friends & their whole life.

Someone who is very kind & gentle even to animals, would never plan to kill or destroy.

Someone so humble, that you would never think he has a college degree or he came from a well to do family, would not be so cruel & mean.

Please take a moment to talk to this young man, I promise you will change your mind.

He will be very kind & gentle to you though he knows you are the judge who sentenced him to prison.

Please take a moment to see him in person & talk to him. I would never question your justice, Sir. But please take a moment to think of the whole case one last time. It is the life of a young man, a son, a brother, a friend & a teacher.

Yours Truly,  
Hala Salah, MD



**M Riaz Khan, PhD and Naseema N. Khan, PhD**  
261 Green Street  
Northborough, MA 01532

The Honorable George O'Toole Jr,  
US District Court,  
1 Courthouse Way,  
Boston MA 02210.

February 11, 2012.

The Honorable George O'Toole:

Re: Letter of Support for Dr.Tarek Mehanna

Your Honor, first allow me to briefly introduce myself. My name is M. Riaz Khan. As a Professor of Management, I have been on the faculty of the University of Massachusetts Lowell for past 37 years, currently serving as the Chair of the Department of Operations & Information Systems. I have also been on the faculties of the University of Maryland, Clark University and Boston University. Natives of Pakistan, my wife, Naseema, and I came to the U.S. some 45 years ago and became citizens of this great country in 1975. We both earned our doctoral degrees from the State University of New York, Buffalo. We made this country our adopted home for its values and opportunities to reach the higher and nobler goals of enriching the society. Naseema pursued a career in medical research and has recently retired from the University of Massachusetts Medical School. She is currently the President of the Islamic Council of New England, an umbrella organization representing Muslim communities in the New England states.

Besides raising a family and pursuing a career, your Honor, we both have been very much a part of our community all these years and have served it voluntarily in various capacities. I am a former president of the Islamic Council of New England. Currently, I serve as co-chair of the interfaith committee of the Council and work with the Massachusetts Council of Churches and the Archdiocese of Boston. For many years I have served the Islamic Society of Greater Worcester as its director of social services and family counseling. I am privileged to provide the citizens of Massachusetts my free services as a Justice of the Peace, an honor I have had now for nearly 18 years. As guest speaker, I regularly appear in academic and religious circles, frequently contribute articles for publication on various issues, and my views also receive media coverage. One of my recent articles published in the *Message International* magazine is entitled: "The State of the American Family." We greatly appreciate, your Honor, the confidence placed in us by our community members and the high esteem in which they hold us. It's indeed humbling and gratifying for us to have received numerous merit and service awards and recognitions for outstanding services.

Your Honor, it has been truly a privilege and honor for Naseema and me to have known Dr. Ahmad Mehanna and his family for over 20 years. We came to know about Dr. Mehanna when he started giving lectures at the Islamic Center of Boston. Soon he was recognized as a very engaging speaker in the area as he was teaching ethical and moral values - critical to character building and family harmony, and promoting community development initiatives. We have attended his lecture programs at the Center and elsewhere and have found them very enlightening and spiritually inspiring. By profession, Dr. Mehanna is a Professor of pharmacy, an intellectual, a father, a community volunteer. He is a thorough gentleman, a law abiding citizen, a caring and absolutely down to earth individual, known in the community as a compassionate human being with rare philanthropic qualities. He knows and promotes the Islamic teachings in unequivocal terms that the law of the land must be

upheld at all times, under all circumstances, and the wellbeing of the society, its safety and security are paramount.

Your Honor, we wish to bring this to your kind attention because these are the very values and character attributes of Dr. Mehanna for which he is admired by so many in the community and looked up to as a role model. Exactly this is how he has raised his family in this great country of freedom and opportunities. In the upbringing of his children, he has instilled in them the precepts that the character excellence, caring for the society, participating in its affairs, promoting its welfare, enhancing its social and moral health, protecting its safety and integrity, and contributing to its general peace and prosperity is not a choice, but an Islamic duty. Constructive criticism for positive change in the society is tremendously valued in Islam, whereas apathy is disapproved.

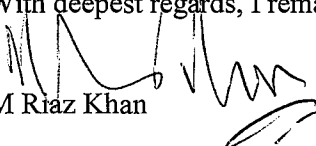
Dr. Tarek Mehanna is one of the sons of Dr. Ahmad Mehanna, your Honor, who is believed to possess all these qualities and bear the family trademark of generosity and caring attitude toward the community. We take the liberty of writing this letter to you as some ones who are truly convinced that Tarek is a gifted and kindhearted individual, who shows tremendous respect for life and human fellowship. He is a very likeable person, who goes beyond his capacity to help others in need. A community asset, an affectionate teacher, and a man of humility and dignity, Tarek has donated his valuable time providing volunteer services and guidance to his students. It is incomprehensible that he would have any ill will against his fellow humans, let alone harming anyone. We present this to you, your Honor, in our capacity as university professor/ leader of Islamic organization, as American Muslims, and as concerned community elders.

The community realizes, your Honor, as does Tarek, that he should have exercised his judgment rather carefully in carrying out his activities or expressing his views, especially in sensitive areas such as national security, within the legal framework so that he would not have to go through the nightmare of the piercing judicial proceedings against him that started in October 2009, causing enormous anguish and sufferings that have already devastated his family and him immensely. Without question, it has been the gloomiest period of his life personally and professionally that essentially has reduced his years of recognized contributions, selfless social services and philanthropic deeds to a total disgrace. It has also been a sad transition for the entire community with a chilling effect.

While we are not pleading in this case as attorney, your Honor, and despite his conviction in the court of law, we believe Tarek is a loyal American citizen and he sincerely cares about this great country of his birth. Since there is no mechanism for the community to ventilate its grievances to the Justice Department, we believe the Court is our only hope in having our voices sympathetically heard and understood. We have full trust in the U.S. Justice system and take pride in the fact that it is the best and most forgiving in the world. Judge O'Toole, personally and on behalf of the Muslim community in Massachusetts, we humbly and earnestly request your Honor's leniency and graciousness in sentencing Dr. Tarek Mahanna and in determining his and his family's fate. It will, indeed, go a long way in healing the community wounds and reassuring that Muslims too have a place in this great society of ours.

With deepest regards, I remain yours gratefully,

M Riaz Khan



February 18, 2012

The Honorable Judge George O'Toole, Jr.  
U.S. District Court  
1 Courthouse way  
Boston, MA 02210

Dear Judge O'Toole,

This is Dr. Mahmoud A. Moawad of 2234 Lexington Ridge Drive, Lexington, MA 02421. I am an Internist, currently working at the Harvard Vanguard Medical Associates at Cambridge, MA. I have known the Mehanna family since 1981 when I was studying for my masters program in public in health at the University of Pittsburgh. Dr. Mehanna was a colleague to my wife where both were starting their Ph.D. programs in Pharmacy at the same University. I knew Tarek and his brother Tamer since they were born.

After the Mehannas moved to Massachusetts, I went to Riyadh, Saudi Arabia where I worked as a consultant and eventually head of section of internal medicine at King Faisal Specialist Hospital and Research Centre until 2008. Around 2005, I started my job search in Massachusetts to relocate back to the US. I saw Tarek after all these years as a fine young man mid-way through his Pharm. D. program at Massachusetts College of Pharmacy. He was very interested in knowing about my job in Saudi Arabia and was impressed with the advances the Saudis made in the health care field. He expressed his wishes to seek a position there upon graduation and I promised him my help.

Tarek's dream of working in Saudi Arabia almost came true when he had an offer as a consultant to the largest institution of the Saudi Ministry of Health in Riyadh. As we all know, his dreams of getting a good job, getting married and starting a family were shattered at Logan International Airport after his arrest, incarceration and finally his long trial.

As someone who knows Tarek personally I knew him to be a scholar, very disciplined, kind, sincere young man with positive attitude, love and devotion to his family, especially his mother. I was impressed by his manners, respect to himself and to others. I found him to be extremely polite, considerate and a true gentleman. He never showed me or struck me as someone who would do or condone any violent act.

In short, for me, my family and for most of the people in our Muslim community, we all agreed on the fact that Tarek is one of those rare individuals that we can meet once in our life time.

Best regards.

A handwritten signature in black ink, appearing to read "M. Moawad", with a large, loopy flourish extending from the end of the name.

Mahmoud A. Moawad, MD, MPH, FACP  
Internist & Anticoagulation Management Services Consultant  
Harvard Vanguard Medical Associates-Cambridge  
Clinical Instructor in Ambulatory Care and Prevention  
Harvard Medical School

Nabila Mohammed  
27 Sylvan Lane  
Boylston MA 01505

February 10, 2012

The Honorable George A. O'Toole  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

I was raised in Jersey City, New Jersey. My parents brought us to the United States from Egypt in 1974 in search of a better life - which I am happy to say, we have found. I am the eldest of 4 children. Both my brothers proudly served in the United States Marine Corps. Ahmad served in the reserves while Amro served two tours in Iraq and one in Afghanistan. He continues to serve in the Marine Corps Reserves as a Major.

Today, I am a mother of 3 children and have lived with my husband in the Worcester, Massachusetts area for the last 14 years.

I write in support of Tarek Mehanna, whom I am proud to call friend. He is like a son to me. While I had heard a great deal about him, I actually first met him when he volunteered at Alhuda Academy. I quickly learned that his reputation in the community was not at all exaggerated. He is an intelligent, mature, charismatic young man who loves to serve in any capacity he can. His students loved him, even though he was not lenient in his classroom management. I was so impressed with him that I asked him to tutor my daughter in math and science in preparation for her SATs.

Please know that I am very careful about who I allow to spend time with my children. I am even more vigilant about who I allow to counsel them on religious matters. I like to know that the person 1) Has a good understanding of Islam, and 2) Holds a middle of the road, balanced world view. I found that Tarek possessed both these characteristics, as well as so many more honorable characteristics.

He did agree to tutor my daughter along with some other children in the community. During that time, he earned the respect and trust of my very critical teenage daughter. Despite his incarceration, my daughter continued to correspond with him. And when she experienced a crisis of faith, she turned to Tarek who counseled her through it. Even though he was in this unenviable position of having to defend himself, he found the compassion to reach out to support my daughter in her hour of need. I am very grateful she had a friend like Tarek.

I would be honored to have Tarek as a son. I would be proud if any of my children grew up with even a fraction of the integrity and compassion that Tarek has consistently displayed. It is very easy to espouse to high ideals under comfortable conditions. But to continue to hold to these same ideals when your life is literally on the line is nothing short of heroic. I know that I myself would never wish to be tested like that.

I have never been political or an activist in any way. I do not generally engage in politically charged debates. I actually dislike conflict and have always tried to avoid it whenever possible. But I attended most of Tarek's trial and was present for many of the related hearings. I found myself walking past very hostile persons who were obviously motivated by fear and ignorance of my faith. As uncomfortable and out of my element as I was, I could not stay away.

During the trial, I did not hear anything to alarm me or change my mind about the person I know Tarek to be today. As someone who grew up between two vastly different cultures and tried her best to navigate their seemingly conflicting values...I wish you can see Tarek from my perspective. Tarek is an exceptional person. He has grown so much and matured so much in his understanding of Islam and of himself. Please consider the journey Tarek has taken to become the person he is today.

As a mother, I respectfully ask you to show mercy when sentencing Tarek. He poses no threat to anyone. He is not a violent person and has never hurt anyone. Society is not served by his extended incarceration. It will only further burden the American taxpayer while alienating our community. I am actually very concerned about the impact that a report of a harsh sentence might have on our community. With the existing climate of fear and mistrust, report of a sensational sentence will most likely incite violence against our community. Innocent people will be hurt and surely, justice will not have been served.

I respectfully ask you to please give Tarek the benefit of every consideration possible. Please give him the minimum possible sentence. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nabila Mohammed', with a stylized, flowing script.

Nabila Mohammed

Hussien M. Farrag, M.D.  
27 Sylvan Lane  
Boylston MA 01505

February 10, 2012

The Honorable George A. O'Toole  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole,

I am an American Muslim who was born and raised in Egypt. I received my medical degree in Egypt, but I earned my fellowship at Brown University in Providence, Rhode Island. I have practiced Neonatology for over 20 years here in the United States.

I am a husband and father of 3 children and have lived with my family in the Greater Worcester area for the last 14 years. My wife and I helped found Alhuda Academy, a full time Islamic school, where I currently serve on the Board of Trustees as well as the Executive Committee. Alhuda Academy teaches the Massachusetts state curriculum in addition to the Arabic language and Islamic studies to students in grades Pre-Kindergarten through 8. Alhuda Academy is committed excellence in education that builds better citizens and better Muslims.

I am usually reluctant to write recommendation letters. I view any request for an endorsement as a sacred trust - like an oath for which I will stand accountable one day before God. As a result, I have lost many friends over the years because I declined them a reference. That said, it is without hesitation that I write in support of Tarek Mehanna.

I had the honor of meeting Tarek and his family when he first came to volunteer at Alhuda Academy. For someone so young, he demonstrated exceptional maturity, dedication, and love of service. He was dependable and professional in every way. He quickly earned the respect of his colleagues and the admiration of his students.

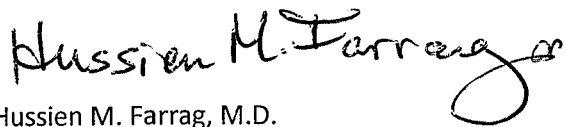
Tarek's parents raised him to be a proud American and a proud Muslim. He was raised to believe in all the American ideals of freedom of speech, religion, and open discourse. His parents taught him to value education, morality, and life in all its forms. These are as much American as they are Muslim values.

From all that I know about Tarek first hand, and all that I heard about him during the trial, I believe him to be an excellent young man. He is the son I would want to have, the friend whose company I would enjoy, the husband I would wish for my sister or my daughter, and the colleague who would enrich my professional life and challenge my thinking.

As a neonatologist who must work in the intensive care unit every day, I have a unique appreciation for the gift of life. On a daily basis, I see what happens to a family when their child is in jeopardy. I am sure you share this perspective given your line of work. As a father, I appeal to you to recommend the

minimum sentence allowable by law. I ask not just for Tarek's sake but for his parents' sake as well. Given that he has never harmed anyone nor does he have a history of violence, he need not be incarcerated for a lengthy period. He does not represent any threat to society. I respectfully ask that you please give him the minimum sentence allowable by law.

Respectfully,

A handwritten signature in black ink, reading "Hussien M. Farrag". The signature is written in a cursive style with a large, looping "H" and a long, sweeping "g" that extends to the right.

Hussien M. Farrag, M.D.



# MCPHS

MASSACHUSETTS COLLEGE of PHARMACY and HEALTH SCIENCES

Honorable Judge George O'Toole  
United States Federal Judge, District of Massachusetts  
Joseph Moakley United States Courthouse  
1 Courthouse Way  
Boston Massachusetts 02110

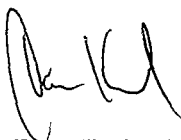
February 11, 2012

To the Honorable Judge O'Toole:

I write this letter in support of Tarek Mehanna. Mr. Mehanna was recently convicted and faces sentencing. I am writing this letter to argue for a lenient sentence for Mr. Mehanna. I knew Tarek Mehanna because he was a student in my pharmacology class at the Massachusetts College of Pharmacy and Health Sciences a few years ago. Tarek is a thoughtful and well-educated person. He comes from a good, strong and stable family. He helps people in his religious community. In College, I never heard of him being in any trouble and came across as a very polite and conscientious student. I do not think it would be useful for him to waste his talents and knowledge in prison when he has so much to offer to society.

May I suggest a sentencing that allows him to use his talents to help others. As an educated health professional, let him work with disadvantaged children to teach them about good health practices. He could be monitored on probation for a long time to insure that he is acting accordingly. Again, Tarek has a lot to offer to others and it would be a waste to spend so much time unable to use his talents. Let this turn into something that can be beneficial to everyone involved. Thank you.

Sincerely,



Dan Kiel, Ph.D.  
Associate Professor of Pharmacology  
Massachusetts College of Pharmacy and Health Sciences  
Boston, MA

February 12, 2012

Honorable Judge George O'Toole  
United States Federal Judge, District of Massachusetts  
Joseph Moakley United States Courthouse  
1 Courthouse Way  
Suite 9200  
Boston Massachusetts 02110

Dear Judge O'Toole,

I am Stephen Kerr, 50 yrs old US citizen, a resident of Methuen, MA and presently employed as an Associate Professor at the Massachusetts College of Pharmacy & Health Sciences (MCPHS), Boston, MA, where I have been working for the past 15 years.

I am writing this letter in support of Tarek Mehanna.

I have known Tarek for more than 12 years, both as a student of mine at MCPHS during his Pharm.D program and also as the son of one of my colleagues and friends, Ahmed Mehanna. In all of my years of knowing Tarek, I can attest that I have found Tarek to be extremely conscientious, hardworking and of strong moral character. Moreover, as a student at MCPHS, Tarek demonstrated his community service by being involved in the college student community. I personally recall during the time of Ramadan, as a student representative in the Muslim Student Association of the College (MSA), Tarek would invite me and others, to share in the evening meal with the other student members of the MSA. As a student in the classes that I teach in, viz. Medicinal Chemistry, Virology and Pharmacology, Tarek was always engaged and polite and I never had any occasion to doubt his sincerity and honesty. I strongly believe that Tarek continues to be a man of high integrity and morals, and has strength of character.

I request you consider these issues and Tarek's character during your sentencing of Tarek and show compassion and leniency in his sentence. To quote from the *Beatitudes* –  
*"blessed are the merciful for they shall be shown mercy."*

I thank you for your time and I would be happy to answer any questions you may have.

Sincerely,



Stephen G. Kerr Ph.D

7 Morgan Dr

Methuen, MA 01844

Email: [Stephen.Kerr@mcpshs.edu](mailto:Stephen.Kerr@mcpshs.edu)

Tel (work): 617 732 2093

[skerr17@comcast.net](mailto:skerr17@comcast.net)

Tel (home): 978 974 0117

February 11, 2012

Re: Tarek Mehanna

Honorable Judge George O'Toole  
United States Federal Judge, District of Massachusetts  
Joseph Moakley United States Courthouse  
1 Courthouse Way  
Boston, Massachusetts 02110

Honorable Judge O'Toole:


I have known Tarek Mehanna and his family since 2003. More specifically, Tarek was a student in several of my classes at Massachusetts College of Pharmacy and Health Sciences (MCPHS) where he excelled. Given that my class sizes were small and the nature of my interactive program, I interfaced with Tarek both in and out of the classroom on a regular basis.

I found Tarek to be very intelligent and inquisitive. He had a warmth and calm nature that made him popular with both faculty and his classmates. Tarek was always willing to help fellow students. In group projects, I observed Tarek going out of his way to help students who were struggling.

Based on the aforementioned, I find it incomprehensible that Tarek could be the person portrayed by the prosecution and the media. It is so inconsistent with the gentle nature of this man.

In summary, I believe that from my years of knowing Tarek at MCPHS, his character was consistently that of a caring and thoughtful young man.

Sincerely,

  
Nicholas A. Campagna, Jr.

42 Dennison Avenue.  
Framingham, Massachusetts 01702

The Honorable Judge George O'Toole, Jr.  
United States District Court  
1 Courthouse Way  
Boston, Massachusetts 02110

February 12, 2012

Dear Judge O'Toole,

My intent in writing this letter is to describe my knowledge of Tarek Mehanna's personality and character, and my first-hand observations of his actions during his time as a student at the Massachusetts College of Pharmacy and Health Sciences.

I am a registered nurse, and for the past sixteen years have been an Associate Professor of Pharmacology at MCPHS. During that length of time I have seen several thousand students enter the college, progress through their courses, and graduate. Unfortunately, I did not get to know many of them individually. Tarek was one of the pleasant exceptions.

Tarek first came to my attention early in his education when I would see him waiting in the hallways to ride home with his father. We began exchanging pleasantries, and soon progressed to more prolonged conversations. If I had to choose a single word to describe Tarek, it would be "cheerful". He was lively, enthusiastic, and always, always exceedingly respectful.

My favorite recollection of Tarek is from his time spent working with the Muslim student group at the college. In order to increase understanding of the Muslim faith, the students were talking to passers-by, and distributing free paperback copies of the Koran to students or faculty members who requested one. I took a copy from Tarek, promising to read it. While I have not yet read the entire volume, I must today sheepishly confess to you that I have now read more of the Koran than of my own Bible.

My personal memories of Tarek are of a delightful, friendly, conscientious pharmacy student who was both sincere and devout. I hope you will take these wonderful traits of Tarek's into your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Barbara W. LeDuc".

Barbara W. LeDuc, R.N., Ph.D.

2/27/12

Honorable Judge George O'Toole  
United States Federal Judge, District of Massachusetts  
Joseph Moakley United States Courthouse  
1 Courthouse Way  
Boston Massachusetts 02110

Your Honor,

I am writing to provide a character reference for Tarek Mehanna. I first came to know him as a student in my class on interpersonal communication for the health professions when he was a student at the Massachusetts College of Pharmacy and Health Sciences in the Spring semester of 2004. Tarek was an impressive presence in the classroom, so my memories of him are very clear.

In over 25 years of college teaching, I can say that Tarek was the single most argumentative student that I have ever had in class. Whatever point I tried to make in the course about the value of good human relations with patients was an opportunity for him to debate every counterpoint possible.

There is a large body of excellent research on "argumentative personalities" in the scholarly literature within social psychology. Some individuals have a strong predisposition to recognize controversial issues, advocate positions, and refute opposing positions. These individuals enjoy using reasoning in an eloquent and creative manner to defend their personal beliefs. At the same time, they view themselves as being constructive and not needlessly disagreeable. I have to say quite bluntly, it was a good thing that I was familiar with this research before I had Tarek as a student. His hand was up in the air to be called on so very frequently. And he wanted to know "why"... "why is that the case?"... maybe, he often asserted there was another explanation altogether.

But I have to say, Tarek was always extremely respectful when asserting his speculations. And I would do my best to provide full and complete explanations of the concepts under discussion. I remember seeing a little smile and twinkle in his eyes each time I won the round of debate. He would nod his head slightly in ascent and go back into his listening posture for his next opportunity to speak up. I really enjoyed having him in class. He kept me on my toes.

Ideally, all people who acquire a good liberal arts education should be able to strike a balance between precipitating arguments needlessly and avoiding arguments altogether. I truly feel that Tarek was making this transition when I knew him.

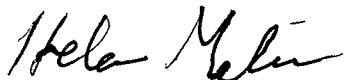
I distinctly remember giving him the assignment of videotaping himself providing comprehensive medication counseling to a patient. He took the opportunity to do a wonderful job showing mastery of both the clinical details of the drugs as well as addressing the patient's psychosocial issues.

It is important to mention that although I knew Tarek from class, I knew his father Ahmed for all 12 years that I was on the faculty at MCPHS. Professor Mehanna is highly respected by both students and teachers. I continue to be in touch with some of the professors and alumni of MCPHS, and all of them speak so highly of Ahmed. He is a valued peer and beloved teacher. Tarek comes from a great family, so I guess that I wasn't surprised that I was so impressed with him.

My memories of Tarek remain that he was (and I believe is) a bright and thoughtful young man with so much to offer. I hope he will be able to contribute his gifts to our community again as soon as possible.

If I can elaborate on Tarek's many strengths of character, I hope you will feel free to be in touch with me at (617) 755 4753.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Helen Meldrum".

Dr. Helen Meldrum

88 Munroe St.

Somerville, Ma. 02143

(FORMERLY ASSOCIATE PROFESSOR OF COMMUNICATION AND PSYCHOLOGY at MCPHS 1994-2006.)

Date: 2-11-2012

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Naim Assil  
10 Oneida Place  
Hudson MA 01749

Subject: Letter of support for Dr. Tarek Mehanna

Dear Judge O'Toole, Jr.,

You're Honor; first allow me to briefly introduce myself. I am Naim Assil, just retired after working for Raytheon Company in Massachusetts for the past 29 years, and was born in Damascus Syria 1946 and immigrated to USA in 1973. I earned my Master degree in Electrical Engineering from University of Illinois in 1977, and became a citizen of this great country in 1981. I made this country my adopted home for its values and opportunities and served in the defense industry through my professional career.

Besides raising a family of three daughters, two finished college and the third almost done, I have been serving my Muslim community all these years in various volunteering capacity, I am a former president of the Islamic Center of Boston in Wayland (ICB), a former president of Islamic Council of New England, and a president elect for the Council in the year of 2013. I participated in all interfaith activities through out my leadership capacity and on individual basis through the ICB organization and the Islamic Council of New England. I made many friends from the niebor churches and synagogues. These activities opened the door to many American to participate and understand each other faith and religion in a loving peaceful and harmony atmosphere,

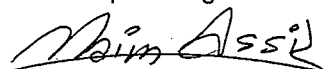
Your Honor, it has been truly a privilege for me to know Dr. Ahmad Mehanna and his family for over 20 years. Dr. Ahmad Mehanna helped facilitating the Quranic tafseer (explaining Quranic verses) study circle at the Islamic center of Boston (ICB). He taught the peaceful Islamic ethical and moral values that are critical to Muslim character building, family harmony, and community development initiatives, Dr. Ahmad Mehanna promotes the Islamic teaching in unequivocal terms that the law of the land must be upheld at all times, under all circumstances, and the safety and the security of the society is paramount. He used a smooth methodology to get his points across, as being a successful collage professor.

Your Honor, Tarek Mehanna is the older of Dr. Ahmad Mehanna's two sons' whom both attended the ICB Wayland Sunday school program up to the end of their graduation from Lincoln-Sudbury High-School. Tarek has also taught in the Sunday school as an assistant teacher. Since I served as principal and a teacher at the ICB Wayland Sunday school program, I never heard any complain and/or negative remarks about Tarek Mehanna from neither his teachers, nor his peers. As the mater of fact, he was a discipline, intelligent, and peaceful individual throughout his time spent at the ICB Wayland.

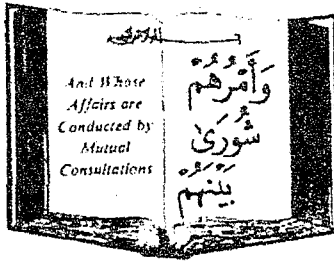
I appreciate the opportunity of being able to submit to you a character reference on behalf of Dr. Tarek Mehanna, and in the process plead for clemency in the matter of his sentencing. Accordingly, I am taking the liberty of writing this letter to you, your Honor, asking you to remember that Tarek has showed people around him a gifted and kindhearted character who goes beyond his capacity to help others in need. Please, consider that character as number one priority, when you rule in Tarek's sentence.

I really have a full trust in the U.S. justice system, and I humbly request your Honor's leniency and graciousness in determining the fate of Tarek Mehanna. I assure you that I will work hard on working for healing the community wounds and assuring them that the rules of law will always survive, and Muslims have a place in this great American society.

With deepest Regards & Sincerities,



Naim Assil  
President Elect 2013, Islamic Council N.E.  
Past President, ICB Wayland



## ISLAMIC COUNCIL OF NEW ENGLAND

The Honorable George O'Toole Jr,  
US District Court,  
1 Courthouse Way  
Boston MA 02210

The Honorable George O'Toole,

Re: Letter of Support for Dr. Tarek Mehanna

First allow us to briefly introduce to you the Islamic Council of New England (ICNE) that we represent. The Council was established in 1984 as a non-profit (Tax-exempt) umbrella organization with its affiliate Islamic centers and organizations in the New England states. It seeks to promote interfaith relations in the northeast region of the United States through various social, cultural and educational programs. As part of its outreach initiatives, it provides forums for intellectual discourse of current issues at academic institutions in the New England area by holding, for instance, symposia, lecture programs, and leadership workshops. It grants merit awards to recognize the achievers and promote scholarship. Toward this goal, it also sponsors a one-day annual conference on campus of one of the prestigious universities in New England. The conference invites renowned scholars to share their thoughts on current issues with the audience. The conference is open to public and the university community. On the average, 5-7 hundred people from across Northeast region of the United States participate at this event in an inter-active format. The purpose of this discourse is to strengthen ties among diverse segments of a pluralistic culture through better understanding and by promoting our cherished values that ensure the wellbeing of the society.

In the past, universities, such as, MIT, BU, UMASS, NEU, UNH, SNHU, UCONN, URI, and Brown University have hosted the conference on their campuses. Last year, the venue was the Central State University of Connecticut, and this year it will be held at the Worcester polytechnic Institute, Worcester, MA.

Although the Council is run by an elected body of officials, they all are highly qualified professionals and work for the Council on a voluntary basis. None receives any compensation in any form or shape. All Council's activities and programs are funded by the generous donations of its officials and many responsible citizens who agree with its noble cause.

We write this letter, your Honor, in our capacity as current office holders of the Council, as American Muslims, and as concerned community elders to seek an opportunity to endorse the character reference for Dr. Tarek Mehanna, as submitted by Dr. Abdul Cader Asmal. The Council is very grateful to Dr. Asmal



for expressing his heart touching feelings that also represent the sentiments of many Muslim communities in the New England area as well as hundreds of non-Muslims who are familiar with his case or have attended the court hearings. Dr. Asmal is a highly regarded physician and a community leader, who knows Tarek from his early age and holds his family in high esteem. He was the President of the Islamic Center of Boston, Wayland, MA, where Tarek was growing up.

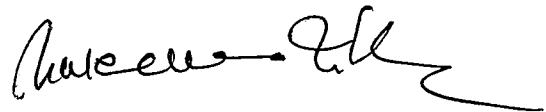
Further, the Council is proud to acknowledge Dr. Asmal's long standing affiliation with this organization and the support he has provided over a period of more than twenty-five years in various capacities. He has served as its annual conference chair, President, and Director of Communications.

We hope, your Honor, your esteem Office will consider Dr. Asmal's plead compassionately for clemency on behalf of Tarek and will allow your generosity to prevail in the matter of his sentencing. We might add, Tarek and his family have already endured immeasurable pain and suffering over the course of long and exhaustive legal proceedings. They deserve another chance to pick up the pieces of their lives.

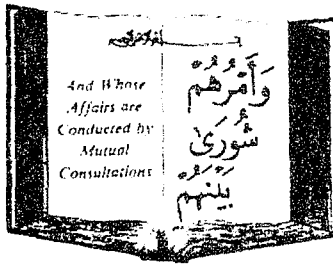
With deepest regards, we remain yours gratefully,



Mazen Duwaji, MD  
Executive Director,  
Islamic Council of New England  
(508) 660-9888  
[Duwajims@hotmail.com](mailto:Duwajims@hotmail.com)



Naseema N Khan, PhD  
President,  
Islamic Council of New England  
(508) 393-6066  
[NaseemaKhan@Yahoo.com](mailto:NaseemaKhan@Yahoo.com)



## ISLAMIC COUNCIL OF NEW ENGLAND

The Honorable George O'Toole Jr,  
US District Court,  
1 Courthouse Way,  
Boston MA 02210.

4 Larkspur Road,  
Needham MA 02492.  
February 10, 2012.

The Honorable George O'Toole,

I am writing to ask for your compassion and discretion in the matter of the sentencing of Mr Tarek Mehanna.

In doing so I would like to extend my thanks to Law Enforcement in general and the US Attorney's Office in particular for exercising an unrelenting surveillance on all our communities to ensure the safety and security of all. To do so is not an easy task because the line between profiling a group of people and yet not infringing on their personal privacy is a daunting one. Regardless it is an Islamic axiom that the security of the majority supersedes the rights of the individual, unless the individual is treated with a flagrant violation of the law.

In this regard Mr. Mehanna was permitted full protection under the law, but the outcome was not one that he expected or the Muslim community anticipated. It is for this reason that we write to you to make the case that you exercise discretion to recommend sentence that is less than a life sentence as reflected in what I understand are sentencing guidelines.

If you show clemency not only will you provide an opportunity for a young mind that might have been led astray by the influence of his peers and an incomplete understanding of his loyalty to both his religion and his country, but also reassure the Muslim community with which several Law Enforcement Agencies have striven to establish bridges of mutual trust and understanding to better work together in future with any issues that might in anyway compromise the security of any individuals in our country. Your willingness to demonstrate compassion in a situation where any actual harm was anticipated and neutralized will embolden the Muslim community to step forward and identify any 'rogue' elements they might see in our community who may pose a threat to the rest of society. Such a spontaneous cooperation with Law Enforcement would not be viewed with disparagement as the act of an 'informant' but rather as a fulfillment of a religious mandate that states unequivocally, 'Stand for justice even if it is against yourself,' ( 4.135 )

With regard to Mr. Mehanna, I have personally known him since he was a pre-teenager. I vividly recall how he used to share his enthusiasm for Superman comics with one old enough to be his grandfather. At that time I was president of the Islamic Center of Boston and served as the Director of Communications of the Islamic Council of New England. When Superman 'died' there was dejection and

when he was reborn through the healing powers of the phoenix there was exultation. In essence Tarek was a regular kid and a normal teenager growing up.

How the wars abroad and the rhetoric that there was a 'crusade' against Islam and it was the 'duty' of all Muslims to come to the defense of Islam may have affected his sense of well-being is hard to gauge. Whatever his reason for visiting Yemen, his stance as confessed by the informant who bargained his personal freedom by indicting Mehanna, was much more sober than that of the informant himself when it came to targeting innocent people in his own country. Perhaps his visit to Yemen opened Tarek's eyes to reality of the world, the loyalty he owed to his own country, and the absolute opposition that Islam had with regard to the victimization of innocent people.

At this point of his learning curve he was suddenly caught by naive feelings he may have had or expressed at a much younger age. The clear unequivocal message for would-be-terrorists who are Muslim and living in this country is that their foremost loyalty is to God Almighty who totally forbids the slaughter of any innocent person in any place at any time under any circumstances. Commensurate with this is their obligation to preserve and protect the country that provides them sanctuary. If a misguided person still feels that his loyalty to his religion transcends the basic principles stated, he or she must renounce their loyalty, and thereby the protection of their country, and join the army of a foreign nation against army combatants, and never operate as a terrorist that places innocent lives at stake. Tarek never did so and remained loyal to the US, steadfast in his belief that as an American he could freely voice his beliefs. It is my understanding that Tarek grew to appreciate this protection and sought to speak out against what he perceived as wrongdoings by his country.

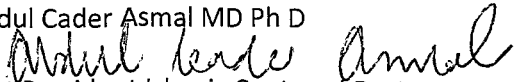
So Tarek is due for sentencing not for any crime that he committed, but for a series of circumstances that may have led to a crime if carried through with hideous proportions. Whether he intended to carry out any evil act or not, he did not. In this regard he was less likely to do so than his fellow 'collaborator' who turned on him. So while an informant who had the greater potential to wreak mayhem on this country's citizens is set free, the person who had a more sobering influence on him and disavowed any act of 'homegrown terror' faces the prospect of life in prison. Is it just that the greater menace to society has been set free to prowl the streets whereas the one who restrained him faces incarceration? While he must serve the time for the conviction he got, he must not be so harshly penalized so as to send shockwaves throughout the Muslim community that instead of giving it the necessary confidence to approach the Law Enforcement agencies any time they suspect some deviant talk or behavior in the community, it would silence them because of intimidation.

In making this appeal to you we would also like you to know that we as Muslims see nothing irreconcilable between Islam and our Constitution and between being a practicing Muslim and a loyal American. More importantly as Muslims we have the greatest vested interest of reclaiming our religion that terrorists have tarnished and Islamophobes exploit to marginalize. And it goes without saying that like all innocent citizens we as Muslims are equal opportunity victims of terrorists, so that we have no less an incentive to root out this evil. With that background and given the fact that Tarek did not commit or plan to commit any act of terror, we plead with you to recommend a sentence that would not incarcerate this young man for the rest of his life.

I thank you for your careful consideration of these points and would be willing to discuss with all Law Enforcement agencies as to how the Muslim community could promote cooperation in the future to prevent the occurrence of any such events

Thank you

Abdul Cader Asmal MD Ph D



Past President Islamic Center of Boston

Past President Islamic Council of New England

March 5, 2012

The Honorable George O'Toole Jr,  
US District Court  
1 Courthouse Way  
Boston, MA 02210

Ref: Letter of Support for Tarek Mehanna

Honorable George O'Toole Jr:

I am an executive manager for a software services company. I have been living in Newton, MA for the past 16 years and prior to that attended Boston University for my MS and Ph.D. in Engineering and Applied Sciences. I am also affiliated with the Islamic Center of Boston for the past 12 years and I was elected its President in 2011 for a two year term. I was also the treasurer from 2008-2010.

I am writing this letter to request you for leniency in sentencing of Mr. Tarek Mehanna. While it is difficult for me to understand why a young man with professional degree, loving family and supportive community would get involved in the activities for which Tarek is convicted, but I do appreciate the good work of the law enforcement agencies and affiliated departments in trying to keep us all safe. I respect the verdict handed out by his peers. I hope that the sentence prescribed to him will be no longer than that given to those of other backgrounds who have been convicted of crimes of similar nature.

I am, however, writing this letter as I have seen his family and especially his mother really devastated by his conviction and a long sentence will be extremely hard on them. I have seen much conviction and resolve in them to see that Tarek restarts his career and life as soon as he is back with them. Therefore, a very long sentence would be hard not just on Tarek, but also on his loving family. Tarek deserves another chance and I hope you will show compassion and leniency and sentence him to the shortest sentence that you could.

Thank you

Respectfully,

A handwritten signature in black ink, appearing to read "Aijaz Baloch", with a stylized flourish extending from the end.

Aijaz Baloch  
229 Woodcliff Road  
Newton, MA 02461

The Honorable George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

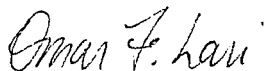
Honorable George A. O'Toole:

I am writing in relation to Tarek Mehanna's sentencing on April 12<sup>th</sup>, 2012.

I am a member of the Muslim community of the Greater Boston area – I was born here in Massachusetts and grew up here, and now I live in Framingham. I have known the Mehanna family for many years, and can remember Tarek even long ago as a young boy at our local mosque in Wayland, MA. His family has always been very well respected in our community – his father is a kind, pious, and learned man for whom we all have much affection and respect. I am sure that his parents raised him in the best environment and taught him the best manners and values -- every interaction I ever had with him confirmed it. He had a very promising future, and I struggle to understand how he wound up in the current situation. I know he had plans to build his career and get married – in other words, to live out a regular, healthy life. A distinctive quality about Tarek is that, whenever I saw or met him, he always wore a wonderful smile.

I am respectfully asking for your clemency in sentencing Mr. Mehanna and minimizing any prison time. I firmly believe that, given the chance, he will go on to live a normal life as a law-abiding citizen, working hard for his family, contributing to our society, and being dutiful to his parents. Thank you for your consideration of this letter, which reflects not only my personal feelings but the common sentiment of our Muslim community in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Omar F. Lari".

Omar Lari  
Framingham, MA

Jeffrey Buck  
19 Elm Hill Park  
Dorchester, Ma 02121

Most Honorable Judge O'Toole Jr.,

I write to you with a most urgent matter concerning Tarek Mehanna. I have great concerns about the impending life sentence on this young man. I must confess that I do not know this young man, but he and I apparently crossed paths in life at our high school, Lincoln Sudbury Regional High School. My presence there was, sadly, only one-half of a semester, as I had realized school was not one of my primary motivations at the time, but I digress. My concern is precisely this: I fear that by sentencing Tarek Mehanna to a life sentence we are silently beginning the next American Civil Rights Group. This is an American Citizen; as I understand from his father he was born and raised in this country.

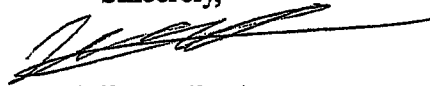
You must understand, Ahmed Mehanna, is my only impetus to writing this letter. I have known this man only three years, but he has never expressed a word of sorrow to me regarding his son's fate until I visited his office at my school, Massachusetts College of Pharmacy on March 14, 2012. In my experience, this is an example of one of the most stoic and respectable men I have met in my life. He has in the past humbled himself in front of three hundred students to clarify an earlier discussion we had in private; merely to clarify to me that I was right in the end. I should add that he raised his arm precisely in the direction I was sitting in the classroom; this further emphasized to me the great honor he had for his fellow man. I have corrected many professors for the errors they have made in their lectures, he is one of the few the acknowledge it. I do not think he would have asked me, of all people, to write this letter. I feel it necessary to add that at the end of our most disheartening conversation about his son, he still agreed to help me with my potential ideas for the pharmaceutical industry.

I implore you to understand who is writing this letter to you and why. You see, I am a man who has learned under the enforcement of the legal system, and I do not believe I have ever been treated unfairly, save one circumstance. Because of this, I have learned to grow from my mistakes, not look back in spite; now I may become a licensed pharmacist in the state of Massachusetts. I have been able to grind my way back to where I feel I fell off initially in 1993/1994. I am now quite respected among my fellow students, in spite of having no high school diploma. I may be able to do so many things which many would have dreamed impossible, if you were to merely look at my legal record. This is

not about me. I want to make that clear. This is about how Tarek and I could be similar cases, should you not condemn him to life in prison.

I understand my struggle is not over, as now I must prove to the employers of this great nation that I have understood the errors of ways in the past, and I am greatly humbled by all of the great people along the way who have made this so. I cannot speak to the evidence of the case, nor to the accuracy of the testimony given in the trial. I *do know* that along my path many have not given up on me; a result which I believe to be related to resilient and empathic nature. I cannot say for certain, as I do not know him; it seems like he was a man trying to help people around him find their way. Just as so many have helped me along mine. I implore once more to consider reducing this man's sentence so that he may given the chance to learn from his errors and replace them with the good deeds he (once again, that it seems to me) he intended.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey B Buck', with a long horizontal flourish extending to the right.

Jeffrey B Buck

PharmD Candidate, 2013

Massachusetts College of Pharmacy and Health Sciences



Omar Abdala  
655 Concord Ave  
Cambridge, MA 02138

The Honorable Judge George A. O'Toole, Jr.  
U.S. District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole

I write this letter to strongly recommend leniency in the sentencing of Tarek Mehanna, the Sudbury man convicted of material support to terrorist organizations recently. I have known Tarek since around 2005 as a friend of my wife's family who I see at family gatherings several times a year. The Tarek I knew was a kind, extremely well mannered, mature, devout Muslim of high scruples who respected the letter of God's law and man's law. While I did know most of his well-publicized political views surrounding hegemonic American foreign policy, I had known nothing of the activities detailed in the trial. I did determine from conversations with him that his Islamic outlook and rhetoric was neither extremist of the sort that makes most Muslims uncomfortable nor too dissimilar to mine and that of the majority of the Muslim community. Given this, I was extremely surprised by the nature and extent of the charges. In fact, even the juvenile manner in which the co-conspirators plotted and their immature rhymes and poems (one in particular comes to mind where Mahdi Bray, a man near and dear to my heart and currently recovering from a massive stroke, is referred to in a derogatory fashion as "Gay") seemed inconsonant with the Tarek I came to know in the time before his second arrest and incarceration. This left a significant gap in my mind that needed bridging.

The only conclusion I could come to after some review of the details uncovered at trial is that Tarek was on a developmental process and path from 2002-2008. There seemed to be some very unfortunate stopping points on this path. However, when considering the reformative aspects of sentencing, I think it behooves you to bear in mind who Tarek became at the end of these years. Tarek was a schoolteacher holding the attentive ear of many children who looked up to him, respected, and loved him. As far as I can gather from members of the community, Tarek utilized this position and relationship to preach peace with our larger society while maintaining Muslim identity.

I spent several years substantively involved in Law Enforcement community relations and one of the things that I learned most strongly is that despite our extremely divergent resources, reach, tactics, and all of our disagreements, ultimately Law Enforcement and the organized Muslim community have the same goal when we view our situation prospectively rather than retrospectively. We all seek to prevent recurrences of terror, international or domestic, and we stand together in horror of the idea of homegrown terror taking root. It is in this regard that I present the opportunity Tarek represents for the society.

At trial, the violent Salafi Jihadi path was presented as a nexus which can't be disentangled, where one is synonymous with the other. I think this idea does us a disservice in mitigating risk of violence from some disaffected Muslim youth. While some of the stages of Tarek's development are thankfully relatively unusual (joining a crowd that aspired to travel internationally in search of Jihad-based adventures), there are some much more common ones. The desire to understand Islam deeply, to read, study and make sense of the directives contained therein, including those related to Jihad, and then to practicalize them into real life are fundamental to Muslim identity development and will not go away. Also, as evidenced in the trial by comments from the co-conspirators about the organized Muslim community, the youth who is trying to come to their own understanding is relatively unaffected by the logic and rhetoric heard in the mosques.

I can think of no better moderating influence to these youth than a man who has been through the process, went right to the edge of joining international Jihad (Tarek certainly had the capacity to continue his search for Jihad in Yemen, Iraq, across the red sea in Somalia, etc), then made a conscious decision that this was the wrong path, returned to reform and refocus his life and eventually come to a new understanding of what Jihad means to him which is more centered on building and service rather than destruction. If Tarek receives a life sentence, I truly fear for more Tareks who we as the Muslim community have no capacity to reach nor dissuade of immature and hasty ideas hatched in misunderstandings of the religion. I believe that a free and reformed Tarek is the best tactic we have to mitigating this risk.

Sincerely,

Omar Abdala

Nancy Khalil  
655 Concord Ave 702  
Cambridge, MA 02138

February 17, 2012

The Honorable Judge O'Toole Jr.  
US District Court  
1 Courthouse Way  
Boston, MA 02210

Dear Judge O'Toole

I wish we were being acquainted at a happier time. I can imagine, in your line of work, that you are often faced with difficult decisions, and the sentencing of Tarek Mehanna, is another one of the many you regularly deal with. His attorney, Jay Carney, has said in public forums that he finds you to be a fair and just judge, and those of us that do not know you as well as he does find comfort in his testament. Given the nature of Tarek's crimes and my area of professional experience, I write to you in regards to his upcoming sentencing,

I am currently a doctoral student in anthropology at Harvard University and my studies focus on Muslims in America in a post 9-11 climate and the development of Muslim-American subjectivities during the ongoing War on Terror. Prior to beginning my doctoral studies, I worked in higher education administration at Boston College's International Students' Office as well as at Wellesley College in the Office of Religious and Spiritual Life as the Muslim Chaplain. I received a Masters Degree from Boston College in Higher Education Administration where I focused and specialized on religious and spiritual development on college aged students. My family has known and befriended the Mehanna family for many years, and I have heard Tarek give talks and speeches on different occasions and seen the public evolution of his message and religious perspective. It is based on my expertise and observations of Tarek that I write to you.

The vast majority of theory related to religious development in young adults is framed in the concept of several stages or phases that a young adult will experience. These stages typically run a trajectory of maturity development, beginning with a focus on the self, progressing towards seeking acceptance, and finally, ending with moral character where one seeks to find structure while accounting for all types of gratification, including self, peer, community, and national. Tarek's development trajectory as displayed in the trial

by the defense and prosecution is a clear text-book case. It is unfortunate that Tarek went through certain periods and experiences that led him on a path that was found legally troubling. However, now, several years after that period in his life, and nearly three years after his solitary confinement began, the Tarek Mehanna we see now has matured drastically in his thoughts, in his understanding of national loyalty, in his religious interpretations, and even in his scholarship and writings. He is now at a point in his life where he can serve our society so much better to help reach other youth who may follow a path similar to his. I, as a leader in the Muslim community, am often labeled as too liberal, or too moderate – and while many find this refreshing, others find it suffocating. There are members of the community I simply cannot reach, and perhaps it is the case that they don't need reaching, perhaps not. Tarek's personal experiences and developmental maturity put him in a position to help the Muslim community in America in its growth process. I urge you to consider this as you choose to sentence him. I urge you to keep in mind the great service he can provide amidst the community than locked in a jail cell. I urge you to look at how the increase in lock-up as a result of similar cases around the country is impacting the Muslim community. How they interpret that as an attack on their faith, an attack on their friends and families. I urge you to consider that lengthy sentences in a case like this one will send a message of further unwelcome, not of a behavior, but of a people. I know as a Judge, your duty is to uphold the law – and I find this one of the most critical professions in our nation. It is also critical to understand how decisions can be \*perceived,\* for it is perceptions, and not necessities, that inform people's actions and responses.

Thank you so much

  
Nancy Khalil



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March 30, 2012

Hon. George A. O'Toole, Jr.  
United States District Court  
1 Courthouse Way  
Boston, MA 02210

**United States v. Tarek Mehanna**

Dear Judge O'Toole:

I am writing in support of leniency for Tarek Mehanna on behalf of the National Coalition to Protect Civil Freedoms (NCPCF), a national non-profit coalition of eighteen different organizations dedicated to protecting civil freedoms and upholding constitutional rights. NCPCF monitors the cases of many people, such as Tarek Mehanna, who are charged and often convicted of terrorism-related offenses even though there was no actual terrorist plot. We believe that sentences in such cases are often much harsher than necessary, in violation of the parsimony clause of 18 USC 3553(a).

Tarek Mehanna is a devout Muslim who has given much to his community. A pharmacist with a doctorate in pharmaceuticals, Dr. Mehanna could have been making a six figure salary. Instead, he elected to teach religion, math and history at the Alhuda Academy, an Islamic day school in Worcester, MA. He is very well respected within the Muslim community, and by many non-Muslims as well.

On behalf of NCPCF and its member organizations I respectfully request that you take into account Tarek Mehanna's long history of dedication and service to his community, his lack of any criminal history, and the fact that he was not convicted of any connection to any actual terrorist plot, and impose a lenient sentence. Thank you.

Sincerely,

Stephen F. Downs

Executive Director, NCPCF

Eman Atef  
11 Hoeg Street  
Randolph MA 02368

April 2, 2012

The Honorable George A. O'Toole  
US District Court  
1 Courthouse way  
Boston MA 02210

Dear Judge O'Toole:

My name is Eman Atef, I am an Associate Professor at MCPHS, the school that Tarek Mehanna graduated from. I got to know Tarek while I was still a Master student and he was a student in the Doctor of Pharmacy program in the same school. I was his TA in the lab, and worked with him in the Muslim Students Association. This is almost twelve years ago. I also did have a good relation with his family, specially his father, who was my advisor and then a colleague in the same department.

Tarek is a valued member of the community, in addition to being an extra caring person. I am sure you are aware of his volunteering activities in Sharon shelters and other community services that were clearly mentions in the court. He is indeed a dedicated community member. He dedicated lots of his time to the society at large.

I could confidently say that during his 6+ years at MCPHS, I have seen nothing from him other than kindness, and caring for others and the society.

I'm grateful for you, and wish that you consider this letter and Tarek commitment to the Muslim and American society while deciding on Tarek sentencing. Thank you!

Sincerely,

Eman Atef

A handwritten signature in black ink, appearing to be 'Eman Atef', written in a cursive style.

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March 14, 2012

Jennifer D. Sinclair  
U.S. Probation  
One Courthouse Way  
Boston, MA 02108

## Re: United States v. Tarek Mehanna

Dear Ms. Sinclair,

Thank you for your report on our client Tarek Mehanna. We have a number of objections and list them as follows, identifying the relevant paragraphs:

### (10) Related Cases: Daniel Maldonado

The defendant objects to the assertion that the prosecution of Daniel Maldonado in Texas is a related case. Maldonado pled guilty after he went to Somalia and participated in armed conflict between the Ethiopian forces and the Islamic Courts Union. The defendant knew Maldonado when the latter lived in New Hampshire. Tarek Mehanna had nothing to do with Maldonado's criminal activities. In fact, as related during the trial, Mehanna tried to persuade Maldonado *not* to go to Somalia. Further, when Maldonado requested that Mehanna come to Somalia and engage in fighting with him, Mehanna refused. This is supported by Maldonado's trial testimony when he was called by the government, and by recorded telephone conversations between him and Mehanna.

(13) - (64) The defendant objects to the statement of relevant facts which the government provided to you. Although the government obtained convictions on all charges after 34 days of trial, it used the rubric of "relevant conduct" to "spin" the facts. The government omitted information that the court must consider for a balanced and accurate account of "relevant conduct" and mixed in facts that are not reflected in the pretrial or trial proceedings. Finally, the government's version of the facts constitutes distortion, mischaracterization or direct contradiction of testimony by their own witnesses at trial.

The defendant submits the following Statement of Relevant Conduct, which is more accurate, using your given titles:

Radicalization of Tarek Mehanna and Others (13) - (19)

Mehanna's interest and commitment to Islam began in his teenage years. He read, studied, and memorized sections of the Qu'ran and the hadiths, which are stories and descriptions of the actions of the prophet Mohammed and his earliest followers. Mehanna's religious growth is documented throughout his emails, instant messages and tape recordings. Mehanna repeatedly discussed his eagerness to visit bookstores in New York and Egypt to buy religious books not available elsewhere. He listened to tape recordings and internet streamed audio of religious scholars. He attended conferences and weekend study groups at the Al-Maghrib Institute, which focused solely on Islam. The government mischaracterizes the defendant's religious commitment as simply about jihad by ignoring the testimony from their own case in chief, scores of trial exhibits and expert testimony in contradiction of such a blanket claim. See Gov't Stmt at pp. 2-5.

Mehanna did not recruit others to violent jihad. The government's portrayal of Mehanna's conversations with other Muslim youth as "recruitment" is simply absurd. Mehanna knew many young Muslim men. Their families attended the same mosque and as a result, these boys had known each other for years. Mehanna was friends with Abousamra, Masood and Abu Zahra, all of whom became more pious over time. As explained at the trial, Muslims do not date; they do not drink alcohol; they do not use drugs; and they do not go to clubs or concerts. Their social lives were heavily restricted. They identified with each other as minority groups do. They debated and discussed religious and political issues. Camaraderie among minority groups cannot possibly be deemed "relevant offense conduct" for purposes of sentencing.

It was entirely uncontested at trial that Mehanna publicly opposed central tenets of al Qaeda. The government neglected to state in its factual recitation that in many trial exhibits, Mehanna staunchly and publicly opposed al Qaeda's unlimited attack on the West. Moreover, Mehanna encouraged others to adopt his point of view – hardly the "recruiter" to terrorism that the government paints him to be. Dr. Andrew March of Yale University and Dr. Mohammad Fadel of the University of Toronto unequivocally testified that Mehanna's writings boldly contravened al Qaeda's message.

Mehanna believed that as an American citizen, he had a religious obligation not to harm Americans. He believed that Muslims living in Iraq and Afghanistan (and other Muslim countries) had the right to defend themselves against an invasion of Muslim lands by foreigners. Muslims and non-Muslims alike believed that the invasion of Iraq was unjustified and that the Iraqi people had the right to defend their land. Mehanna shared that belief and thus, he thought that the killing of Muslims in Afghanistan and in Iraq by coalition forces, including the United States, was morally wrong.

Mehanna did not believe that he, as an American citizen, could kill Americans. Mehanna believed unequivocally that he was under a pact with the United States whereby he could not hurt Americans. This pact is called in Arabic an *aman*. Mehanna repeatedly expressed the view



that civilians, who were in Muslim countries for peaceful purposes, like schoolteachers, were not legitimate targets of violence and should not be hurt. He believed that it was wrong to hurt innocent civilians. The government ignores the plain fact that Mehanna always wrote about the rules of engagement during war and only during war. He had no animus against Americans outside the context of war. His debating the legitimacy of and casualties from war is entirely legal.

The government offered no contradicting expert witness or trial exhibit which showed Mehanna so much as wavering from his stance on the rules of engagement. In fact, Tibyan Publications, an Islamic electronic forum, terminated Mehanna as a forum contributor due to his staunch opposition to al Qaeda views.

In 2006, Mehanna wrote in one instant message to Ali Abu Bakr, a government cooperating witness, that he had been following Osama Bin Laden for over six years and that "he's the reason I started practicing." However, it is specious for the government to so literally attribute Mehanna's religious awakening solely to Bin Laden based upon this single online statement in a casual internet chat. The evidence bore out the many ways in which Mehanna heightened his piety by reading Islamic scholarship, improving his Arabic, and engaging in debate about Islam. Mehanna admired Bin Laden in selective ways, as did *all* of the government cooperators and many others. But Mehanna also took stances exactly opposite Bin Laden on fundamental al Qaeda issues. Like so many significant omissions in the government's statement, Mehanna's staunch opposition of al Qaeda views is significantly absent.

#### Efforts to Train for and Participate in Violent Jihad (20) - (22)

There was no evidence that Mehanna trained for violent jihad. One witness claimed that prior to leaving for Yemen, they took a walk in the Blue Hills. This hardly qualifies as rigorous training, contrary to the more relevant examples presented in other terrorist cases, such as military drills and firearms training.

There was no evidence at trial that Mehanna ever went "operational" or caused any physical harm to anyone. Mehanna had five years and five opportunities to "go operational," but he never did. He neither went to nor attempted to go to Pakistan, while Abousamra went there twice. Mehanna did not go on to Iraq with Abousamra after they left Yemen in 2004. Mehanna made no effort to go to a war zone or find military training when he went to Egypt in the summer of 2006. Mehanna never went to Somalia to join Daniel Maldonado. He knew about that trip before Maldonado went. He resisted Maldonado's urgings to join him, even when Maldonado gave Mehanna specific directions as to what airline and airport to use.

The government's cooperating witnesses received full immunity and freedom despite admitting direct, operational participation in numerous terrorism crimes. Because of the nature of conspiracy law, Mehanna was held legally responsible for the acts of others even though he did not take such actions himself. The jury may have found him guilty of conspiracy, but the relevant offense conduct and sentence should be tailored to account for the co-conspirators' different levels of culpability.

Abousamra went to Pakistan twice seeking military training. Mehanna did not go with him. He did not give Abousamra any money as Abu Zahra did. He did not assist Abousamra with possible contacts or means to get into Pakistan as Masood did. It was Abousamra who sought out old contacts. It was Abousamra who was desperate to go overseas to obtain training and fight. Mehanna shared no such commitment.

The government has from the beginning of the case attempted to portray Mehanna as weaving some kind of spell over others to bring them into a terrorist cell. This is a fantasy of the government's own making and an unwarranted exaggeration of friendships among a group of young men of similar age and religious interest. Maldonado converted to Islam before he ever met Mehanna or Abousamra. He became a Salafi when he lived in Chicago, and he located the website Clear Guidance and information about jihad on his own. Maldonado repeatedly described Mehanna's focus as strengthening his faith and religion. Every witness's testimony, statements, and instant messages make clear that Abousamra was the radical, extreme, and vitriolic one, not Mehanna.

Daniel Spaulding, who was Abousamra's brother-in-law, testified at trial that Maldonado introduced him to his views about jihad. He testified that rather than a small circle of people who kept Mehanna's and Abousamra's secrets, they were people with whom Abousamra would be more forthright. It was a group of friends that "would come and go." Spaulding was clear that Mehanna was not providing support to al Qaeda. Mehanna expressed his views on the need for Muslims to defend themselves against invading armies. Spaulding testified at trial:

Q. You don't ever recall Tarek Mehanna say that al Qaeda is doing an important job, do you?

A. I don't recall him making a statement to that effect, no, sir.

Q. You don't ever recall Tarek Mehanna saying, We need to support al Qaeda, do you?

A. Again, I don't recall words specifically to that effect.

Q. You never remember Tarek Mehanna saying, We should join al Qaeda, do you?

A. I certainly don't have any recollection of that, sir.

Q. You don't remember Tarek Mehanna ever saying that, We've got to do something to advance the cause of al Qaeda, do you?

A. I don't recollect any statements to that effect.

Q. You don't know of any instance where Tarek Mehanna was directed by al Qaeda to do something, do you?

A. I have no knowledge of that, no, sir.

Q. There was no instance that you know of where Tarek Mehanna was in contact with someone from al Qaeda coordinating something with al Qaeda, are you?

A. I have no knowledge of that, sir, no.

Q. There were no overseas-based influences that you knew of that were directing or coordinating with Tarek Mehanna, isn't that true?

- A. Not that I'm aware of, no, sir.
- Q. Now, certainly, sometimes Tarek would comment favorably when watching a Jihadi video, right?
- A. Correct.
- Q. You actually told the FBI that you thought Tarek was really a lot of "bluster," was a term you used?
- A. I don't recall if I told that to the FBI or not, sir.
- Q. Is "bluster" a word you use?
- A. I have used it before, sir, yes.
- Q. Would it be applicable to say that there were a lot of times when Tarek was a lot of bluster?
- A. Yeah. We all were at that time, sir, yes.
- Q. What does "bluster" mean?
- A. Just kind of venting and saying stuff, but there's no actual substance to it.
- Q. It's fair to say that Tarek believed that the way he could support Jihad was through prayer, right?
- A. Yes, sir.
- Q. Through speaking in favor of getting invading armies out of a Muslim country, right?
- A. Yes, sir.
- Q. He believed in translating documents from another language so that people in America could read the other point of view --
- A. Yes, sir.

(Tr. 11-22-11 at p. 140).

Contemplating and Pursuing Domestic Attacks (22) - (26)

Mehanna never contemplated or pursued domestic attacks.

The government did not accurately describe Mehanna's alleged involvement in domestic attacks. Mehanna never participated in any such attack and he believed that a central precept of Islam – *aman* - forbade him from doing so. The government knows this because it neither charged these acts as a crime nor even listed them as overt acts in the indictment. This insidious allegation always appears beside Mehanna's name in the media and yet, there is no truth to it.

There is no evidence of Mehanna's participation in any domestic attack. No emails refer to it in veiled or unveiled ways. Such alleged participation cannot be found in any of the instant messages. It cannot be validated by any recorded phone conversation or other discussion in Abu Zahra's presence. Of the millions of images on the computers, there was not even a half-destroyed thumbnail image of a shopping mall, of Hanscom Air Base, or of any other domestic "target."

These allegations come from the words of one and only one person – Kareem Abu Zahra. Abu Zahra testified that he went to Daniel Maldonado to obtain guns and that Maldonado said

that the guns “would have bodies on them.” Abu Zahra testified that he went to Maldonado because he knew that Maldonado had been a gang member. Maldonado denied all of this. Maldonado testified that he never said anything about guns with bodies on them, and Maldonado had never been a gang member.

The claim that there was a discussion of attacking Hanscom Air Force Base was again a completely uncorroborated and specious accusation by Abu Zahra. Abu Zahra was familiar with Hanscom because he had taken a motorcycle riding course there. Abu Zahra’s accusation magically surfaced shortly before trial, even though FBI agents and the AUSAs had previously interviewed him dozens of times.

The government alleged that Mehanna and co-conspirators discussed potentially killing John Ashcroft. In a report filed by the FBI on November 2, 2006, Abu Zahra stated that only he and Abousamra discussed Ashcroft. (KAJ00136). At the trial, and as acknowledged by the government, it was only Abu Zahra and Abousamra who discussed Condoleezza Rice. Mehanna cannot be held responsible for discussions held by others outside of his presence about attacking buildings and government officials when he had no knowledge of these discussions. Abu Zahra himself settled the issue that there was no conspiracy to carry out any domestic attack:

- Q. Yesterday you talked about discussions about actions involving Condoleezza Rice, John Ashcroft, a shopping mall, and Hanscom Air Force Base, right?
- A. Yes.
- Q. And I'd like to have you make one thing crystal clear: At no time was there ever an agreement among you and Tarek and Abousamra to actually carry out any of those things you were talking about?
- A. Correct.
- Q. There was never at any time an agreement among the three of you to actually go out and do them, was there?
- A. There was not.

(Tr. 11-30-11 at p. 80).

The government’s omission of these facts is yet another example of how the government has presented to you the “relevant” conduct that it wishes it had developed at trial. It is important to contrast Mehanna’s actual, relevant conduct with Abu Zahra’s conduct in this case. Abu Zahra funneled thousands of dollars directly to fund terrorist activity. Abu Zahra admitted to planning domestic terrorist attacks. He left a “martyrdom” video for his family when he was departing for Yemen. There is absolutely no doubt that Abu Zahra would have been guilty of multiple counts of material support to terrorists and to a foreign terrorist organization, of conspiracy to kill, of conspiracy to commit false statements, and of quite possibly other charges that the government could see fit to bring. A prosecution of Abu Zahra would have been totally secure without thumbnail images, guesswork, and innuendo. The government, however, let Abu Zahra go completely free despite the serious violations of the law that he committed. The government’s rhetoric in its statement of relevant conduct is hyperbolic, unsubstantiated, and emotional,

perhaps because in its effort to prosecute Mehanna, it let the real terrorists go free. The government's ire in this case is not about what Mehanna did but about what he did not do - turn into an informant.

Trip to Yemen (27) - (33)

Mehanna traveled to Yemen, but the government offers no reasonable explanation as to why he did not continue on to Iraq. With due deference to the jury's verdict, we point to an uncontested fact with respect to Mehanna's trip to Yemen: Mehanna *came back* to the United States rather than continuing on to Iraq with Abousamra.

Mehanna did not know Jason Pippin. Abousamra contacted and met with Pippin. Abu Zahra paid for Mehanna's airfare to Yemen. Without Abu Zahra's financial assistance, Mehanna would not have gone.

Mehanna did miss some classes at school while he was in Yemen. However, he neither withdrew from the school nor abandoned his academic program. Upon his return, he resumed his education until he graduated with his doctorate in 2008.

The government stated that before he left, Mehanna gave his brother a bag to destroy with information containing how to make a bomb. No such bag was ever found. The defendant's brother was not called as a witness by the government, nor was he interviewed by any agents. There is no reference to such materials in any chats, emails or recorded conversations.

Abu Zahra left Mehanna and Abousamra in the United Arab Emirates stopover, and returned to the United States. He testified at trial that he gave them money. Abu Zahra did not testify that he provided anyone with a backpack, a shaver, and a belt. Even if he did swap backpacks with Abousamra, none of these items qualifies as "equipment."

Mehanna later described his experiences in Yemen to several people. However, the government conflates these various conversations, omitting the context. In an instant message with Ali Abu Bakr, Mehanna (using the screen name Sayf Maslool) described a school he stayed at in Yemen as follows:

Sayf Maslool: so anyway  
Sayf Maslool: there's a school there  
Sayf Maslool: that is very good  
'Ali Abu Bakr: is that the one that shaykh muqbils students run or something  
Sayf Maslool: hehe - yes.  
Sayf Maslool: he is Masri  
Sayf Maslool: and his name is Abul-Hasan  
Sayf Maslool: like you  
'Ali Abu Bakr: haha mashaAllah  
Sayf Maslool: I met his son  
'Ali Abu Bakr: abulhassans?  
Sayf Maslool: yeah

Sayf Masloul: Abul-Hasan himself was on Hajj when I was there  
Sayf Masloul: but, they all walk around the camp  
Sayf Masloul: with camo jackets and AK-47s  
'Ali Abu Bakr: maaan, no way  
Sayf Masloul: way.

'Ali Abu Bakr: haha thats awesome  
Sayf Masloul: It's more of a camp  
Sayf Masloul: than it is a school  
Sayf Masloul: u basically live with like, 300 other brothers  
Sayf Masloul: eat, pray, study, with them  
Sayf Masloul: etc

Mr. Gregory Johnsen, a Princeton expert on Yemen, testified that Yemen is a primitive country divided by tribal affiliations. He testified that people routinely carry assault rifles, such as AK-47's, on Yemeni streets. Mr. Johnsen said that he carried guns and rifles himself when he was in Yemen. If Mehanna were at a training camp and not at a school, it would make no sense that he would write to Abu Bakr with amazement that people carried guns. It makes more sense that Mehanna was describing his incredulity that people carried assault rifles as part of a typical way of life, including at a school.

The schools Mehanna described are primitive, often little more than a camp-like site with some mud buildings or tents in which students study and live. Further, Mr. Johnsen explained that the Arabic word *mu'skir* for camp is used interchangeably with the name for school:

Q. What is the colloquial meaning of mu'skir?

A. This is a very flexible term that's used in a lot of different ways. So it can be used to describe, say, a military camp. For instance, the First Armored Division has a camp in Sanaa, right above Sanaa University, in Yemen, obviously. This is referred to as mu'skir. Also, I've had friends from church in the Middle East who refer to, like, a vacation bible school in the desert as mu'skir. So it's one of those words that, when used in common speech, becomes quite flexible, like many of the words that we have in English.

(Day 30 12-8-11 at p. 77).

Mehanna described one occasion when he was in Yemen and his bus was stopped by bandits. On another occasion, in 2006, in an instant message, Mehanna (using the screen name al-Faqir ila Allah) was asked to tell a correspondent, Mu'awiyah (who did not testify at trial), to describe Marib, an area in Yemen. Mehanna responded as follows:

Mu'awiyah: so akhi tell me about marib  
al-Faqir ila Allah: heh  
al-Faqir ila Allah: it's a wild land

al-Faqir ila Allah: very tribal  
al-Faqir ila Allah: full of bandits  
Mu'awiyah: have you seen tribe infighting there?  
al-Faqir ila Allah: and al Qa'idah

It is unclear from this instant message whether Mehanna was referring to the Marib that he personally viewed then or whether he was combining his past experience with the later knowledge he gained about al Qa'ida's presence in Yemen by 2006. Gregory Johnsen was quite clear that at the time Mehanna went to Yemen in 2004, there was no al Qa'ida presence. The resurgence of al Qa'ida in Yemen did not occur until February 2006.

In a conversation recorded by Kareem Abu Zahra, Abousamra repeatedly stated that his travel to Iraq was his own idea and his own decision. Similarly, Abousamra's earlier trips to Pakistan were his decision alone and Mehanna was never mentioned in association with those trips. Abousamra went to Pakistan after discussions with Hassan Massoud but there was no evidence that he told Mehanna about them. In fact, it is not clear that Mehanna and Abousamra were even particularly good friends when Abousamra went to Pakistan.

#### Continued Conspiracy through Translation Services (34)

The government's claim that Mehanna's independent translations constituted material support for al Qa'ida and other terrorist groups is wrong as a matter of law and of fact. Although the government charged these actions as material support, the jury did not specify the means by which it determined that Mehanna provided material support to terrorism. The jury could have found that Mehanna provided material support by going to Yemen, by lying to the FBI and/or by his activities in speech and writing. The government opposed the use of a special verdict slip which would have delineated the manner by which the jury reached its verdict. Since there was no special verdict form, there is no support for the government's claim that the jury found that Mehanna's free speech activities violated the law.

The government maintains that Mehanna provided material support to al Qa'ida by translating documents and posting them on the internet. This is conduct that is protected by the First Amendment. It is independent advocacy under *Holder v. Humanitarian Law Project*, 103 S. Ct. 2705 (2010). Mehanna's translations and distributions constituted independent advocacy because the government never proved that they were in coordination with al Qa'ida or terrorists.

There was no evidence that Mehanna had any knowing or direct contact with any member of al Qa'ida. The government never proved a direct link between al Qa'ida and Mehanna. Mehanna wrote on Islamic forums. In this virtual world, anyone may know another person online who knows someone in al Qa'ida. In its opening statement, the government stated that Osama Bin Laden put out a call for "*help across the world*" and that Mehanna "answered that call." The government effectively seeks to eviscerate any sort of "independent advocacy" by stating that this "call" alone forges a direct link between Mehanna and al Qa'ida.

There is no case which states that translations and communications with others expressing political and religious views constitutes material support of terrorism. The

government has portrayed Mehanna as reaching through cyberspace like some super villain. The actual facts are that Mehanna wrote on two forums: Clear Guidance and Tibyan Publications. Many people who wrote on these forums believed in jihad - some more violent in their rhetoric than others. But at no time did the government prove that these forums contained operational information as other websites were known to do. For example, these forums contained no descriptions about how to make suicide vests or what type of poisons to find and use. The contributors on these forums wrote and shared ideas, which are protected under the First Amendment.

Mehanna was fluent in English and Arabic and translated documents. Tibyan Publications included a small number of people with similar fluency. Translations were completed and posted. At no time was there any established direct link between Mehanna and an al Qaeda member in which he completed a translation at the behest of al Qaeda.

Mehanna translated "The Expedition of Umar Hadid," which carried an al Qaeda logo. There was no evidence, however that any member of al Qaeda contacted him to work on this translation. The final version of the video indicated that someone who spoke British English completed the translation. There was no evidence as to whether "The Expedition of Umar Hadid" was a successful recruiting tool. There was no information and there were no statistics which indicated that anyone decided to join al Qaeda or commit any terrorist activity after watching this video.

Mehanna also translated "39 Ways to Serve and Participate in Jihad." ("39 Ways"). He wrote and translated this document independently for those people who did not intend to fight. The government states that Congressional testimony, private think tanks, and Arabic language broadcasters call "39 Ways" instrumental in encouraging terrorism. But it provided no evidence of this at trial other than the self-serving testimony of Evan Kohlmann. As defense expert Dr. Mohammad Fadel testified, most of the "39 Ways" come straight from the Qu'ran.

There was no evidence Mehanna digitally edited any material. He did not distribute materials as a service to al Qaeda but rather as part of his independent advocacy for Muslims. He did not translate the Abu Anas video. He did not translate or edit the Wa Yakoon video. He did not perform other creative tasks. He made one suggestion that a video show some footage of fighters. He did not know how to edit or insert graphics or animated clips.

The government cites to various individuals who had the "39 Ways" on their computer. First, the government has provided no information or evidence about these supposed individuals other than that the document was sent to Sohail Qureshi. Mr. Qureshi's computer was filled with thousands of similar documents - so many that the United Kingdom computer experts could not list all of them. "39 Ways" was posted and is still available on the internet. There was no evidence or discovery provided about other individuals.

Mehanna forwarded to others links to videos and speeches. He did so as independent advocacy and not in coordination with al Qaeda. As the Supreme Court stated in *Holder v. Humanitarian Law Project*: "Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the



foreign terrorist organization's direction and control.” *Holder, supra* at 2721. “In particular, we in no way suggest that a regulation of independent speech would pass constitutional muster, even if the Government were to show that such speech benefits foreign terrorist organizations.” *Holder, supra* at 2730.

Translation, editing and other internet activities (35) - (43)

Mehanna’s limited online or off-line contact with other individuals does not constitute criminal relationships involving conspiracy to provide material support.

The government also noted the use of secrecy and code words as evidence of some plot to support al Qa’ida. It is commonly known that all American Muslims were concerned about surveillance by federal authorities. Mehanna and his friends used wholly unsophisticated phrases like “peanut butter and jelly” for jihad and “Bob” or “Brian” for the FBI. These codes hardly require top echelon cryptologists to crack. American Muslims know they are monitored, even when they have done nothing wrong and even when they cooperate with law enforcement. For example, in October 2011, the media revealed that an Imam in Brooklyn who had fully cooperated with the New York Police Department was being secretly monitored. In August 2011, the Associated Press published a lengthy report of its investigation into the NYPD and the CIA monitoring activities in Muslim neighborhoods and mosques.

Tibyan Publications (44) - (47)

Mehanna translated materials for Tibyan Publications. He did not do so as a direct request by al Qa’ida. The government cited to an instant message between Tariq Al Dour and Wassim Mughal, two men convicted of terrorist activities in the United Kingdom, about translating activities. In that exchange, Mughal stated that al Qa’ida needed help in translations and asked if Tibyan Publications could assist in this. However, Mehanna did not translate an al Qa’ida magazine, “The Camel’s Hump,” as requested by one of the Tibyan administrators.

The government states that the internet is critical to al Qa’ida, and its use for recruitment has increased in the last eight years. This presumably came from the government’s so-called “expert,” Evan Kohlmann, who has no advanced degrees, no legitimate qualifications, and testifies only for the government earning fat fees. Defense expert Dr. Marc Sageman testified that videos are insignificant recruiting tools. In recent testimony before the Congressional Homeland Security Committee, Brian Jenkins from the Rand Corporation testified that the success of al Qa’ida’s use of the media was overblown and exaggerated. He stated:

It appears that while Internet strategies aimed at creating at least weak ties among a large number of online participants offer opportunities to terrorist enterprises like al Qaeda, such strategies also appear to have inherent weaknesses. They may create virtual armies, but these armies remain virtual. They rely on individual initiative to carry out terrorist actions, but they offer online participants the means to vicariously participate in the campaign and please God without incurring any personal risk. Online jihadist forums may be providing an outlet that distracts jihadists from involvement in real world operations. This may be a

particular weakness of the jihadist movement, which recognizes fervent commitment evidenced by making disruptive threats, urging others to carry out attacks, creating terror, rather than limiting participation to physical terrorist attacks. If 90 percent of the struggle *is* communications, according to al Qaeda, then online jihadism cannot be disparaged. For the virtual warrior, the opportunity to display one's convictions, demonstrate one's intentions and prowess through boasts, threats, and fantasy attacks on the Internet counts as achievement. al Qaeda's own pronouncements tend to equate the declaration of intentions with their achievement. They include among their accomplishments what they intend to do. For many young men who grew up with the Internet, there is no sharp line dividing the real world from the virtual world — the virtual world *is* the real world. Online jihadism, then, may be a distraction from the real thing — not a call to arms, but a psychologically rewarding videogame.

Individual participation in an online group as opposed to joining a real group may further undermine action. While some individuals display the resolve to carry out attacks without the reinforcement of peers, the history of terrorist plots suggests that peer pressure plays an important role in driving a conspiracy toward action. On the Internet, one can turn off the conspiracy at any time. Online jihadism is readily accessible but it also offers easy off-ramps.

(Testimony before Congress, December 6, 2011)

The government greatly exaggerates when it states that Mehanna saw himself as the media wing of al Qaeda. Mehanna has never said any semblance of these words. A correspondent jokingly made this reference in a single instant message. The writer then said it was a joke. Mehanna did not respond.

Further, Mehanna has absolutely no control over who chooses to publish articles about his case. It is unwarranted and unfair to hold Mehanna responsible for what someone overseas wrote about him. As the government knows, the poem Mehanna wrote, "Make Martyrdom What You Seek," was written when he was 16 years old, and he won an MIT Poetry Slam prize for it. Others have written about Mehanna's case, including ex-CIA agents, law professors and local journalists. A suburban lawyer from Weston called a radio show to object to the repeated use of images of the World Trade Center during the trial. In other words, this is all part of free press. People are free to read, comment, and publish on this or any other public trial.

Mehanna's possession of videos that were unpopular and graphic was protected First Amendment conduct. The government references videos repeatedly in its statement of relevant conduct. Possessing these videos, viewing them, and distributing them are not illegal acts.

The videos the government cites are all publicly available for anyone to access. *The State of the Ummah* may have been published by al Qaeda, but Al-Jazeera television showed it in full. It appears to this day on YouTube. *The Martyrs of Bosnia* may have been distributed by Azzam Publications, but it too is freely available today on a number of websites, including YouTube.

Azzam Publications was shut down in the fall of 2001, long before the defendant's trip to Yemen in 2004 and his translation activity in 2006.

The government states that many of the videos that Mehanna and others watched were graphic. This much is true. But then the government asserts that the videos were produced and distributed to "inspire, recruit, and inform." This was the opinion provided by the government's expert, Evan Kohlmann. Mr. Kohlmann provided no proof that these videos inspired, recruited, or informed anyone. Defense expert Dr. Marc Sageman has studied al Qaeda recruitment on behalf of the United States Government, and he testified that al Qaeda did not recruit through these videos. He testified that there is no evidence that such videos are successful recruiting tools. The majority of al Qaeda volunteers come from countries like Afghanistan and Pakistan where internet access is available to less than 5% of the population.

#### One on One Recruitment of Others (48)

As stated above, Mehanna opposed the views espoused by al Qaeda. He did agree that the United States and coalition forces should not be in Iraq and Afghanistan engaged in a war against an indigenous Muslim population who had not attacked the United States. As demonstrated repeatedly at trial, Mehanna disagreed with other views espoused by al Qaeda.

Mehanna had a group of friends, who shared similar interests. He did not radicalize them or persuade them towards his point of view. He did talk about moving to Yemen or other Mideast countries after he finished his education out of a desire to live a life where the population was Muslim and where he could practice his religion and culture freely and openly. When he was arrested, he had obtained a job at the King Fahd Medical Center in Saudi Arabia to establish a diabetes clinic - where he could help other Muslims. The government's effort to tie this mature decision to a nefarious motive is disingenuous.

#### Providing Assistance to Others Engaged in Crimes (49) - (53)

Mehanna had little contact with the others the government referenced in their statement and he did not provide assistance to them. His relationship with these individuals was established at trial as follows:

Jason Phippen – Mehanna posted a few times when Jason Phippen did. But Mehanna did not know Phippen's real name, and he never met or spoke to Phippen.

Tariq Al-Daour – Mehanna posted back and forth with Tariq Al-Daour and discussed meeting him during a stop-over at a London airport. But Mehanna never met Al-Daour. Al-Daour tried to involve Mehanna in a credit card scam, but Mehanna refused to participate, as the government well knows. An email from Henry Miller, Al-Daour's attorney, to Mehanna inquired about an instant message in the Al-Daour investigation. Miller wrote to Mehanna:

3 May 04: Tariq is clearly asking you about possible credit card fraud.  
But from your responses this is something that you were never involved  
with and didn't go any further.

Waseem Mughal – There was no evidence Mehanna corresponded with Waseem Mughal.

Omar Hammami – Mehanna did not know Hammami “very well.” He met Hammami once with Maldonado socially in the summer of 2006 in Egypt. At that meeting, Maldonado expressed his interest in going to Somalia. Mehanna warned him against doing so and told him that he needed to think of his children and his wife’s compromised health. When Maldonado called Mehanna from Somalia urging him to come, Mehanna did not go and made repeated excuses that angered and disappointed Maldonado and presumably, Hammami.

After Maldonado disappeared and later was arrested, Mehanna and Hammami exchanged emails about Maldonado’s arrest. Hammami did not become a leader in Al-Shabaab until much later and Mehanna had no knowledge or control over what Hammami did with his life.

Mehanna received a total of seven emails from Hammami after Maldonado was arrested. At that time, no one knew where Maldonado or his family was. Hammami and Mehanna speculated about who might have betrayed Maldonado, but this idle rumor-swapping was the extent of their contact.

Ehnsanul Sadequee – Sadequee was a translator on Tibyan as Mehanna and many others were. Mehanna had no control over what Sadequee did or who read what he translated.

#### False Statements and Obstruction of Justice (60) - (61)

Mehanna’s statements about his Yemen trip and about Daniel Maldonado did not obstruct any federal investigation.

#### **A. Yemen**

Mehanna was convicted of making false statements about his trip to Yemen. The government’s claim that these statements wreaked havoc on a government investigation is another exaggerated spin. Mehanna did not have to speak to the investigators and did not provide them with much detail about the Yemen trip. By the time Mehanna talked to the FBI in December 2006, the FBI already had a detailed story of the trip from Kareem Abu Zahra.

The government’s accusation that Mehanna’s statements allowed Abousamra time to flee before the charges were brought is an outrageous accusation and one not borne out by the evidence. Abousamra had been on a watch list since 2002. The government had the information about his entry into Iraq and his efforts to seek military training on two prior occasions when he went to Pakistan. The government stopped Abousamra on his way out of the United States on December 26, 2006 and simply let him go. By that time, the government had the complete cooperation of Abu Zahra and a recording of Abousamra discussing the trip to Yemen.

#### **B. Maldonado**

The FBI knew the moment Mehanna said that Maldonado was in Egypt that he had lied to them. The agents had recorded the conversation between Mehanna and Maldonado when Maldonado called from Somalia. Hammami background comments were evident as well. Mehanna's statement did not and could not have changed any investigation of Maldonado or Hammami.

#### Attempts to Subvert the Judicial Process (62)

It is the government, not Mehanna, who offends the integrity of the judicial process. Mehanna exercised his constitutional right to a jury trial in his case, and his behavior every day in court was that of a model citizen and inmate. He showed his belief in the judicial process and put his faith in his counsel and in the jury system. He and his family consented to searches of their home. Stunningly, his parents even allowed a consent search immediately after the FBI arrested Mehanna at the airport and his mother fainted. The government itself showed cynical disregard for the judicial process by repeatedly showing photographs of the World Trade Center on September 11<sup>th</sup>, photographs of Osama Bin Laden and other terrorist leaders, and videos of fighting in Iraq in order to prejudice the jury. Tellingly, the government did not refer to any of these videos or photographs in its closing argument.

In one of its more egregious statements, the government claims that after being told he would be charged criminally, Mehanna attempted to leave the country. The government knows that Mehanna left after he applied for and received a prestigious, well-paying job in his field. He made no secret of it. Had the court permitted testimony from his employer via Skype, the jury would have heard how impressed the King Fahd Hospital was with Mehanna and how shocked they were to learn of his arrest. They supported him fully and were willing to testify to that effect at trial.

Perhaps the government's willingness to distort and omit truth is the true subversion of the jury process. It is the government's willingness to bargain away public safety to people who unabashedly admit to terrorist crimes that is the true subversion of justice.

#### (63) Victim Impact

The defendant objects that additional points are added for victim impact. There was no actual harm which occurred as a result of Mehanna's actions. Abousamra, the absent co-defendant, traveled on to Iraq after he went to Yemen with Mehanna. Abousamra sought to fight U.S. soldiers. Mehanna did not and returned home. As stated above and repeatedly throughout the trial, Mehanna did not believe that he could or would harm U.S. soldiers. Islam forbade it. Further, the commentary to U.S.S.G. 3A1.2 states that it should not be applied in these circumstances:

This guideline applies when specified individuals are victims of the offense. This guideline does not apply when the only victim is an organization, agency, or the government.

There were no specified individuals or actual victims named in the case or in the indictment, but rather U.S. forces as a government organization. This enhancement should not be applied in these circumstances. There is no case which automatically applies this enhancement to terrorism cases. A review of *all* First Circuit cases shows that this enhancement is *only* applied when there is a specific individual who has been placed at risk, such as an arresting officer. *See United States v. Dixon*, 449 F. 3<sup>rd</sup> 194 (1<sup>st</sup> Cir. 2006) (enhancement applied where the defendant told investigators that he would like to kill two district attorneys and the attorney general and specified them by name).

Further, Mehanna's trip to Yemen occurred in February 2004 and thus, the 2003 Sentencing Guidelines (enacted in November 2003) apply. The enhancement under U.S.S.G. 3A1.2 in 2004 was 3 points and not 6. To assign the defendant additional points based on a later enhancement is a violation of the ex post facto clause of the United States Constitution. The 6 point enhancement is also not warranted by applying Chapter two of the guidelines, offenses against the person. An examination of all of the offenses against the person listed in Chapter Two of the guidelines apply to harm to specified individuals. As such it is not appropriate and a misreading of 3A1.2 to apply that enhancement here.

#### (64) Obstruction of Justice

As described in the above statement of facts, the defendant acknowledges that the jury found him guilty of lying to the FBI. The defendant objects to the conclusion that he obstructed any investigation. A two level increase should not be applied here. *See, United States v. Biheiri*, 356 F. Supp. 2d 589 (E.D.VA 2005), (there was no actual obstruction of a federal investigation where the agents who interviewed the defendant knew that his statements were false. As such, there was no enhancement for obstructing the investigation of a federal crime of terrorism.)

#### (74) Terrorism Enhancement

There are many cases where judges have refused to apply this enhancement. To date, none of have been overruled. The defendant objects to this enhancement for the following reasons:

##### **1. Application of U.S.S.G. § 3A1.4 Results in Impermissible Double Counting.**

A district court engages in "double counting" when "precisely the same aspect of a defendant's conduct factors into his sentence in two separate ways." *United States v. Farrow*, 198 F.3d 179, 193 (6<sup>th</sup> Cir. 1999). Double counting is impermissible unless "it appears that Congress or the Sentencing Commission intended to attach multiple penalties to the same conduct." *Id.* at 194.

The contention that U.S.S.G. § 3A1.4 applies to Mr. Mehanna's convictions demonstrates one of the chief flaws in this enhancement. In *United States v. Crocker*, Case No. 04-CR-10097 W.D. Tennessee), the PSR propounded the same 12-level enhancement after the defendant was convicted of possessing chemical weapons, in violation of 18 U.S.C. § 229(a). The applicable guideline for this offense is U.S.S.G. § 2M1.6 and, as applied to Crocker, resulted in an offense

level of 42 because the offense was committed with intent to injure the United States. *Crocker*, Sentencing Transcript, p. 26 (relevant portions of the transcript are attached here as Exhibit C). As to the 12-level enhancement, the Honorable James D. Todd stated:

How could you ever have a 2M6.1 offense committed with intent to injure the United States that would not also have a 3A1.4 twelve-level enhancement for a crime intended to promote federal terrorism? I can't think of one – I can't think of a crime where if you had one, you wouldn't have the other.

It seems to me there may be some odd case where you could think of where you could have a 2M6.1(a)(1) without 3A1.4, but it's not this case. It seems to me in this case, this offense was committed with intent to injure the United States. It's a base level 42. It seems double counting to then add 12 more levels because this felony was intended to promote a federal crime of terrorism.

And a federal crime of terrorism is described in 18 U.S.C. 2332[b]g, which I read it earlier. By the federal crime of terrorism means an offense that is calculated to influence or affect the conduct of government by intimidation or coercion and or to retaliate against government conduct. It seems to me that is substantially what 2M6.1 is, and offense to injure the United States. So I think it's a double counting.

*Id.* at pp. 26, 39. Judge Todd therefore sustained the defendant's objection to the 12-level enhancement. *Id.* at 39.

Applying Judge Todd's analysis to this case, application of the 12 level enhancement also results in impermissible double counting. Each of the counts of conviction relates to a federal crime of violence related to terrorism. The defendant objects to imposition of this enhancement.

**2. Application of U.S.S.G. § 3A1.4 is Unworthy of Deference from this Court as it is an Enhancement the Sentencing Commission Developed Only as a Result of Congressional Directive and is not Based upon Empirical Data.**

In 1994, Congress enacted the Violent Crime Control and Law Enforcement Act of 1994. Section 120004 of that Act "direct[ed] the [Sentencing] Commission to provide an appropriate enhancement for any felony that involves or is intended to promote international terrorism. Guidelines Manual, Appendix C, Amendment 526. Specifically, the act directed the Commission as follows:

**SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES**

The United States Sentencing Commission is directed to amended its sentencing guidelines to provide an appropriate enhancement for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, **unless such involvement or intent is itself an element of the crime.**

Public Law No. 103-322 (emphasis added).

The Sentencing Commission promptly deleted the previous upward departure provision in U.S.S.G. § 5K2.15 (which allowed district court's discretion to depart upward if the defendant committed the offense in furtherance of a terrorist action) and replaced it with U.S.S.G. § 3A1.4. This new enhancement not only created an upward adjustment, it created a minimum offense level of 32 if the offense involved or was intended to promote international terrorism, and required a criminal history category of VI, regardless of the defendant's actual criminal history.

The Sentencing Commission did not give any reason for selecting this particular offense level or for imposing a criminal history category of VI in every case. The Commission also did not mention how or even if this adjustment addressed Congress' express limitation that the Commission was to provide for an enhancement in such cases "unless such involvement or intent is itself an element of the crime." The next year, the Sentencing Commission amended the enhancement again, also by congressional directive, to apply the enhancement more broadly to include "federal crime of terrorism" as defined in 18 U.S.C. § 2332b(g). *See* Guidelines Manual, Appendix C, Amendment 539.

A judge's ability to draw any useful direction from a guideline depends first upon whether the Sentencing Commission, in promulgating or amending that guideline, did so in an "exercise of its characteristic institutional role." *Kimbrough v. United States*, 128 S.Ct. 558, 575. Section 3A1.4 simply does not warrant any deference. This enhancement was not enacted based upon empirical evidence of pre-Guidelines sentencing practice, and was not enacted in light of judicial decisions, sentencing data, and comments from participants and experts in the field. *See Rita v. United States*, 127 S.Ct. 2456, 2464-65. This Court must conclude that this enhancement would "yield a sentence 'greater than necessary' to achieve § 3553(a)'s purposes" in this case, and either find it inapplicable or apply a downward variance to eliminate its affect upon the advisory guidelines calculations. *See Kimbrough, supra* at 575.

### **3. Application of U.S.S.G. § 3A1.4 Substantially Over-represents Tarek Mehanna's Criminal History.**

If the court were to apply U.S.S.G. § 3A1.4, the enhancement would substantially increase his criminal history category from level I to level VI. Thus, while Mehanna actually has zero criminal history points, application of U.S.S.G. § 3A1.4 takes him from the lowest criminal history category to the highest based solely on this enhancement. The enhancement therefore does not accurately represent Mr. Mehanna's true criminal history.

Section 4A1.3(b)(1) of the Guidelines allows this court to depart downward from the suggested sentencing range if the defendant's "criminal history category substantially over-represents the seriousness of [his] criminal history or the likelihood that [he] will commit other crimes." In *United States v. Fletcher*, 15 F.3d 553 (6<sup>th</sup> Cir. 1994), the court specifically recognized the validity of a downward departure on this basis.

Many circuits have employed U.S.S.G. § 4A1.3 as a basis for a downward departure where a criminal history category overstates the seriousness of the defendant's record. *See, e.g., United States v. Shoupe*, 35 F.3d 835, 838 (3<sup>rd</sup> Cir. 1994) (holding the Sentencing Commission recognized the imprecision inherent in the criminal history classification, thus promulgating §4A1.3 "to give the sentencing judge's discretion to depart from the prescribed range where it



misrepresents a defendant's criminal history or likelihood of recidivism"); *United States v. Gayles*, 1 F.3d 735, 739 (8<sup>th</sup> Cir. 1993) (holding the court "may depart downward from an otherwise applicable sentencing range when reliable information shows that the defendant's criminal history category significantly over represents the seriousness of defendant's past criminal conduct"); *United States v. Summers*, 893 F.2d 63, 68 (4<sup>th</sup> Cir. 1990) (affirming finding that the criminal history category overrepresented the seriousness of the record, thus justifying departure); *United States v. Bowser*, 941 F.2d 1019, 1023 (10<sup>th</sup> Cir. 1991) (same); *United States v. Collins*, 915 F.2d 618, 621-22 (11<sup>th</sup> Cir. 1990); *United States v. Abbott*, 30 F.3d 71, 73 (7<sup>th</sup> Cir. 1994); *United States v. Spencer*, 25 F.3d 1105, 1113 (D.C. Cir. 1994); *United States v. Rivers*, 50 F.3d 1126, 1131 (2<sup>nd</sup> Cir. 1995).

Unlike other provisions of the guidelines, such as USSG 4A1.3(b)(2), the terrorism enhancement does not prohibit a downward departure. In *United States v. Aref*, 2007 WL 804814 (N.D. NY 2007), the trial judge departed from the guidelines in a terrorism case finding that a criminal history of VI substantially over represented the seriousness of the defendant's criminal history and sentenced the defendant to 180 months instead of the guideline range of 292-360 months.

A category VI designation substantially overstates the seriousness of Mr. Mehanna's criminal history and the likelihood of him committing future crimes. The seriousness of his record is completely overstated as his placement in criminal history category VI occurs only through application and operation of this enhancement – not because of his own personal criminal history or record. The tremendous increase in Mehanna's criminal history category is simply not reflective of actual criminal history.

**4. There are many additional factors which should be considered in either not applying the 3A1.4 enhancement or departing from it.**

In addition to the legal arguments cited above, the defendant submits that the following factors should be taken into account in the application of the 3A1.4 enhancement:

(a) A life sentence here or a decades-long sentence would negate any distinction between Mehanna's conduct and the actions of the most serious terrorism offenders. Those sentences have been reserved for defendants who have caused actual harm as in the Embassy bombings (Ahmed Khalfan Ghailani) or the World Trade Center attack (Zacarias Moussaoui), or those who were "operational" and whose failure to cause harm was a matter of happenstance, e.g., Richard Reid (the shoe bomber), Umar Farouk Abdulmutallab (the underwear bomber), Faisal Shahzad (the Times Square bomber). Life sentences have also been imposed for those defendants who participated in "sting operations" believing that they were going to blow up something, such as the pipelines to JFK airport (Kareem Ibrahim, Abdul Kadir, Russell Defreitas).

(b) No actual harm occurred or came close to occurring in this case. In an interview on public radio, US Attorney Carmen Ortiz acknowledged that the prosecution of Tarek Mehanna was a "preventative prosecution." In other words, he was not prosecuted for what he did so much as what the government thought he might do. Given that he went to Yemen, returned in 2004,

and took no overt or operational action in the following four years, the government's beliefs were not based in reality.

(c) Mehanna was 20 years old when he went to Yemen. He never followed through on going to Iraq as Abousamra did nor did he go to Somalia to fight when invited by Maldonado. It appears that the trip to Yemen was not well-planned or sophisticated. Their so-called contact in Yemen was not an actual terrorist but someone who had fought in the Afghanistan war against the Soviet Union. The "plan" in the case at bar consisted of looking for someone by his height, possible occupation and possible area of residence, and asking for his help in finding a military training camp.

(d) Mehanna has endured harsh pretrial confinement in Plymouth where he has been in solitary confinement 23 hours a day and will most likely be assigned to the supermax prison in their "Muslim" unit in Florence, Colorado. In a study conducted of a supermax prison in California, a psychologist noted a number of disturbing phenomena:

First, after months or years of complete isolation, many prisoners begin to lose the ability to initiate behavior of any kind – to organize their own lives around activity and purpose ... chronic apathy, lethargy, depression and despair often result. In extreme cases, prisoners may literally stop behavior, becoming essentially catatonic.

New Yorker Magazine, March 30, 2009, "Hellhole", Atul Gawande, p. 40.

(e) The distortion created by this enhancement further compels justification for a departure. In *United States v. Benkhala*, 501 F. Supp. 2nd 748 (E.D.VA 2007), the court granted a departure and noted "after applying § 3A1.4, Defendant's criminal history is maximized at category VI. For an individual with no criminal record and no evidence of ever having committed an illegal act in his life outside of the conduct for which he is convicted, this clearly over-represents the seriousness of his criminal history." Moreover, the Introductory Commentary to Chapter Four of the Sentencing Guidelines, entitled "Criminal History and Criminal Livelihood," states that "A defendant's record of prior criminal behavior is directly relevant to those purposes. A defendant with a record of prior criminal behavior is more culpable than a first offender and thus deserving of greater punishment."

(69) Use of the highest adjusted offense level

There is no true distinction between Counts 1 through 4. While Mehanna has been convicted of Counts 1, 2A, 2B, 3 and 4, they represent but one course of conduct charged under four different statutes, all of which are closely interrelated. All were based on Mehanna's travel to Yemen and his writings and internet postings. Indeed, one of the main reasons the court gave in denying the defendant's request for a special verdict form was that it could not separate out the offense conduct alleged in the conspiracy counts or the substantive count of material support. Under the principles of parsimony, the defendant's base offense level should be capped by Count 1, which is level 26.

The defendant objects to use of the 2011 Guidelines on Counts 2, 3 and 4. The underlying offense is 2A1.5, conspiracy or solicitation to commit murder. The indictment asserts that the conspiracy to kill, in violation of 18 USC 956, concerns the defendant's trip to Yemen, as described in more detail in Count 3. The same is true for Count 4. Mehanna's trip to Yemen occurred in 2004, when the 2003 Sentencing Guidelines were in effect. Under the indictment charging this crime, the government only refers to actions which took place between 2002 (actions by Mehanna's co-defendant Abousamra) and actions which took place in February, 2004 (the trip to Yemen).

The 2003 Guidelines for section 2A1.5 provide a base offense level of 28. This is the appropriate level and to assign a base level of 33 would violate the ex post facto law of the United States Constitution. See, *Miller v. Florida*, 482 U.S. 423, 429 (1997) (sentencing guidelines which increased punishment after the crime was committed were deemed a violation of ex post facto prohibition in the United States Constitution. Included in the bar to such violations are "every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed.")

In addition, the defendant submits that USSG 2X1.1 applies to this case. 2X1.1(b)(2) provides for a decrease of three levels if the central crime is a conspiracy.

(116) The defendant objects to the calculation, and submits that a more accurate characterization of Mehanna's conduct should be scored accordingly:

Base Offense Level:	28
Victim Related Adjustment	0
Terrorism Enhancement	0
Adjusted Offense Level	28

The defendant also objects that a deduction for role in the offense was not considered. Witness after witness described Abousamra, Mehanna's co-defendant, as the person who was highly invested in the most extremist talk and behavior. An unindicted co-conspirator and witness against the defendant, Kareem Abu Zahra, discussed domestic plots and acknowledged that the defendant did not agree with them. Daniel Spaulding, another unindicted co-conspirator and witness for the government, testified that Mehanna did not believe that attacks on American soil were permissible under Islamic law. Further, Mehanna wrote and posted his belief that innocent civilians were protected under Islamic law. Mehanna translated one video which was made by al Qa'ida but there was no direct link between him and any al Qa'ida member. At best, this constituted independent advocacy. Mehanna also translated speeches by two al Qa'ida members, but again, his work was minimal compared to other unindicted co-conspirators. As such, the defendant should receive a 2 point reduction for minor role.

Departure for minor role	-2
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Total offense level: 26

The defendant objects that he did not receive a three point reduction under USSG 2X1.1(b)(2), which provides for one in a conspiracy where the underlying offense was not completed. The defendant never received military training, and he did not go on to Iraq after he had been in Yemen but instead returned home. He did not attempt to kill American soldiers or US nationals overseas. He was not stopped because he was arrested or intercepted. Rather, he chose not to continue with Abousamra. Two years later, when asked to join the fighting in Somalia, the defendant also declined.

Departure for conspiracy -3

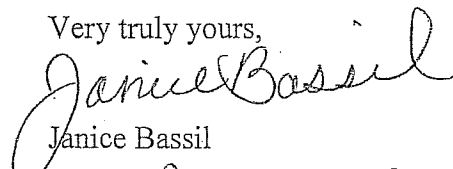
Total offense level: 23


Criminal History Level I

Guideline Range: 46-57 months

Finally, the defendant objects that there was not more information about the support and love he has from his family and the Muslim community, and not at least some description of Mr. Mehanna's life and background, which put the convictions in context. The defendant's parents provided this information to you during two interviews with them, and the PSR should include these critical details.

Very truly yours,

  
Janice Bassil

  
J. W. Carney, Jr.

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, - Docket No. 3:06-CR-719  
-  
Plaintiff, - Toledo, Ohio  
- October 20, 2009  
v. - Sentencing  
-  
MOHAMMAD ZAKI AMAWI, et al., -  
-  
Defendants. -  
-----

VOLUME 1, TRANSCRIPT OF SENTENCING  
BEFORE THE HONORABLE JAMES G. CARR  
UNITED STATES DISTRICT CHIEF JUDGE

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Proceedings recorded by mechanical stenography,  
transcript produced by notereading.

10:13:26 1 case. That's the starting point of all this. He  
10:13:31 2 tried to go there and get in and engage in conflict with  
10:13:35 3 the troops of a country that he is a citizen of and the  
10:13:40 4 place where he was born in an Army hospital.

10:13:45 5 THE COURT: If I recall correctly, that trip  
10:13:51 6 had terminated to come back here --

10:13:54 7 MR. SOFER: Yes, Judge.

10:13:56 8 THE COURT: -- at least according to his  
10:13:58 9 account to Griffin, at some point because of family  
10:14:00 10 pressures. And that was before he had first -- he and  
10:14:06 11 Griffin had first gotten underway together. It  
10:14:10 12 preceded.

10:14:11 13 MR. SOFER: It precedes the charged  
10:14:12 14 conspiracy, but that's -- but that certainly doesn't  
10:14:15 15 make it something that the Court shouldn't be  
10:14:18 16 considering at sentencing. The notion that somehow  
10:14:22 17 that fact --

10:14:23 18 THE COURT: I understand. 404(b) at the  
10:14:27 19 very least.

10:14:29 20 MR. SOFER: If you recall it was the jumping  
10:14:32 21 off point for this case, at least with respect to Mr.  
10:14:34 22 Amawi. Darren Griffin had been out there. He was  
10:14:38 23 essentially presenting himself as a violent Jihadist.  
10:14:43 24 It was during that first conversation, you may recall, I  
10:14:48 25 believe it was in late 2003, early 2004 that Amawi had



10:14:54 1 travelled -- attempted to travel into Iraq and that his  
10:14:57 2 family had stopped him. And there's more than one.  
10:15:03 3 We'll play them, Judge. There's more than one  
10:15:05 4 conversation where he acknowledges that to Darren  
10:15:08 5 Griffin. It's actually recorded.

10:15:12 6 And again, you're talking -- and that is not  
10:15:16 7 a theme of what we want to present, Your Honor, today as  
10:15:19 8 to why a life sentence is appropriate here. This is  
10:15:22 9 not a sort of experimental young teenager who's sort of  
10:15:30 10 trying this sort of idea out for the first time. Your  
10:15:34 11 Honor said something about that when we were discussing  
10:15:37 12 criminal history. You have before you a large deep  
10:15:41 13 swath of behavior over a long period of time which  
10:15:48 14 indicates what was in this man's mind and what it was  
10:15:51 15 that he wanted to do and how committed he was. And  
10:15:55 16 that's what we believe the Court should be focusing on  
10:15:59 17 in fashioning an appropriate sentence.

10:16:01 18 In any event, if I may play that particular  
10:16:05 19 clip. In this clip Amawi explains why it is that he  
10:16:10 20 did not take the translator job. And it's not because  
10:16:13 21 he wasn't interested in killing Americans, and it's not  
10:16:16 22 because he wasn't interested in going and conducting  
10:16:20 23 jihad in Iraq. He gives essentially two reasons --  
10:16:23 24 three reasons, really. One, he considers it sort of an  
10:16:28 25 abomination to help Americans in any way.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE 04-60001-CR-COOKE

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

MIAMI, FLORIDA  
JANUARY 22, 2008  
TUESDAY - 11:00 A.M.

ADHAM AMIN HASSOUN,  
KIFAH WAEI JAYYOUSI,  
JOSE PADILLA,  
a/k/a "Ibrahim,"  
a/k/a "Abu Abdullah the Puerto Rican",  
a/k/a "Abu Abdullah Al Mujahir",

Defendants.

TRANSCRIPT OF SENTENCING PROCEEDINGS  
BEFORE THE HONORABLE MARCIA G. COOKE,  
UNITED STATES DISTRICT JUDGE

DAY 9

APPEARANCES:

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Page 3

1 SENTENCING PROCEEDINGS - 11:15 A.M.

2 THE COURT: For the record, appearing on behalf of the  
3 United States.

4 MR. KILLINGER: Good morning, Your Honor. Russ  
5 Killinger, Brian Frazier, Stephanie Pell, John Shipley and John  
6 Kavanaugh.

7 THE COURT: Appearing on behalf of Defendant Hassoun.

8 MR. SWARTZ: Ken Swartz and Jeanne Baker on behalf of  
9 Mr. Hassoun.

10 THE COURT: Appearing on behalf of Defendant Jayyousi.

11 MR. SWOR: William Swor and Dore Louis on behalf of  
12 Dr. Jayyousi.

13 THE COURT: Appearing on behalf of Defendant Jose  
14 Padilla.

15 MR. CARUSO: Michael Caruso and Orlando do Campo on  
16 behalf of Jose Padilla.

17 THE COURT: On behalf of Mr. Hassoun, are you prepared  
18 this morning to proceed to sentencing?

19 MS. BAKER: We are.

20 THE COURT: On behalf of Mr. Jayyousi, Mr. Swor, are  
21 you prepared to proceed to sentencing this morning?

22 MR. SWOR: Yes, Your Honor.

23 THE COURT: On behalf of Mr. Padilla, Mr. Caruso, are  
24 you prepared to proceed with sentencing?

25 MR. CARUSO: Yes, we are, Your Honor.

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1 THE COURT: Everyone, you may be seated.

2 Over the past few weeks I held a sentencing hearing in  
3 this matter and the hearing was bifurcated. I felt that this  
4 bifurcated hearing would enable me to comply with the Supreme  
5 Court mandate in Rita, and the District Court should first  
6 begin all sentencing proceedings by computing the applicable  
7 guideline range.

8 First, I allowed the defendants and the government to  
9 present objections to the PSI specifically to the offense  
10 conduct, enhancement, criminal history calculations, and role  
11 in the offense, and the computation of the advisory guideline  
12 range as well. At the conclusion of phase one, I ruled on the  
13 various objections and made additions, deletions and  
14 corrections to the role in the offense paragraphs contained in  
15 the PSI. I also ruled on the defendants' other objections. At  
16 the conclusion, each defendant was in the same guideline range,  
17 360 to life.

18 The guidelines; however, are not the only  
19 consideration the Court must take in making a sentence in this  
20 case. Therefore, in the second phase the defendants presented  
21 evidence, and I heard arguments on the 18 U.S.C. 3553 factors  
22 to determine whether they support that sentence that each  
23 defendant requested.

24 Over the course of several days, the defendants  
25 presented witnesses, documents, photographs, transcripts of

Page 5

1 recorded conversations and fax transmissions, witnesses  
2 traveled to this hearing from California, Detroit, Washington  
3 D.C. and elsewhere. I heard the statements of witnesses, and I  
4 read the letters of families, friends and associates.

5 The government also presented evidence in rebuttal.  
6 The transcripts of these proceedings cover several hundred  
7 pages.

8 In the post Booker, Rita, Gall sentencing world, it is  
9 imperative that I make an individual assessment of each  
10 defendant based upon the facts presented. This assessment is  
11 based on the factors, all is outlined in 18 U.S.C. 3553A

12 I must impose a sentence sufficient but not greater  
13 than necessary to comply with the purposes set forth in 3553A2.  
14 In determining this sentence, I must consider the nature and  
15 circumstances of the offense, and the history and  
16 characteristics of each defendant.

17 The crimes here are very serious, but I think it's  
18 important at this juncture to state what this case is not  
19 about. No so-called act of terrorism occurred on United States  
20 soil. These defendants did not seek to damage United States  
21 infrastructure, shipping interests, power plants or government  
22 buildings. There was never a plot to harm individuals inside  
23 the United States or to kill government or political officials.  
24 There was never a plot to overthrow the United States  
25 government.

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The defendants maintain that their acts were not criminal, but educational and humanitarian nature to inform the world and the Muslim community of the status of Muslims abroad and to provide aid for Muslims in need. The jury's verdict reject these arguments and contentions and found that the defendants' acts were criminal.

What the defendants sought to do was provide support to people sited in various conflicts involving Muslims around Eastern Europe, the Middle East and Northern Africa was found to be criminal. The evidence indicated the defendants sought to provide financial, personnel and material to individuals engaged in armed conflict in these areas. This material support is a violation of the statutes that form the basis of this indictment.

However, there is no evidence that these defendants personally maimed, killed or kidnapped anyone in the United States or elsewhere.

Also, the government has pointed to no identifiable victims. Despite this, this behavior is a crime. The defense has made much throughout the trial that the government overcharged these defendants, and the defendants have suggested other possible charges that carry a range consistently lower than the sentences available to the government in this case. As I have consistently stated throughout the trial and in other proceedings, charging decisions are well within the province of

Page 7

the Executive Branch.

The government contends that each defendant in this case should receive life imprisonment. The government argues the seriousness of the offense, the eight year length of the conspiracy, the nature of the crimes, and this is essentially a conspiracy to solicit murder justified life sentences.

Obviously, the defendants categorically disagree, and each defendant has asked this Court to vary and to sentence the defendants outside the advisory guideline range.

First, I will review the history and characteristics of each of the defendants based upon the evidence presented at trial and the sentencing hearings.

Mr. Hassoun is a devout Muslim. Prior to the instant offense, Mr. Hassoun had never been arrested or convicted of a crime. As a youngster, he lived with a Lebanese conflict, and he knew firsthand what happened to a country when internal politics turned violent. His employer and fellow employees describe him as smart, compassionate and a caring human being. He reached out to people in this community here and overseas, often giving of himself personally and financially. Many wrote letters of support to the Court. The plight of Muslims throughout the world pained and moved him. These strong feelings were his motivation to violate the statutes in this case. He knew what it was like to live through armed conflict and religious persecution.

Page 8

The defendant moved to this country, worked, married and had a family. He worked for Marcom Technologies. His employer and fellow employees spoke highly of him. He was a valuable employee. He worked with many employees of many different religions and ethnicity, and there was never any evidence of conflict between Mr. Hassoun and other employees based upon religious beliefs.

The government intercepted most of Mr. Hassoun's telephones, work, home, cell and fax. The interceptions and investigation continued for many, many years. He was questioned and never charged with a crime. The government knew where Mr. Hassoun was, knew what he was doing and the government did nothing.

This fact does not support the government's argument that Mr. Hassoun poses such a danger to the community that he needs to be imprisoned for the rest of his life. In fact, when he was initially arrested and placed in custody for almost two years, it was on Immigration charges and not the charges in this case. He was not in an isolated or special housing facility at that time.

Despite monitoring Mr. Hassoun for many years, the government is able to point to only one check to Global Relief Foundation as evidence of his support that he continued after October 26, 2001, thus moving this case into a higher penalty of the revised statute.

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As to Mr. Jayyousi, he has lived in the United States for almost 30 years. He has served in the United States Navy and became a U.S. citizen. He married and started a family. He is an educated man, finished college and has a PhD. He exhibited excellent competence level in all of his employment. He has held a variety of employment situations; the University System of California, the Detroit public schools and the Washington D.C. public schools.

He has worked in the United States and abroad on very sophisticated engineering projects. Some of these projects involve issues relating to and involving our allies, military and possible access to sensitive and confidential information.

The people who work with him all spoke highly of his effectiveness and his work ethic. He is a devout Muslim. He was willing to discuss religion with others without conflict. He celebrated the peace efforts in the Middle East. He provided assistance to people in his mosque and in the Muslim community. He also is the kind of neighbor that people would want in a community, and many wrote letters of support.

Raised in a refugee camp, he saw firsthand how the sufferers of armed conflict affected communities. When he heard of the armed conflict in the Middle East, Africa and Eastern Europe, he provided financial and other resources to assist those abroad. There is no evidence that Mr. Jayyousi continued his involvement in the instant offense after 1998,

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1 the Islam Report, his publication, and there are no intercepts  
2 of Mr. Jayyousi. He totally withdrew from the instant  
3 conspiracy in this case.

4 In fact, the jury specifically found his involvement  
5 in these offenses ceased prior to October 26, 2001. By his own  
6 statement at sentencing, he moved beyond his actions post 1998.  
7 His efforts and energies were directed elsewhere.

8 Like Mr. Hassoun, Mr. Jayyousi was intercepted over  
9 several years. Yet despite government's claim that he is a  
10 dangerous individual and deserves to be sentenced to life, the  
11 government made no effort to intervene. He continued to work  
12 in school systems throughout this country. There is no  
13 evidence that Mr. Jayyousi knew, met or even heard of Defendant  
14 Padilla prior to these proceedings. As I recall, there are no  
15 intercepted phone calls between Mr. Jayyousi and Mr. Padilla.

16 Law enforcement officials interviewed Mr. Jayyousi on  
17 several occasions. He informed law enforcement officials  
18 before he left the country where he would be, and he also  
19 informed of his whereabouts. He even registered with the  
20 government when he moved abroad.

21 Throughout most of the pretrial and trial, as I stated  
22 previously, Mr. Jayyousi was on bond. He found suitable  
23 employment despite the restrictions of bond; and despite the  
24 seriousness of his charges and the contacts abroad,  
25 Mr. Jayyousi complied with all the conditions of release, and

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1 was timely for all court and pretrial proceedings.

2 Mr. Padilla; Mr. Padilla is the only defendant in this  
3 matter with a prior criminal record. He has both a juvenile  
4 and adult record. His last conviction occurred just prior to  
5 the beginning of this conspiracy.

6 He moved to Florida from the Chicago area. He  
7 converted to Islam and began to attend the same mosque as  
8 Mr. Hassoun. He was also seen at the mosque on Friday prayers  
9 and other services. He was often at the mosque where he  
10 learned about the conflicts involving Muslim communities in  
11 Eastern Europe, Middle East and Africa. He helped out at  
12 various mosque functions, and he struggled to learn Arabic as  
13 he learned the Qur'an.

14 At the time Mr. Padilla joined the conspiracy, his  
15 last criminal conviction was in August 1992, barely 14 months  
16 before the beginning of this conspiracy.

17 In 1998, Mr. Padilla left the United States, and there  
18 is evidence that he spent time in Europe. There is also  
19 evidence, based upon the government exhibit, that he trained at  
20 a military training camp. However, based upon the  
21 preponderance of the evidence, I do not find GXXI proof that  
22 Mr. Padilla graduated from that program.

23 There are too many inconsistencies; the spelling in  
24 the initial translation; the timeframe between the form's  
25 initial gathering; and the similarity and spelling of another

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1 supposed graduate of the program.

2 However, in finding Mr. Padilla guilty, the jury  
3 accepted the government's interpretation of the conversations  
4 between Mr. Padilla and Mr. Hassoun. Also, Mr. Hassoun used  
5 Mr. Padilla's Arabic nickname in conversations discussing the  
6 conspiracy in coded language.

7 When Mr. Padilla returned to the United States, he was  
8 detained at the Chicago Airport. He was subsequently arrested  
9 on a material witness warrant out of New York. He was then  
10 transferred, and kept in a military brig in South Carolina.

11 The facts of his confinement has been the subject of  
12 various pleadings and testimony before this Court. Mr. Padilla  
13 was held in solitary confinement in harsh conditions, without a  
14 mattress, a Qur'an, books, clock, entertainment or interaction  
15 with other relatives or visits. Even an attorney was denied  
16 him, and he was subject to extreme and environmental stresses,  
17 including extreme noise and temperature variation.

18 The government argues that I cannot take prior  
19 conditions of confinement, or the potential for harsh  
20 conditions, into consideration in fashioning a sentence.

21 I disagree.

22 The cases where pretrial conditions were not allowed  
23 were situations where the District Court found that the  
24 conditions did not rise to the level to be considered, or where  
25 the Court found the defendant had presented insufficient

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1 evidence to support a finding concerning the harsh pretrial  
2 condition. See Presley 345 F.3d 1205 and Ramirez-Gutierrez at  
3 503 F.3d 643.

4 I do find that the conditions were so harsh for  
5 Mr. Padilla and against the standard of the usual conditions of  
6 pretrial that they warrant consideration in the Court  
7 fashioning a sentence in this case.

8 I want to take a moment. My initial order of the  
9 issue of Padilla's pretrial detention related to the relevancy  
10 of the detention to the charges in this indictment. I found  
11 that the conditions were irrelevant in the criminal conduct  
12 alleged in the indictment. I stand by that ruling; however, I  
13 do want to state at the time of Mr. Padilla's initial  
14 detention, the evidence produced at this trial, specifically  
15 the intercepted phone calls, were all available to the United  
16 States.

17 The sentences that I announce today do reflect the  
18 seriousness of the offense and each defendants' culpability in  
19 criminal conduct. I have already discussed the seriousness of  
20 the offenses and each defendants' culpability. The sentence in  
21 this case will serve to inform others that support of  
22 activities abroad, no matter how well-intentioned, conspiracy  
23 to support murder, maiming and kidnapping will not be tolerated  
24 in this country.

25 The defendants in this case were involved in a



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1 situation that was very specific in time. The activities were  
2 limited to issues abroad and not in the United States. This;  
3 however, does not excuse the activities and still warrant a  
4 sentence of incarceration.

5 It should also be noted that an incarcerative sentence  
6 also recognizes that these defendants will unlikely engage in  
7 new criminal conduct, given their age, as they leave the  
8 criminal system; that is, as they approach their senior years.

9 Defendants Hassoun and Jayyousi are educated  
10 professional men. Each possess unique skills. Mr. Hassoun is  
11 a skilled computer programmer. Mr. Jayyousi is an engineer of  
12 considerable skills. He has worked on projects that oversee  
13 facilities both here and abroad, and he has a Ph.D.

14 It is doubtful that the Bureau of Prisons is capable  
15 of providing much in terms of vocational and educational  
16 training for these two defendants.

17 Mr. Padilla should be allowed access to vocational and  
18 educational training. Prior to leaving the country and his  
19 participation in the conspiracy, he was working in a fast food  
20 restaurant.

21 Although the bottom of the advisory guideline range is  
22 a range of 360 to life, there is no mandatory minimum here.  
23 Given the nature of these offenses, incarceration is necessary.

24 I also think it is necessary here to sentence these  
25 defendants to prevent unnecessary sentencing disparity. The

Page 15

1 defense pointed to a number of different cases around the  
2 country with similar charges where the defendants received  
3 substantially less time than 360 months, which is the bottom of  
4 the guideline range here.

5 The government counters that the counts of those  
6 convictions did not involve the conspiracy to kill, kidnap,  
7 maim or injure, what the government calls the solicitation  
8 counts.

9 David Hicks actually was involved in a conflict  
10 involving American troops abroad. Yahya Goba, who testified in  
11 this case, received a sentence of ten years. It should be  
12 noted that he was charged with the new statute of terrorists  
13 receiving terrorist's training. He plead guilty and received  
14 those ten years.

15 Amed Omar Ali, out of the Eastern District of  
16 Virginia, was charged in a nine count indictment. The  
17 indictment charged, among other crimes, conspiracy to  
18 assassinate a President, conspiracy to commit aircraft piracy,  
19 conspiracy to destroy aircraft along with 239(b) and 239(a).  
20 The District Court in that case rejected a life sentence and  
21 sentenced Mr. Ali to a sentence of 369 months.

22 In Mandhai, the Court of Appeals found a sentencing  
23 range of 188 to 235 months was excessive. Although, once  
24 again, that is a different charge and less serious than the Ali  
25 charge, Mandhai was charged with an attempt to conspire to bomb

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1 electrical transformers in Florida in retaliation of the U.S.  
2 Government's support of Israel. He planned to contact  
3 government officials after the attack, and demanded a cease of  
4 support of countries that oppose Muslims. After two appeals,  
5 Mandhai ultimately received a sentence of 168 months.

6 In Awan, which we discussed extensively over the past  
7 two weeks, the District Court declined to apply the terrorism  
8 enhancement, and sentenced the defendant to 168 months. Once  
9 again, Awan was not charged with the solicitation of murder  
10 count, rather 239(a).

11 The so-called 20th Highjacker Zacarias Moussaoui  
12 received life without parole.

13 Terry Nichols, an accomplice of Timothy McVeigh,  
14 responsible for the death of over 150 people, including  
15 children, received a life sentence. I point to these two  
16 because this is an example, in the past, of what kind of  
17 behavior warrants a life sentence, and why I am rejecting life  
18 as a sentence in this case.

19 For all the reasons I enunciated above, I will vary  
20 from the guideline and sentence the defendants below the  
21 advisory guideline range as follows:

22 As to Defendant Hassoun, I sentence the defendant at a  
23 level 33, criminal history category four, to 203 months.  
24 However, since the defendant will not receive credit for his  
25 time in Immigration custody, I am varying the sentence downward

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1 by 15 months to a term of 188 months.

2 As to Defendant Jayyousi, recognizing his minimal time  
3 in this conspiracy and his efforts consistent with withdrawal,  
4 I sentence the defendant at a level 31, criminal history  
5 category four, of 152 months.

6 As to Defendant Padilla, unlike the other two  
7 defendants, he has a significant criminal record. However, as  
8 I stated before, I recognize the significant time that he has  
9 spent in harsh conditions. I, therefore, sentence him at a  
10 level 33, and 250 months, but vary the sentence downward by 42  
11 months to reflect his prior detention in this matter, 208  
12 months.

13 As to Defendant Hassoun, it is the judgment of the  
14 Court that he be committed to the Bureau of Prisons for a term  
15 of 188 months. The term consists of 188 months as to Count 1,  
16 60 months as to Count 2, and 180 months as to Count 3. All to  
17 be served concurrently.

18 Upon release of imprisonment, the defendant shall be  
19 placed on supervised release for a term of 20 years. The term  
20 consists of 20 years as to Counts 1 and 3, and three years as  
21 to Count 2, also all to run concurrently.

22 Within 72 hours of release from the custody of the  
23 Bureau of Prisons, the defendant shall report to the Probation  
24 Office where he is released. While on supervised release, the  
25 defendant shall not commit any crimes, shall be prohibited from

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1 possessing a firearm or other dangerous device, and shall not  
2 possess a controlled substance, and shall comply with the  
3 standard conditions of supervised release.

4 He shall surrender to Immigration for removal after  
5 imprisonment, comply with the financial disclosure  
6 requirements, the permissible search requirements. All are  
7 outlined in Part G of the pre-sentence report, and the  
8 defendant shall pay the \$300 special assessment. That is \$100  
9 as to each of the three counts.

10 As to Defendant Jayyousi, it is the judgment of the  
11 Court that the Defendant Jayyousi is sentenced to the Bureau of  
12 Prisons for a term of 152 months. The term consists of 152  
13 months as to Count 1. 60 months as to Count 2. 120 months as  
14 to Count 3. All to be served concurrently.

15 Upon release of imprisonment, the defendant shall be  
16 placed on supervised release for a term of 20 years. This term  
17 consists of 20 years as to Count 1. Three years as to Count 2  
18 and 3. All such terms to run concurrently.

19 Within 72 hours of release from the custody of the  
20 Bureau of Prisons, the defendant shall report in person to the  
21 Probation Office where he is released. While on supervised  
22 release, the defendant shall not commit any crimes, will be  
23 prohibited from possessing a firearm or other dangerous device,  
24 and shall not possess a controlled substance, and shall comply  
25 with the standard conditions of supervised release including

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1 the following special conditions:

2 The financial disclosure requirements; the employment  
3 requirements; and the permissible search requirements. All of  
4 these are more specifically outlined in Part G of the  
5 pre-sentence report, and he shall also pay the special  
6 assessment of \$300.

7 As to Defendant Padilla, the total offense level is  
8 33, and the criminal history category is six.

9 It is the judgment of the Court the defendant is  
10 sentenced to a term of 208 months as to Count 1. 60 months as  
11 to Count 2. 180 months as to Count 3. All to be served  
12 concurrently.

13 Upon release of imprisonment, the defendant shall be  
14 placed on supervised release for a term of 20 years. That term  
15 consists of 20 years as to Counts 1 and 3, and three years as  
16 to Count 2. All to run concurrently.

17 Within 72 hours of release from the Bureau of Prisons,  
18 the defendant shall report to the Probation Office where he is  
19 released. While on supervised release, he shall not possess  
20 any firearms or other dangerous devices, shall not possess a  
21 controlled substance, and shall comply with the standard  
22 conditions of supervised release including the following  
23 special conditions:

24 Mental health treatment; the financial disclosure  
25 requirements; the employment requirements and the permissible

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1 search requirements. All are outlined more specifically in  
2 Part G of the pre-sentence report, and he shall pay the special  
3 assessment as to each of the counts in the amount of \$300.

4 As to Defendant Hassoun, does the defendant or his  
5 counsel object to the Court's findings of fact or the manner in  
6 which the sentence was pronounced?

7 MR. SWARTZ: Your Honor, we would like to preserve all  
8 of our issues that we raised during the sentencing pursuant to  
9 Jones. To the extent that we need to preserve everything again  
10 that we raised during the sentencing; yes, Your Honor, I want  
11 to object.

12 THE COURT: Mr. Hassoun, you have a right to appeal  
13 the sentence imposed. Any notice of appeal must be filed  
14 within ten days after the entry of the judgment. if you are  
15 unable to pay the cost of appeal, you may apply for leave in  
16 forma pauperis. Do you understand that, sir?

17 DEFENDANT HASSOUN: Yes.

18 THE COURT: As to the Defendant Jayyousi, does the  
19 defendant or his counsel object to the Court's findings of fact  
20 or the manner in which sentence was pronounced?

21 MR. SWOR: Your Honor, as counsel for Mr. Hassoun did,  
22 we will preserve all of our previous objections.

23 THE COURT: Mr. Jayyousi, I will also remind you that  
24 you have a right to appeal this sentence. Any notice of appeal  
25 must be filed within ten days after the entry of the judgment.

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1 If you are unable to pay the cost of an appeal, you may apply  
2 for leave to appeal in forma pauperis. Do you understand that?

3 DEFENDANT JAYYOUSI: Yes, Your Honor.

4 THE COURT: As to the Defendant Padilla, does the  
5 defendant or his counsel object to the Court's findings of fact  
6 or the manner in which the sentence was pronounced?

7 MR. CARUSO: Likewise, Your Honor, we would preserve  
8 all of our previously made objections both factually and  
9 legally.

10 THE COURT: Mr. Padilla, you have a right to appeal  
11 the sentence imposed. Any notice of appeal must be filed  
12 within ten days after the entry of judgment. If you are unable  
13 to pay the cost of appeal, you may apply for leave to appeal in  
14 forma pauperis. Do you understand that?

15 DEFENDANT PADILLA: Yes, I do, Your Honor.

16 THE COURT: Counsel for the United States, do you  
17 object to the sentence outside of the guideline range.

18 MR. SHIPLEY: Yes, Your Honor, so we are clear on the  
19 record, because, obviously, the Court's ruling has deviated  
20 from the PSI, so we are clear in our objections, in addition to  
21 the objections previously made on the record, we object to the  
22 Court's changes in paragraph 12, 17 and 53 of the offense  
23 conduct and the corresponding paragraphs in Jayyousi's PSI.

24 We object to the Court's failure to give Jayyousi a  
25 three level, or at least a two level increase for role. We

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1 object to the Court's failure to give Hassoun a two or three  
2 level increase for role. We object to the Court's departure  
3 downward under 481.3 to a level 4 and also for failure to  
4 consider a level 5.

5 Finally, we object that the sentences imposed are  
6 unreasonable in light of the 3553 factors and improperly  
7 calculated under the advisory guideline range, specifically  
8 including, but not limited to, the Court's finding regarding  
9 the history and characteristics of these defendants, including  
10 the Court's finding that the jury found that Jayyousi's  
11 criminal conduct ceased in 1997; the Court's consideration of  
12 Padilla's detention as an enemy combatant and alleged  
13 conditions of his detention, as well as the Court's  
14 consideration of Hassoun's Immigration status and the time he  
15 served there. For all of those reasons, and reasons stated  
16 previously on the record, those are our objections.

17 THE COURT: Thank you, Mr. Shipley. Anything further  
18 on behalf of the United States?

19 MR. KILLINGER: Nothing, Your Honor.

20 THE COURT: Anything further on behalf of Mr. Hassoun?

21 MR. SWARTZ: Yes, Your Honor, we would ask the Court  
22 for a recommendation designation to FCI in Miami. We would  
23 also ask the Court to enter an order, and we can supply the  
24 written order, that Mr. Hassoun be kept at the FDC while the  
25 pending charges, the severed counts, are pending. Until the

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1 government decides what we are going to do with that, and we  
2 decide what is going to happen with those counts, Your Honor,  
3 we would ask that he be kept at FDC here, where he can be seen  
4 by his counsel, has got his materials from the case, he can  
5 consult with us and see the materials. It will avoid the  
6 disruption of the representation of Mr. Hassoun.

7 THE COURT: Let me ask Mr. Killinger. Mr. Killinger,  
8 do you plan to proceed with the severed counts prior to the  
9 appeal in this matter?

10 MR. KILLINGER: I guess that depends on discussions  
11 that we have with the defense. We haven't had any, Judge, to  
12 be perfectly candid with you. We do plan to proceed with the  
13 severed counts.

14 THE COURT: I will make the recommendation,  
15 Mr. Swartz. As you know, the Bureau of Prisons has a mind of  
16 its own, particularly with regards to these matters. They may  
17 be well within their rights if they determine that after you  
18 speak with the government that it may be some time before they  
19 proceed with the severed counts, and they will wait to see what  
20 happens with the appeal in this matter.

21 MR. SWARTZ: I've been talking with the marshals about  
22 this, and I don't want to put them on the spot, but I  
23 understand in cases similar to this where there are pending or  
24 severed counts that the BOP may keep somebody here at the FDC  
25 while they are pending. They may need an order from the Court

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1 or something in writing to alert them that this will be treated  
2 differently than to just ship him out, because technically they  
3 are still pre-trial.

4 MR. KILLINGER: Judge, I am sure that FDC is quite  
5 aware of what he is charged with.

6 THE COURT: I am certain they will work this out. But  
7 I want you to know, and I am certain that you have discussed  
8 this with your client, this is probably one of the many  
9 administrative decisions that the BOP will make, that I have  
10 little or no control over.

11 MR. SWARTZ: We all know that, Your Honor, that they  
12 will do what they do. As far as the recommendation to FCI  
13 Miami?

14 THE COURT: I will make a recommendation if he didn't  
15 remain at FDC Miami that there be a recommendation that he be  
16 housed at FCI Miami.

17 MR. SWARTZ: Even as a permanent designation.

18 THE COURT: I will make that recommendation.

19 MR. SWARTZ: Thank you.

20 THE COURT: Mr. Swor?

21 MR. SWOR: We ask that the Court recommend to the BOP  
22 that Doctor Jayyousi be housed at Milan, Michigan.

23 THE COURT: I will make that recommendation.

24 Mr. Jayyousi, I am sure that your counsel has  
25 explained to you that it's a recommendation. Once again, I

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1 won't know what administrative procedures the BOP will take.

2 DEFENDANT JAYYOUSI: Yes, Your Honor. Thank you.

3 THE COURT: Is there any recommendation for the  
4 Defendant Padilla?

5 MR. CARUSO: Yes, Your Honor. We would like you to  
6 recommend to the BOP, given that Jose's family all reside in  
7 South Florida, a facility that is as close to South Florida as  
8 possible.

9 THE COURT: I will make that recommendation,  
10 Mr. Padilla. Once again, I will inform you, as I have to the  
11 other defendants, that that is a decision that I have little or  
12 no control over, but I will make that recommendation.

13 Thank you very much everyone.

14 [Sentencing proceedings conclude at 12:15 p.m.]

#### 15 CERTIFICATE

16 I hereby certify that the foregoing is an accurate  
17 transcription of proceedings in the above-entitled matter.

18  
19  
20 DATE ROBIN MARIE DISPENZIERI, RPR  
21 Official Federal Court Reporter  
22 United States District Court  
23 301 North Miami Ave., 6th Floor  
24 Miami, FL 33128 - (305)523-5158  
25



## COMPARISON OF LIFE SENTENCES

NAME	SENTENCE	LOCATI ON YEAR	DESCRIPTION OF CASE
<b>Ahmed Omar Abu Ali</b>	Life	EDVA 2005  Trial	<p>Convicted of providing material support to the Al-Qaeda terrorist network and conspiracy to assassinate President George W. Bush.</p> <p>In June 2003, Abu Ali was arrested by Saudi authorities while taking exams at the Islamic University of Medina. He was held for approximately 20 months by the Saudi government without charges or access to an attorney, and given the paucity of information coming out of Saudi Arabia about the case, many human rights organizations speculated that Abu Ali's situation was actually a case of extraordinary rendition and that he might be subject to torture.</p> <p>The indictment charged Abu Ali with two counts of providing material support to terrorists, two counts of providing material support to a terrorist organization (Al-Qaeda), one count of contributing goods and services to Al-Qaeda, and one count of receiving services from Al-Qaeda.</p> <p>The indictment was later amended to add charges of conspiracy to assassinate the president, conspiracy to hijack aircraft, and conspiracy to destroy aircraft. The indictment alleged that Abu Ali had joined a terrorist cell in Medina, led by senior Al-Qaeda members Ali Al-</p>

			<p>Faqasi and Zubayr Al-Rimi, and that among the plots they were developing were a plan to assassinate the President of the United States, and a plan to mount 9/11-style attacks using planes transiting through the US.</p> <p>He received a 30 years sentence but on appeal the Fourth Circuit overturned the sentence on the grounds that the prior Court had deviated from federal sentencing guidelines which call for life in prison. Judge Lee resentenced Ali <b>to life</b> in prison.</p>
<b>Omar Abdel Rahman "Blind Sheik"</b>	Life	SDNY 1993  Trial	Encouraged acts of violence against the U.S. Sentenced for plotting to bomb various sites in the U.S.
<b>Kareem Ibrahim</b>	Life	EDNY 2007  Trial	<p>A federal jury convicted Kareem Ibrahim of multiple terrorism offenses in May 2011 after a four-week trial. The evidence at trial established that Ibrahim, an Imam and leader of the Shiite Muslim community in Trinidad &amp; Tobago, provided religious instruction and operational support to a group plotting to commit a terrorist attack at JFK Airport. The plot originated with Russell Defreitas, a naturalized United States citizen from Guyana, who drew on his prior experience working at JFK Airport as a cargo handler to plan the attack on its fuel tanks and fuel pipeline. Beginning in 2006, Defreitas recruited others to join the plot, including the defendant Kareem Ibrahim, Abdel Nur and Abdul Kadir, a former member of parliament in Guyana. In May 2007, Defreitas presented Ibrahim with video surveillance</p>

			<p>and satellite imagery of the targets for terrorist attack because Ibrahim had connections with militant leaders in Iran.</p> <p>During cross-examination at trial, Ibrahim admitted that he advised the plotters to present the plot to revolutionary leaders in Iran and to use operatives ready to engage in suicide attacks at the airport. On one of the recorded conversations entered into evidence, Ibrahim told Defreitas that the attackers must be ready to "fight it out, kill who you could kill and go back to Allah."</p> <p>According to the trial evidence, the conspirators also attempted to enlist support for the plot from prominent international terrorist groups and leaders, including Adnan El Shukrijumah, an Al-Qaeda leader and explosives expert, and Yasin Abu Bakr, leader of the Trinidadian militant group Jamaat Al Muslimeen. Ultimately, the plotters followed Ibrahim's direction and sent Abdul Kadir to meet with his contacts in the Iranian revolutionary leadership, including Mohsen Rabbani, the former cultural attache indicted for his leading role in the 1994 bombing of the AMIA Jewish cultural center in Buenos Aires, Argentina.</p>
<b>Abdul Kadir</b>	Life	EDNY  Trial  Co- D to	See above.

		Kareem Ibrahim	
<b>Russell Defreitas</b>	Life	EDNY  Trial Co-D to Kareem Ibrahim	See above.
<b>Abdel Nur</b>	15 years	EDNY  PLEA  Co-D to Kareem Ibrahim	Note: difference in sentence with guilty plea.
<b>Richard Reid</b>	Life	D. Mass. 2002  Plea	Aka Shoe Bomber. Attempted to bomb a flight from Paris, France to Miami, Florida with an explosive embedded in his shoe.
<b>Umar Farouk Abdulmutallab</b>	Life	EDMI 2010  Plea	Aka Underwear bomber. Attempted to bomb a flight from Amsterdam, Netherlands to Detroit, Michigan.
<b>Faisal Shahzad</b>	Life	SDNY 2010  Plea	Aka Times Square bomber. Attempted to detonate a car bomb in Times Square.
<b>Zacarias Moussaoui</b>	Life	EDVA 2001  Trial	20 <sup>th</sup> hijacker of September 11 <sup>th</sup> attacks. Convicted of conspiring to kill US citizens. Government sought death penalty; jury rejected.
<b>Ahmed Khalfan Ghailani</b>	Life	SDNY 1998  Trial	Role in the 1998 bombings of two United States Embassies in East Africa.  Mr. Ghailani, in the six years that the government says that he was a fugitive after the attacks, trained in Afghanistan with Al-Qaeda, and later became a

			bodyguard for Osama bin Laden. He was captured in 2004 after a 14-hour gun battle with Pakistani authorities.
<b>Dritan Duka</b>	Life	D. NJ 2007  Trial	<p>Ft. Dix Conspiracy (5 out of 6 received life sentences).</p> <p>Five of the men arrested, according to news reports, intended to attack the Fort Dix military base and kill as many servicemen as they could. The sixth man arrested, Abdullahu, has been charged with aiding and abetting in the possession of firearms by the Duka brothers. The group revealed to the FBI informant (a conversation that was recorded) that the five other men intended to "hit a heavy concentration of soldiers [...] You hit four, five or six Humvees and light the whole place [up] and retreat completely without any losses".</p> <p>The men attempted to purchase weapons from an FBI informant, including AK-47s, M16s, M60s, rocket propelled grenades, rockets, semi-automatic Sig Sauer 9 mm handguns, Smith &amp; Wesson 9 mm, C-4 plastic explosive, and nitroglycerin. The informant told them that the weapons would come from an underground military dealer from Baltimore, Maryland who had recently returned from Egypt.</p> <p>One of the men in the Fort Dix plot was recorded on a now widely broadcast surveillance tape commenting on a lecture by Anwar al-Awlaki, a controversial</p>

			American Muslim cleric who was targeted for killing by President Obama in 2010. On that tape, Shain Duka exclaimed "You gotta hear this lecture ... it's the truth, no holds barred, straight how it is!"
<b>Shain Duka</b>	Life	D. NJ 2007  Trial	Ft. Dix, see above.
<b>Eljvir Duka</b>	Life	D. NJ 2007  Trial	Ft. Dix, see above.
<b>Mohamad Shnewer</b>	Life	D. NJ 2007  Trial	Ft. Dix, see above.
<b>Serdar Tatar</b>	33 years	D. NJ 2007  Trial	Ft. Dix, see above.
<b>Agron Abdullahu</b>	20 months	D. NJ 2007  Plea	Ft. Dix Guidelines called for 10-16 months. Plea to providing guns to Ft. Dix group. He went on two trips with them to the mountains. These were alleged to be training retreats. There was no cooperation involved. Abdullahu said he was sorry he let his friends use his weapons at a firing range in the Pocono Mountains in Pennsylvania in 2006 and 2007. He said he discounted their tough talk about hurting America. "Not at any moment did I think they were actually going to do what they said," he told the judge. Government had recordings showing men firing his guns on a range and shouting for a holy war. His lawyer said at sentencing his client was not aware of some of things that were said; he was at

			<p>the other end of the noisy range and wearing earplugs. His lawyer also said Abdullahu left the trip early because he was frustrated by the way the Duka brothers were talking about violence all the time.</p>
<b>Ali al-Tamimi</b>	Life	EDVA 2004  Trial	<p>(Unindicted co-conspirator in Virginia Paintball Case- the Virginia Jihad Network)</p> <p>Charged separately with inciting terrorism.</p> <p>At meeting 5 days after 9/11, Al-Tamimi told followers that they were required as Muslims to go abroad and join the mujahidin engaged in violent jihad in Afghanistan. Many at the meeting formed the Virginia Jihad Network, trained and four went to Pakistan on 9/2001 and trained with LET. (At time LET was not designated FTO).</p> <p>Former Virginia Tech engineering student Muhammad Aatique pleaded guilty and is now serving a 10-year sentence. Much of the government's case against Ali al-Tamimi is based on the Pakistani native's account of a meeting in Fairfax five days after Sept. 11, 2001 - when al-Tamimi allegedly told attendees to pull down the shades and disconnect the phone before advising them of their religious duty to fight for the Taliban.</p> <p>Three testified regarding the intent to join the Taliban and fight in Afghanistan and were inspired by the Defendant's speech. None went on to</p>

			<p>Afghanistan and all returned home.</p> <p>The ten-count indictment focused on a dinner party. It contended that Ali had provided advice and encouragement that induced the conspirators to levy war against the United States, supply services to the Taliban, acquire firearms to promote violence, and train for military expeditions against foreign states. It alleged further that Ali not only promoted the journey of the paintball players to the Pakistani camps but, in doing so, joined in the preparation of war against a friendly state, India. Going beyond 9/11, it stretched the period of the conspiracy to February 2003, when Ali publicly spoke of the crash of the U.S. space shuttle <i>Columbia</i> as a Salafi allegory. He described it as an omen of the imminent end of the West's domination of the Muslim world—because the shuttle's name evoked the year 1492, when the Muslims were expelled from Spain; because the shuttle carried an Israeli in its crew; and because parts of it fell near a city in Texas named Palestine. Objectionable as the talk may have been, however, the prosecution never linked it to the paintball conspiracy. Apparently none of the players even heard Ali deliver it.</p> <p>Government, in the course of the trial proceedings, stated repeatedly that Ali had urged the paintball players to fight and kill American troops in Afghanistan. Out of religious</p>
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			<p>belief, Kromberg concluded, Ali was "soliciting treason."</p> <p>The evidence included a 2003 email in which al-Timimi described the Columbia shuttle disaster as "a good omen" that "Western supremacy (especially that of America) that began 500 years ago is coming to an end, God willing."</p> <p>Al-Timimi also was listed on the advisory board of Assirat Al-Mustaqueem, an Arabic language magazine published out of Pittsburgh from 1991 to 2000. The magazine called for holy war against Christians and Jews. It also lauded the international army Osama bin Laden assembled for the Taliban in Afghanistan and once praised Shamil Basayev, the Chechen rebel who took credit for last Fall's bloody Beslen school massacre in which more than 300 people, many of them children, were killed.</p> <p>10 counts including soliciting others to levy war against US and inducing others to use firearms which carry mandatory life sentence.</p> <p>At sentencing, read preamble to Constitution and said his religious beliefs do not recognize secular law. Compared himself to Socrates sentenced to death for corrupting the young. He told the court that he would not admit guilt nor seek court's mercy. Judge said there was no choice but mandatory minimum.</p> <p>Out of 11 members of the</p>
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			"Virginia Jihad" - a group of Muslims who allegedly played paintball to train to fight in Afghanistan - six pleaded guilty to reduced federal weapons charges, three were convicted of violating the Neutrality Act by taking up arms against a foreign nation (India), and two were acquitted.
<b>Masaud Khan</b>	Life	EDVA 2003	Virginia Paintball case. Conspiracy to wage war against US, material support to LET and automatic weapons in furtherance of crimes of violence.
<b>Yasith Chhun</b>	Life	CDCA 2005  Trial	3 counts of conspiracy, one count of engaging in military expedition against a nation with which US is at peace. The trial lasted two weeks. Headed group known as Cambodian Freedom Fighters, planned operation for two years. Traveled to Cambodia to assemble rebel force. Raised money holding fundraisers. Believed to be behind bombing in Cambodia that injured several people. Launched operation in 2000 in Cambodia; 200 rebel troops, quickly subdued.
<b>Khan Mohammed</b>	Two life Sentences	D.C. 2006  Trial	<p>DRUG AND NARCO TERRORISM CHARGES. Trial. Distribution of one kilo or more of heroin, one count of narco-terrorism (heroin and opium) in order to provide something of pecuniary value to person or group engaged in terrorist activity. First conviction for narc-terrorism.</p> <p>Afghan national, arrested in Afghanistan, waived extradition.</p> <p>Was local operations coordinator for Taliban who were planning rocket attack on Jalalabad Airfield, used by US and NATO</p>

			forces. Afghani CI recorded defendant in Afghanistan; prior attacks on government vehicles and facilities, confirmed airfield plan, discussed acquiring rockets and munitions to attack Americans, westerners and Afghans collaborating. Needed to eliminate infidels/Americans, British, and coalition forces.
<b>Mohammed Mansour Jabarah</b>	Life-original ly cooperat or but violated conditio ns of release	SDNY 2008  Plea	<p>Trained in Al Farouq training camp, member of Al-Qaeda, raised funds.</p> <p>Sent by Osama bin Laden in 2001 to bomb US embassies in Manila and Singapore.</p> <p>Mohammed Mansour Jabarah fully cooperated with the US authorities and became an informant for the FBI. He was moved to an FBI housing facility, where he lived in relative comfort. The US-led invasion of Iraq, in 3/2003, changed his approach and Mohammed Mansour Jabarah plotted to kill his FBI handler.</p>
<b>Oussama Kassir</b>	Life	SDNY 2004  Trial	<p>Participated in an effort to establish a jihad training camp in Bly, Oregon, and operated several terrorist websites. Kassir was found guilty of all eleven counts against him—including, conspiracy to provide material support to terrorists; providing material support to terrorists; conspiracy to provide material support to Al-Qaeda; providing material support to Al-Qaeda; conspiracy to kill or maim persons overseas; and distributing information relating to explosives, destructive devices, and weapons of mass</p>

			<p>destruction—following a four-week jury trial.</p> <p>In Bly, Kassir told witnesses that he supported Osama bin Laden and Al-Qaeda, and that he had previously undertaken jihad training in Pakistan. A witness also saw Kassir in possession of a compact disc that contained instructions on how to make bombs and poisons. After leaving Bly, Kassir and an individual named Aswat traveled back to Seattle, Washington, and resided in the Dar Us Salaam Mosque in Seattle for approximately two months. At the Mosque, Kassir provided the men at the Mosque with jihad training lessons, including lessons on how to assemble and disassemble AK- 47's and how to alter an AK-47 to launch a grenade.</p> <p>Kassir also established at least six different terrorist websites, which he operated from approximately December 2001 until the time of his arrest. The websites contained instructions about how to make bombs and poisons and featured such materials as "The Mujahidin Explosives Handbook" and "The Mujahidin Poisons Handbook."</p> <p>Co-defendants were: Abu Hamza and Haroon Rashoon Aswat - in UK. Never tried in US. European Court blocked extradition on grounds they would be subjected to inhumane treatment in US.</p>
<b>Juvenal Ovidio Ricardo Palmera Pineda aka</b>	Life	D.C. 2004  Trial	Material support of FARC, Colombian FTO, narco terrorism. Murder.  Took 3 Americans hostage when

<b>Simón Trinidad</b>			plane crashed in Colombian jungle. Demand included release of other terrorists. Murdered two other occupants, one American citizen and one Colombian.
<b>Gale Nettles</b>	160 years	NDIL 2004  Trial	<p>FBI agents began investigating the Tennessee native while he was serving time in a Mississippi federal prison for counterfeiting. According to authorities, Nettles told another inmate that he intended to get revenge against the government upon his release by driving a truck filled with ammonium nitrate into the courthouse's underground garage.</p> <p>After his October 2003 release, undercover agents sold Nettles an organic compound resembling ammonium nitrate (it would not have exploded the way Nettles planned). He then resold some of the substance to another undercover agent he believed was a member of an Islamic terrorist group.</p> <p>A day before his arrest in August 2004, Nettles reportedly stashed 500 pounds of fertilizer in an area storage facility; he planned to mix it with fuel to create a bomb of the type that destroyed the Alfred P. Murrah Federal Building in Oklahoma City, prosecutors said.</p>
<b>Terry Nichols</b>	Life	WDOK Trial  1995	Co-defendant to Timothy McVeigh. Government sought death penalty.

**TERRORISM CASES IN MASSACHUSETTS**

NAME	DATE OF SENT	DESCRIPTION OF CASE	SENTENCE	JUDGE
Samir Al -Monla		Conspiracy to defraud, false statements. Defendants ran a charity the government said was used to fund terrorism	Rev.new sentencing pending	Saylor
Muhammed Mubayyid	7/18/2008	Same	11 Months	Saylor
Muntasser Emaddein	07/17/2008	Same	12 Months	Saylor
Esam Mohammed Almohandi		Carrying explosives	Not Guilty	Saris
Saajid Mohammed Badat		Co-defendant of Richard Reid, the shoe bomber Serving a sentence in the United Kingdom	Never tried	
Liban Hussein		Illegal money transactions	Fugitive	Keeton
Mohammed Hussein	07/22/2002	Illegal money transations	18 months	Keeton
Abdullah Khadr		Conspiracy to kill US national outside the US Not arrested	Terminated	
Buford George Peterson		False statement on loan application; conspiracy involving global terrorist organization	Hung jury	Saris
Oussama Abdul Ziade		Same	Never tried	Saris
Ahmed Mehalba	2/18/2005	Fathering, transmitting or losing defense ammuniiton	20 months	Woodlock
Michael Ambrose	1/13/2010	Possession of pipe bombs	15 months	Young
Richard Reid	01/30/2003	Shoe bomber	Life	Young

Center on Law and Security, New York University School of Law



# **Terrorist Trial Report Card:**

September 11, 2001-September 11, 2011

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# **Terrorist Trial Report Card:**

September 11, 2001 – September 11, 2011

## Executive Director's Introduction

### The Ten-Year Record: Terrorism and the U.S. Courts

Ten years after Al Qaeda's attack on the United States on September 11, 2001, the federal government's record on terrorism prosecutions is relatively easy to summarize: a heavy reliance on preventive law enforcement, an increasingly aggressive use of material support statutes, and a high conviction rate. Strikingly, during the first two years of Barack Obama's presidency, the annual number of prosecutions for jihadist-related terrorism doubled. The nature of the threat has assumed relatively clear contours, as completed or intended terrorist acts aimed against domestic U.S. targets fall into stable and recognizable patterns. [The terrorism challenge facing U.S. law enforcement reflects a mixture of domestic and internationally-inspired threats, including a small but not insignificant number of serious terrorist plots.](#)

The strategy of prosecuting terrorism-related crimes has evolved in important ways over the course of the decade. Increasingly, the Department of Justice has focused on cases with high level charges, rather than expending scarce resources on document fraud and other low-level crimes that had absorbed an inordinate amount of prosecutorial attention during the early years of the war on terror. Approximately 300 prosecutions, from 2001 to 2011, resulted in indictments related to jihadist terror or national security charges. Of the several hundred resolved cases in this category, 87% resulted in convictions, roughly the same conviction rate that we find for all federal criminal indictments. The indictments remained relatively steady from 2003-2007, during the Bush years, with an average of 27 per year. [During 2009 and 2010, as mentioned, the numbers of indictments per year nearly doubled. So, too, the proportion of serious charges increased appreciably.](#) In 2009 and 2010 (and thus far in 2011), a significant majority of charges brought against defendants for jihadist-related offenses were for national

security or terrorism crimes, which include conspiracy to commit terrorism, weapons of mass destruction (WMD) possession and training, and providing material support to terrorist groups.

### **How can we explain these sudden increases?**

The following Report suggests that three factors account for the recent spike in indictments and in the severity of charges.

- ❖ A handful of serious threats to national security in the name of Al Qaeda or affiliated groups.
- ❖ An escalation in FBI sting operations.
- ❖ An increased resort to material support charges and their use against those associated with Al Shabab.

The most prominent and highly publicized instances of terrorism after 9/11 have occurred or been thwarted since President Obama took office. Although the number of indictments and prosecutions against Al Qaeda and its network – e.g., AQAP (Al Qaeda in the Arabian Peninsula) and AQIM (Al Qaeda in the Islamic Maghreb) – has fallen off in recent years, the most serious post 9-11 U.S. related terror threats have occurred since 2009. These cases include Faisal Shahzad, the Times Square Bomber; Najibullah Zazi, who intended to plant explosives in the New York City subway system; Umar Farouk Abdulmutallab, the Christmas Day bomber who attempted to blow up a plane over Detroit; David Coleman Headley, an American born operative with Lashkar-e-Taiba who conspired in the 2008 Mumbai attack and was arrested after also plotting an attack against a Danish newspaper; Major Nidal Hasan, the Fort Hood shooter who killed 13 soldiers; and Carlos Bledsoe, a Muslim convert who wounded one soldier and killed another at an army recruiting station. Four of these six defendants had ties to terror groups operating in Pakistan; two were trained in Yemen. Three of the six had some connection to the U.S. born Al Qaeda operative, Anwar-al-Awlaki. All had received weapons training, identified with jihadist ideology, intended to commit violence and had a connection to America.

The rise in indictments over the past two or three years is significantly affected by FBI informant operations. Since 2009, nearly 50% of terrorism cases have involved informants (see chart #29). At least 15% of those informant cases can be considered sting operations. Since the early years of America's war on terror, the FBI has developed a strategy of preventive law enforcement in which agents seek to identify not only individuals engaged in terrorist activity, but those who, if approached with strong enough incentives, will agree to participate in terrorism. In 2009 and 2010, ten of these cases, which can take years to develop, came to fruition.

Finally, the spike in the number and seriousness of terrorism-related indictments during the first half of Barack Obama's presidency can be partially attributed to the DOJ's recent focus on the Somalia-based Al Shabab, a group designated a Foreign Terrorist Organization (FTO) in February 2008. This designation prohibits association with or support of any kind to Shabab. Since that time, the U.S. has sought to prosecute 38 individuals for providing money, equipment, their own persons or other aid (see chart #26) to the group. In these cases, the charge is most often material support to terror groups, a serious crime carrying with it a potential for 15 years in prison. Although many American citizens are linked to Al Shabab, these cases can hardly be characterized as "homegrown" terrorism. The majority of the Al Shabab cases are essentially charges against foreign fighters intending to fight in foreign wars. (The only Somali-American who has been accused of a crime against Americans, Mohamed Osman Mohamud in Portland, was not charged with any connection to Al Shabab.)

The eye-catching spike in "homegrown" terrorism relies statistically on the inclusion of individuals prosecuted for association with Al Shabab and those targeted by FBI stings, which make up more than a third of terror indictments since 2009. Both categories may be described as resulting from preventive law enforcement measures. These threats, though arguably incipient, never ripened into mature and imminent threats to American citizens. In the case of Al Shabab, the perceived danger to America is based on the expectation that American-born fighters in Somalia may eventually be co-opted by Al Qaeda operatives. Similarly, sting

operations are premised on the idea that individuals who would participate in schemes initiated by FBI informants might otherwise have been approached by an actual terrorist recruiter.

Over time, the strategy of federal terrorism prosecutions has become more confident and focused, buttressed by a strong record of convictions and the fact that no major terrorist attack has followed 9/11. Perhaps, over the next decade, the record of prosecutorial success demonstrated in this Report will lead to an increased political and popular faith in the justice system's ability to protect the public safety as well as individual civil liberties. Over the past decade, the Center on Law and Security has been encouraging a public conversation about issues that highlight the tension between security and liberty – for example, the weakened presumption of innocence when it comes to terrorism suspects, the excessive reliance on overly broad material support statutes, and the narrow line between legitimate FBI preventive tactics and entrapment. We hope that renewed trust in our justice system may make this conversation recede in importance and pave the way for a forward-thinking discussion of the burgeoning global security issues of the new century.

A handwritten signature in black ink, appearing to read "Karen J. Greenberg". The signature is fluid and cursive, with the first name "Karen" and last name "Greenberg" clearly distinguishable.

Karen J. Greenberg

Executive Director, Center on Law and Security

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*The Terrorist Trial Report Card (TTRC) tracks and analyzes all federal criminal prosecutions since September 11, 2001 that the Justice Department claims are terror-related. This year's issue focuses on violent and non-violent crimes, all inspired by jihadist<sup>1</sup> ideas, 578 of the 1,054 total terror-related cases in the Center's database.<sup>2</sup>*

## Comprehensive Results of Post 9-11 Terrorism Prosecution

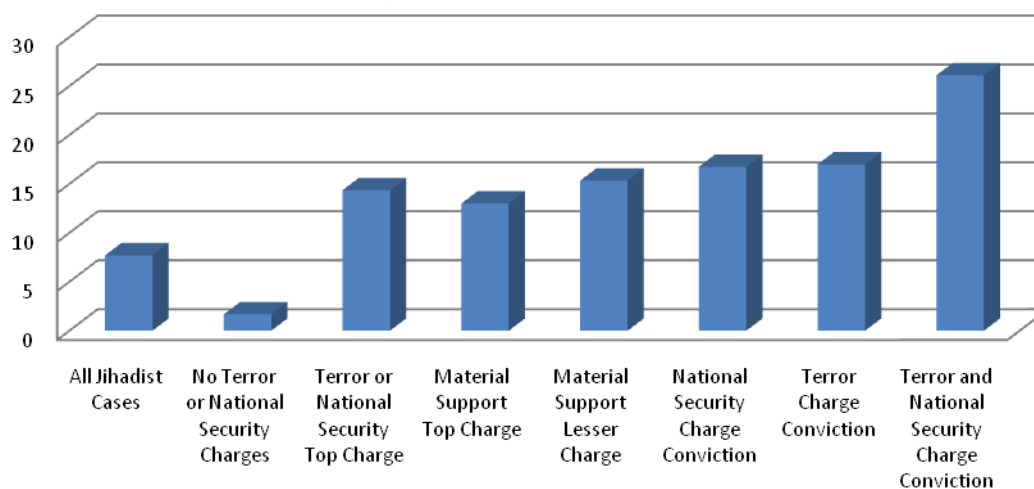
### 1. Results of Prosecutions

The court system has resolved 431 of the 578 cases. **Approximately 87% of all resolved cases have resulted in a conviction.** Of 376 convicted, 349 jihadist defendants have received sentences.

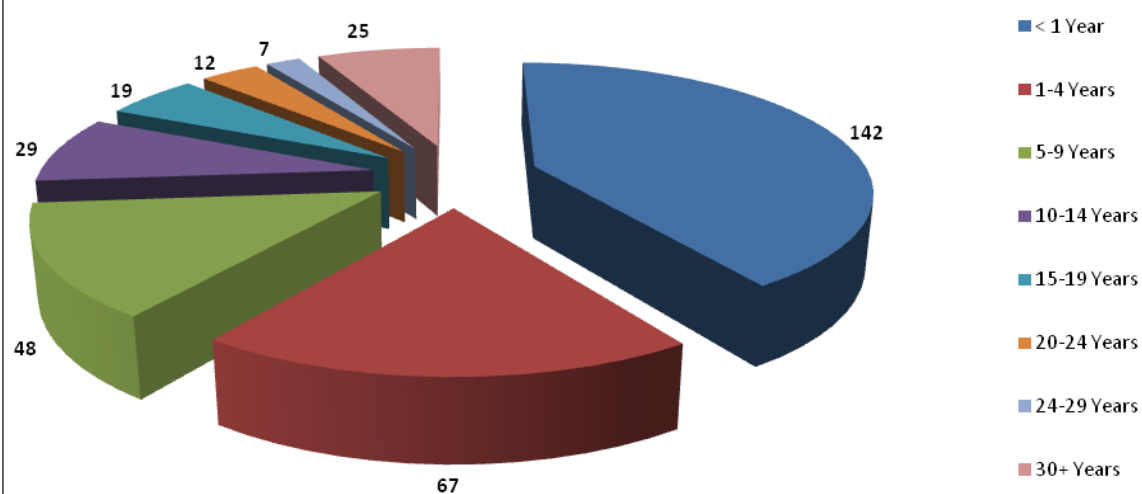
1 Terrorism/National Security: Jihadist Crimes Since 9/11	
Defendants charged	310
Resolved Cases	204
Convictions	177
Acquittals	8
Mistrials	1
Charges Dismissed	13
Guilty Verdicts Vacated	5
Average Sentence	14 Years
Conviction Rate	87%

<sup>1</sup> The category of jihadist includes defendants who were formally or informally associated with an Islamist terror group – whether one with a global jihadist ideology (i.e. Al Qaeda) or a local Islamist movement (i.e. Hamas). It also includes defendants unaffiliated with a terror group who aspired to such affiliation or who subscribed to a global jihadist ideology.

<sup>2</sup> Unless otherwise noted, charts include the group of 578 jihadist defendants from September 11, 2001 - present. This year's analysis does not incorporate data from the nearly 500 terror cases without a link to jihadist crimes, such as violence by far right wing paramilitary terror groups in South America or the United States.

**2****Average Sentence Time (Years)**

Conviction for both a terrorism<sup>3</sup> and a national security<sup>4</sup> crime leads to the longest sentences.

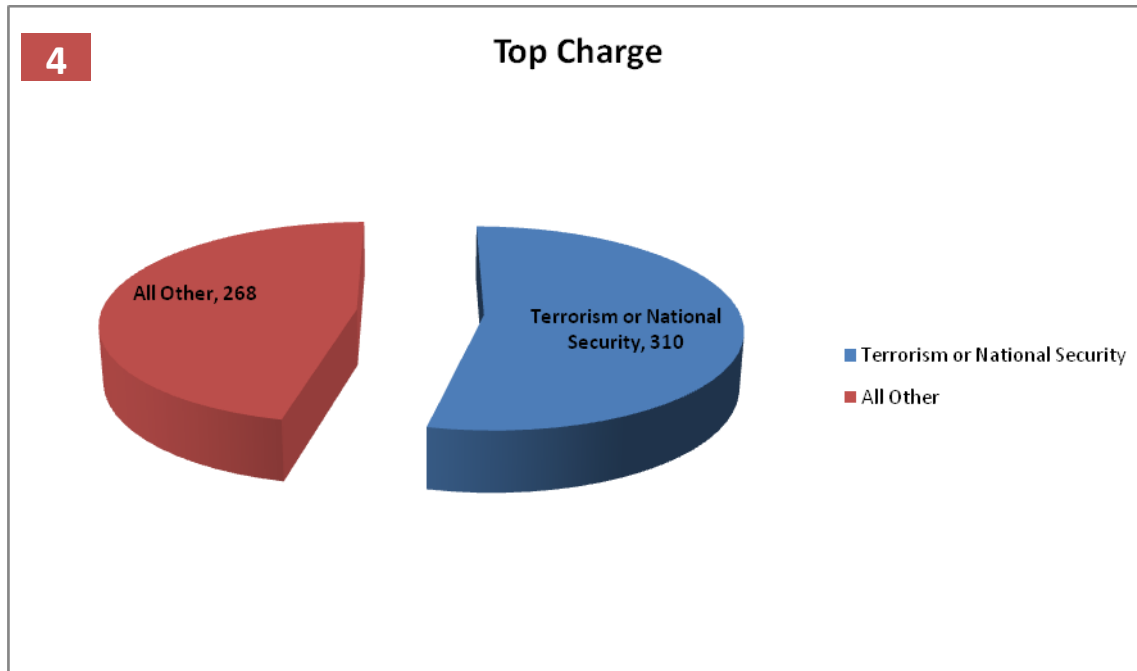
**3****Sentence Length**

<sup>3</sup> This category includes crimes the U.S. government has explicitly identified as involving terrorist tactics, i.e. those intended to instill fear in the larger population or aimed at governmental or symbolic targets, and support of groups engaged in such activities.

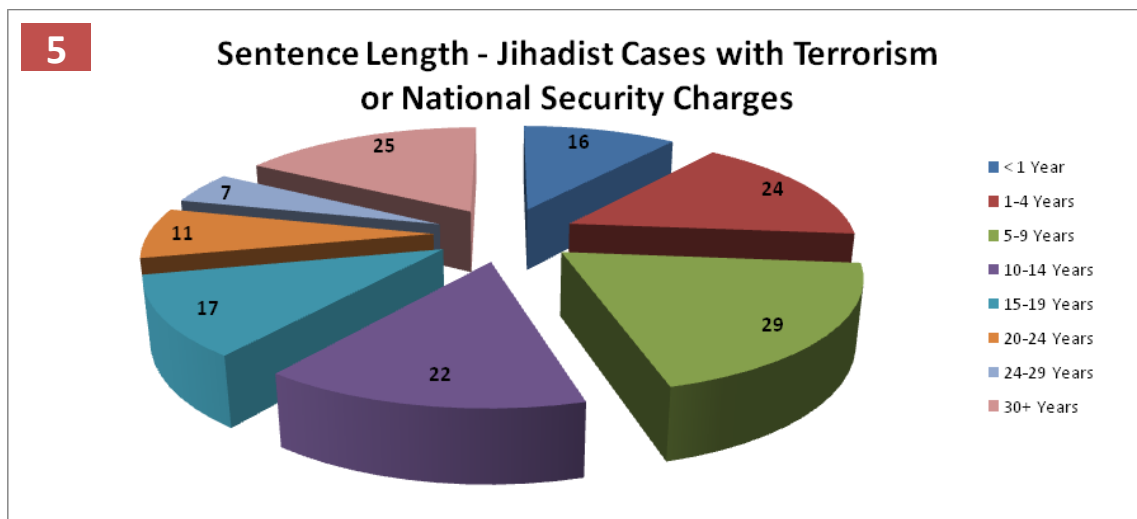
<sup>4</sup> This category includes crimes the U.S. government has determined threaten the nation's security interests, excluding crimes the government has explicitly identified as involving terrorist tactics, acts or organizations. National security crimes include, but are not limited to, hostage-taking, espionage, or subversive foreign relations activities.



These sentences include many defendants charged with only minor crimes, such as passport fraud.<sup>5</sup>



Of the group of 578 defendants, 310 have faced a terrorism or national security charge.<sup>6</sup>

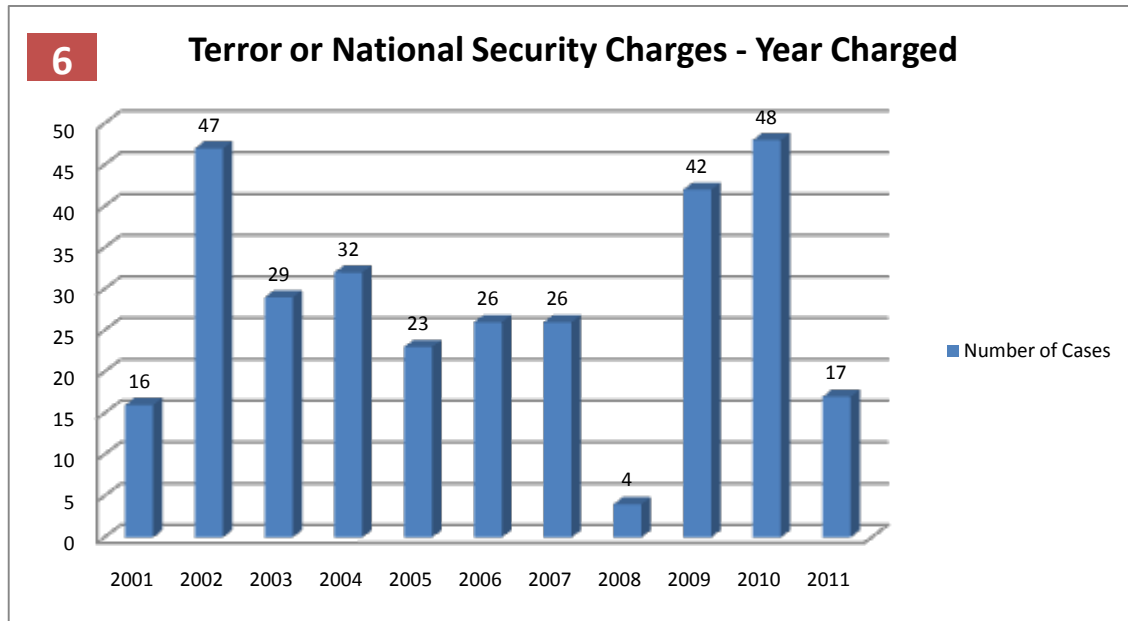


**Sentences for those charged with terrorism or national security crimes are on average 8.5 times longer than defendants not charged with such crimes.** Eighty-eight percent of defendants charged with terror crimes are linked with a known terrorist group compared to

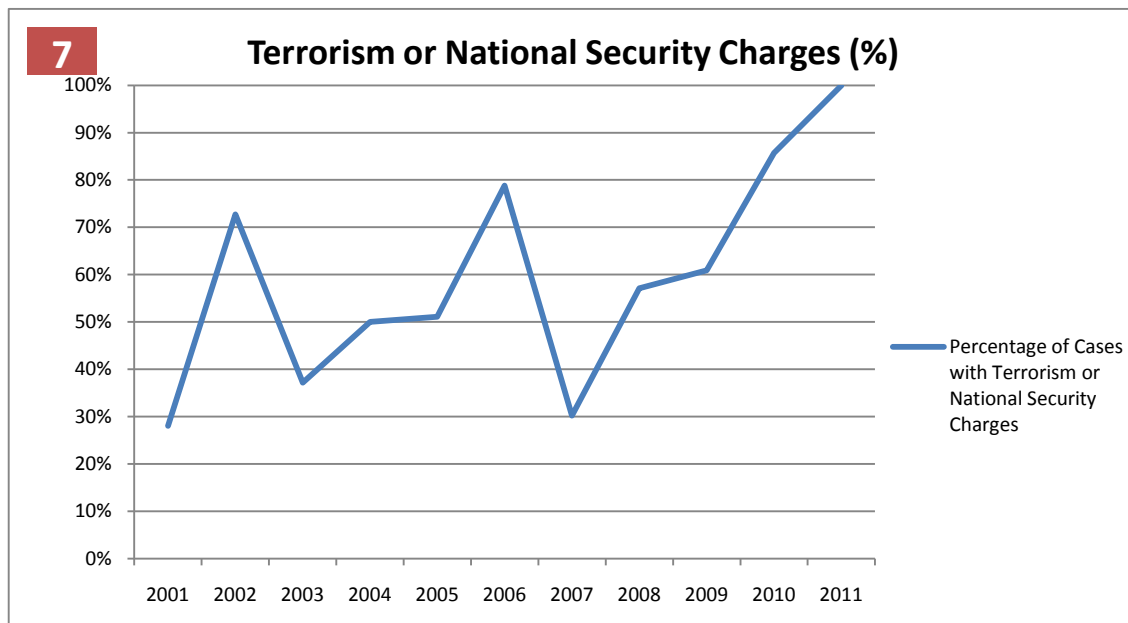
<sup>5</sup> For the purposes of calculation, life sentences are considered 30-year sentences.

<sup>6</sup> To see statutes falling under terrorism or national security, please see Appendix A.

61% of those charged with less serious crimes.



The percentage of defendants charged with terrorism or national security crimes is increasing relative to overall jihadist prosecutions, as well.

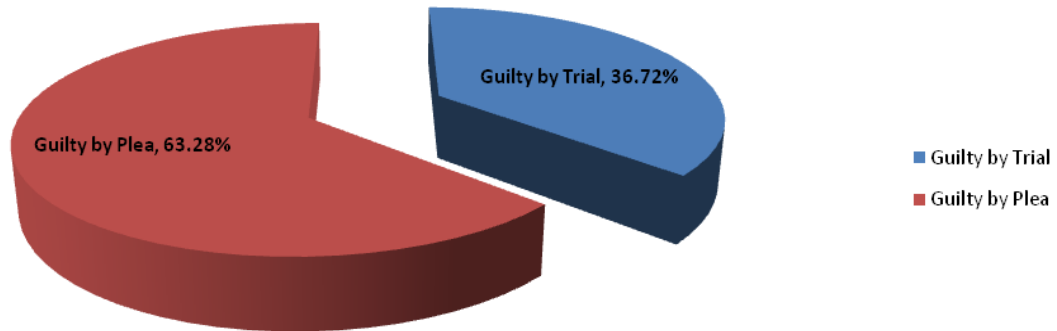


Since 2006, with the notable exception of 2007 (discussed below), the number of jihadist cases where terrorism or national security is the top charge has been at or above 57%.

**In 2010, 86% of all jihadist cases involved a national security or terrorism charge. Through August 2011, 100% of cases bear these charges.**

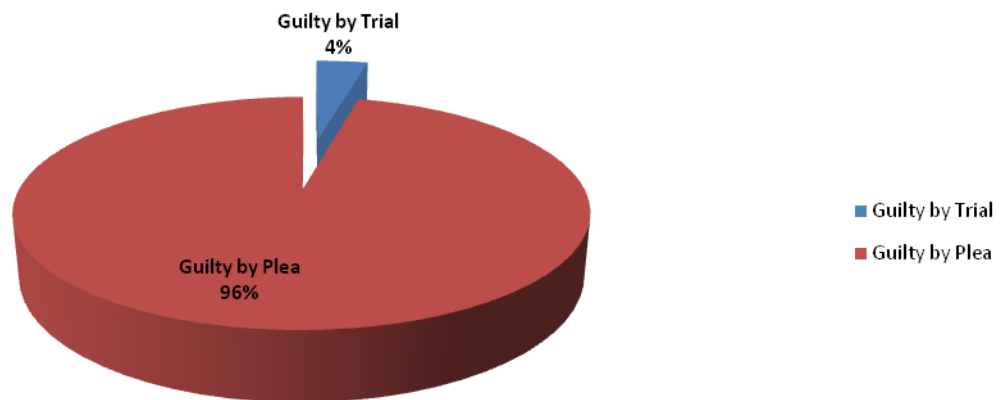
8

### Terror or National Security Top Charge - Convicted of Any Crime



9

### All Federal Criminal Cases - Convicted of Any Crime



The percentage of jihadist terrorism or national security convictions that went to trial is 37%. By contrast, the percentage of all federal criminal convictions that went to trial is 3.7%.<sup>7</sup>

<sup>7</sup> Here, we are comparing the conviction rate of all jihadist cases from September 2001- present to the conviction rate of all federal criminal cases in 2010 because the federal rate is relatively consistent from year to year.

<b>10</b>						
Resolved Indictments	All Jihadist Cases		Jihadist Terror or National Security Cases		All Federal Criminal (2010)	
<b>Convictions</b>	<b>376</b>	<b>87.2%</b>	<b>177</b>	<b>86.8%</b>	<b>81,934</b>	<b>92.7%</b>
Guilty by Trial	90	20.9%	65	31.9%	3,056	3.5%
Guilty by Plea	286	66.4%	112	54.9%	78,878	89.3%
<b>Non-Convictions</b>	<b>55</b>	<b>12.8%</b>	<b>27</b>	<b>13.2%</b>	<b>6,435</b>	<b>7.3%</b>
Acquitted	10	2.3%	8	3.9%	416	0.5%
Dismissed	37	8.6%	13	6.4%	4,842	5.5%
Mistrial	1	0.2%	1	0.5%	1	0.0%
Other	7	1.6%	5	2.5%	1,176	1.3%
<b>Total Cases</b>	<b>431</b>	<b>100%</b>	<b>204</b>	<b>100%</b>	<b>88,369</b>	<b>100%</b>

Overall, the number of closed cases resulting in a guilty by trial verdict is 21% for jihadist cases, 32% for jihadist defendants with terrorism or national security charges, and 3.5% for all federal criminal cases. **Aside from the rate of cases that go to trial, there appears to be no statistically significant difference in how effectively the justice system processes terrorism cases versus all federal criminal cases.**

<b>11</b>						
Cases Tried	All Jihadist Cases		Jihadist Terror or National Security Cases		All Federal Criminal (2010)	
<b>All to Trial</b>	<b>101</b>	<b>100%</b>	<b>74</b>	<b>100%</b>	<b>3,473</b>	<b>100%</b>
Guilty by Trial	90	89.1%	65	87.8%	3,056	87.9%
Acquitted	10	9.9%	8	10.8%	416	12.0%
Mistrial	1	1.0%	1	1.4%	1	0.0%

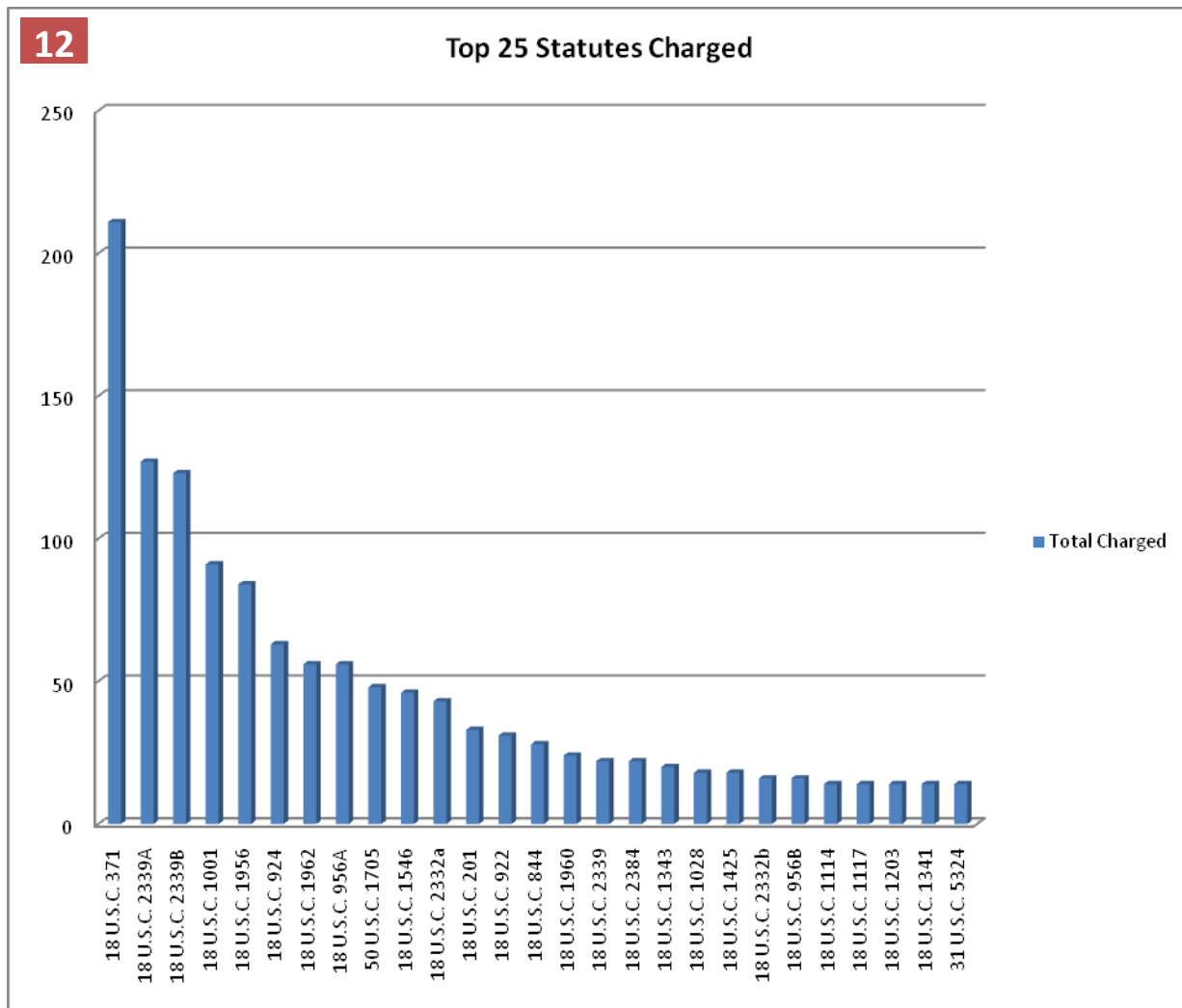
Jihadist cases that proceed to trial result in an 89% conviction rate, about the same rate as all federal criminal cases.<sup>8</sup>

<sup>8</sup> Due to uncertainty over what "Other" means in all federal criminal cases, the category is dropped for tabulating conviction rate for tried cases. Given the low percentage of cases categorized as "Other", the overall proposition that conviction rates are substantially similar remains.

## 2. FISA and CIPA Prosecutions

Most cases proceed without the use of classified evidence, but 23% of cases involve the Classified Information Protection Act, and 25% mention the Foreign Intelligence Surveillance Act. Defendants have been charged under 156 different federal statutes ranging from misuse of a passport to attempt to use a weapon of mass destruction.

## 3. Top Statutes Charged<sup>9</sup>

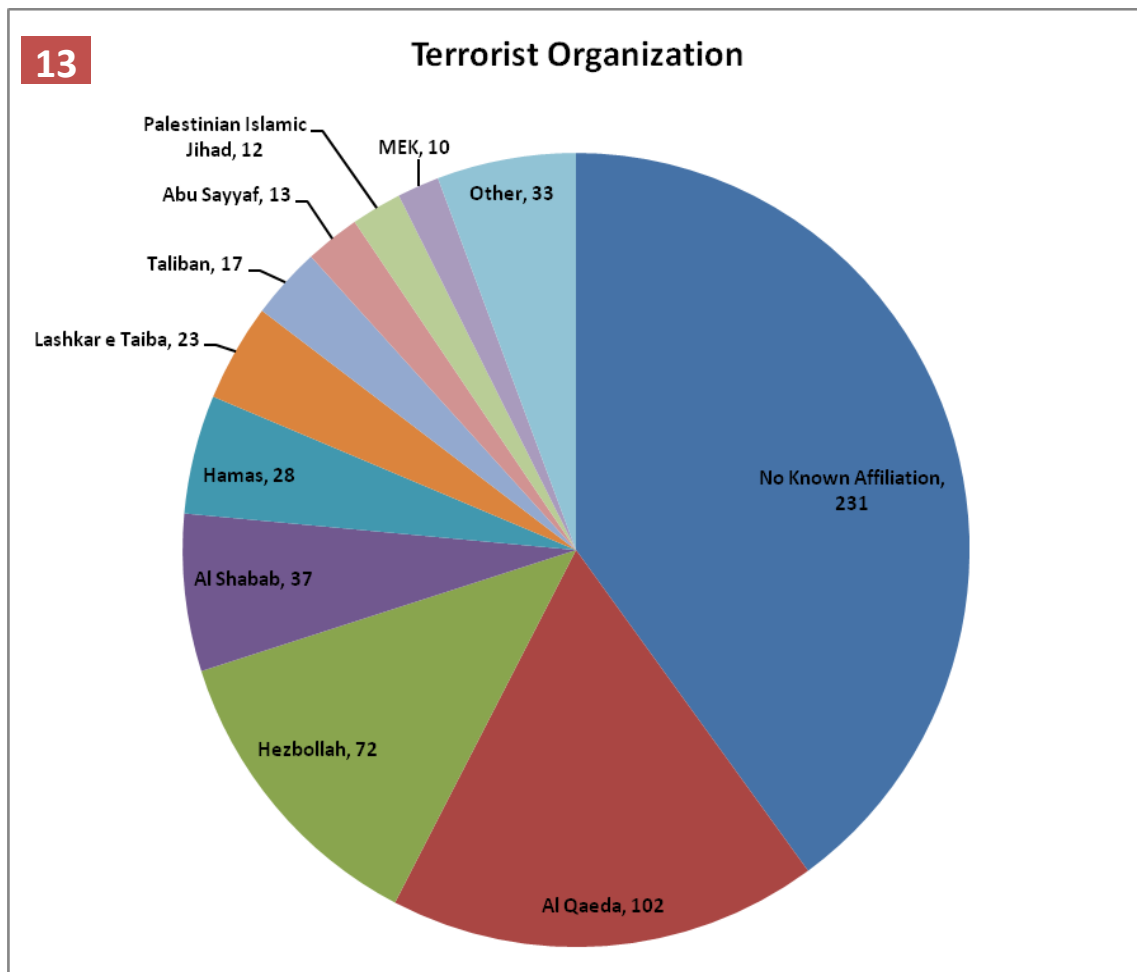


In the past ten years, the most commonly charged crimes have been 18 U.S.C. § 371, general criminal conspiracy; 18 U.S.C. § 2339A, material support for terrorists; and 18 U.S.C. §

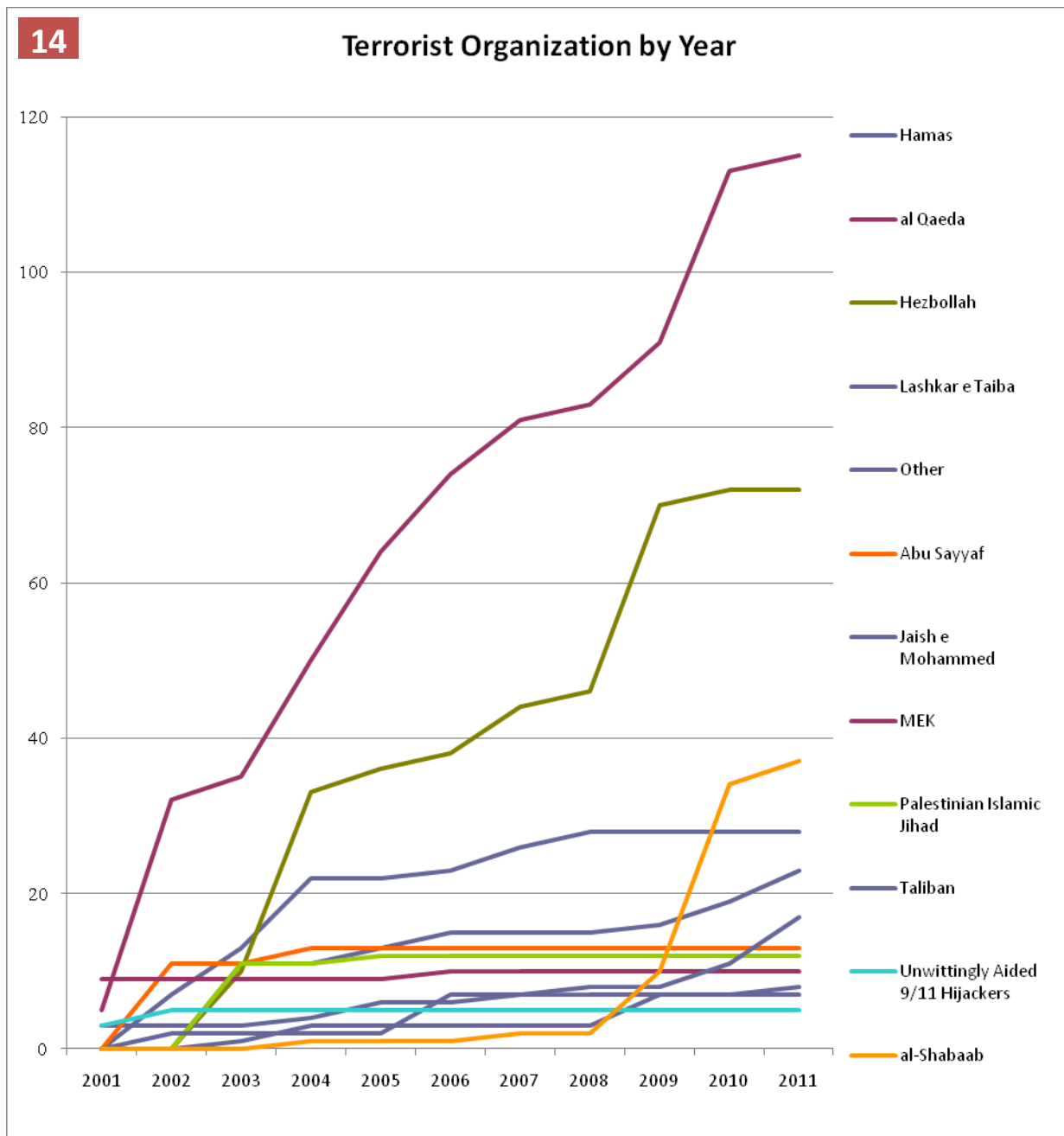
<sup>9</sup> See Appendix A for detailed description of statutes.

2339B, material support for foreign terrorist organizations. Since 2009, the most common charges have been § 2339B, material support for foreign terrorist organizations; § 2339A, material support for terrorists; 18 U.S.C. § 956A, conspiracy to kill, kidnap, maim, or injure persons or property in a foreign country; and § 371, general criminal conspiracy.

#### 4. Terrorist Organization Affiliation

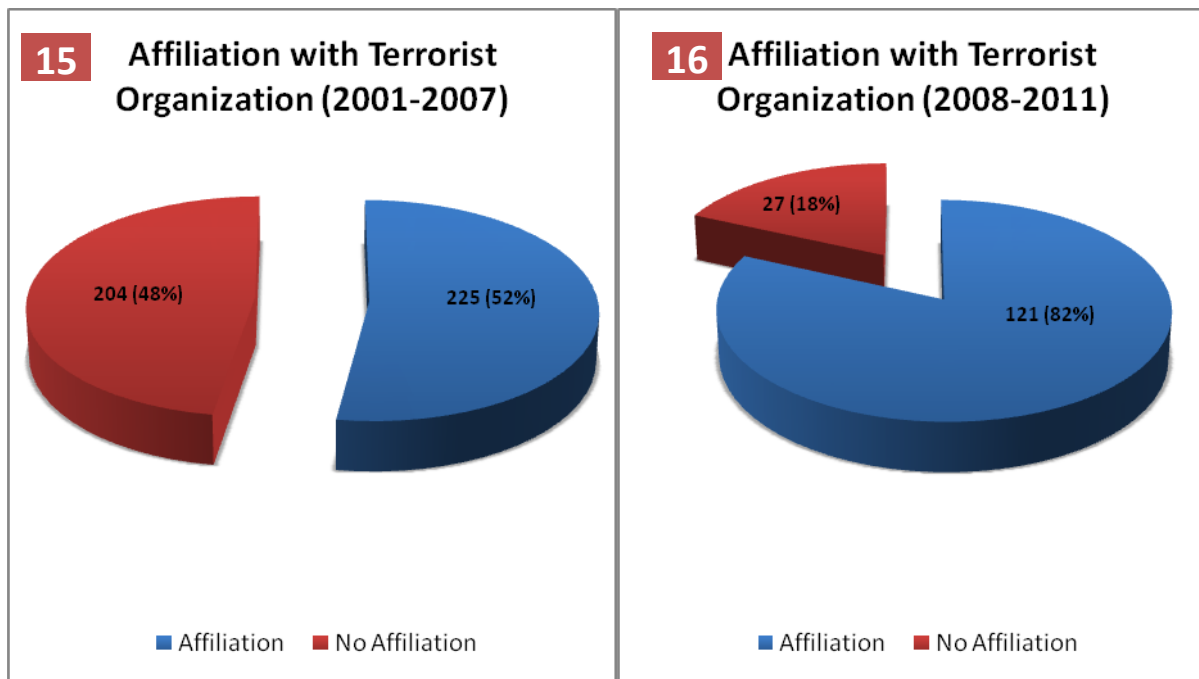


The defendants represent 18 different terrorist organizations of varying size.



Terror group affiliation remained largely steady throughout the last 10 years. One notable exception is Al Shabab. Prosecutions of defendants associated with **Al Shabab** since 2008 have turned the Somalia-based organization into **the third-most prosecuted terror group in the United States**.

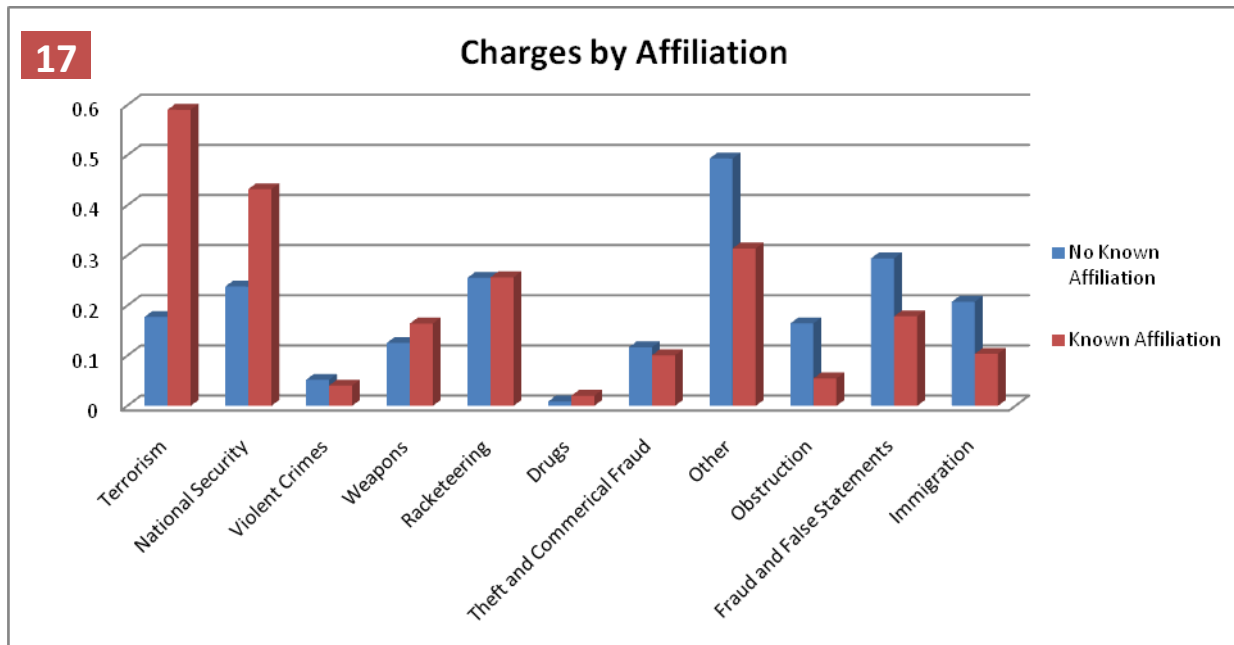
The following charts illustrate a sharp contrast between pre- and post-2007 in rate of terrorist group affiliation.



The year 2007 saw a high volume of jihadist cases (86), many without terrorist organization affiliation (68). Conversely in 2008, federal prosecutors only indicted seven jihadist defendants, all of whom were affiliated with terrorist organizations. Six of these seven were charged with national security or terrorism crimes.

In recent years, the percentage of prosecutions involving defendants with terrorist organization affiliation is increasing. The idea that terror organization affiliation is on the rise is buttressed, for example, by the increase in material support charges, in which 85% are conclusively associated with a terrorist group.

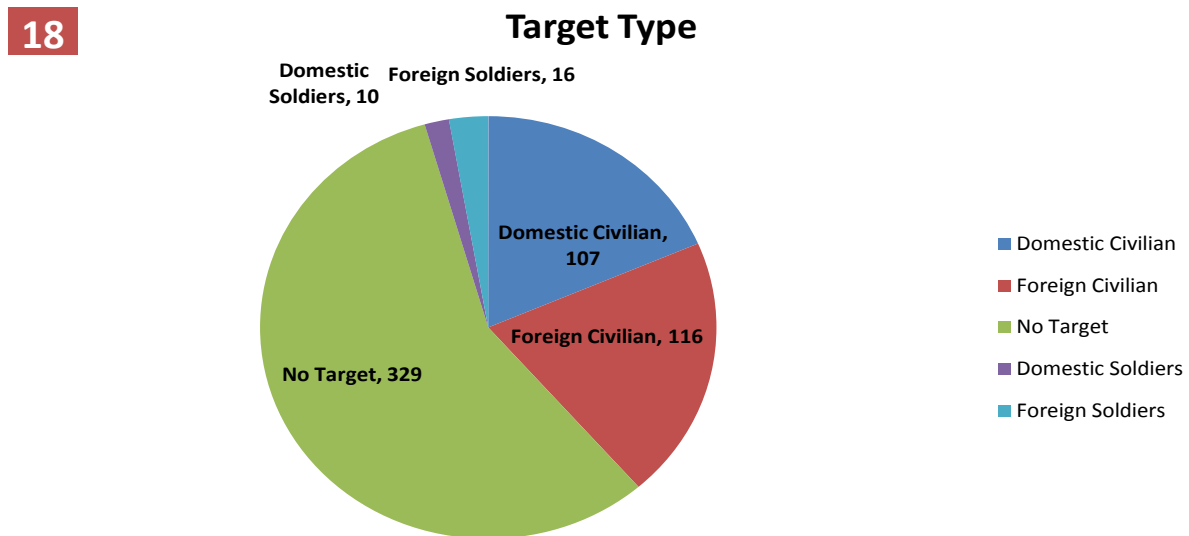




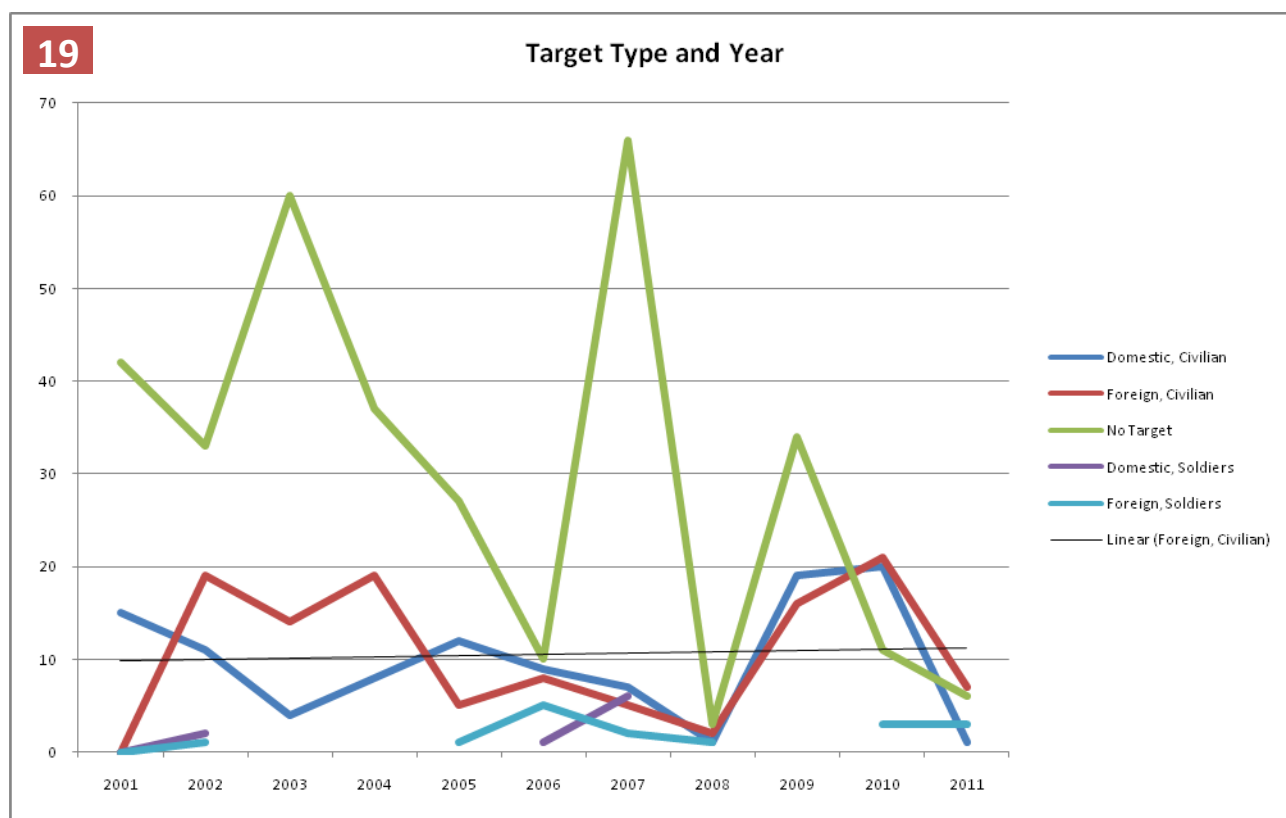
Charges tend to be more serious for jihadist defendants associated with a known terrorist organization. **The increase in terror group affiliation for prosecuted individuals, coupled with the rise of material support charges, suggests that federal prosecutors have been focusing on more serious crimes in the last few years.**

## 5. Terror Targets

□



A significant majority of jihadist defendants have no specific target.<sup>10</sup>



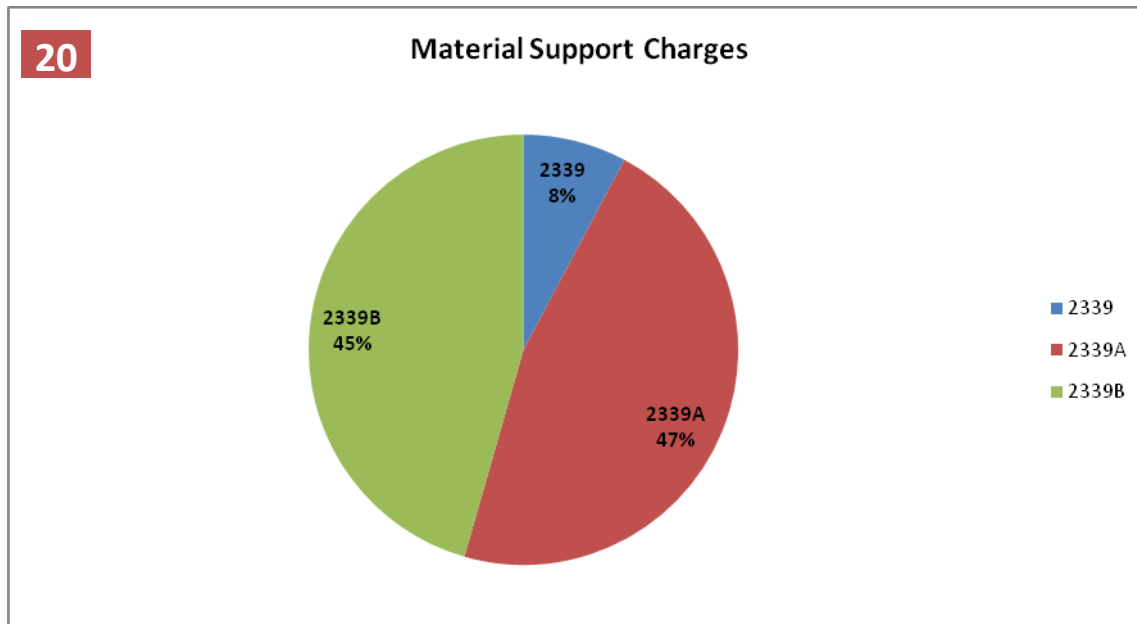
Recent years show a slight decrease, relative to all cases, in cases involving no targets. The anomaly of 2007, with its high number of prosecutions, reappears.

## 6. Material Support Cases on the Rise

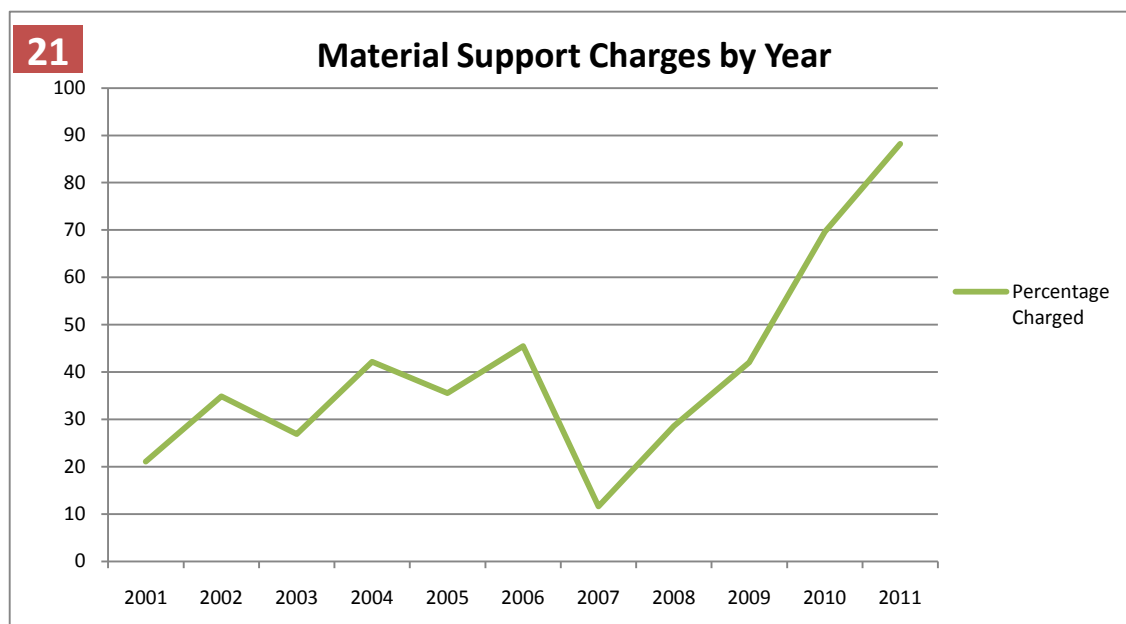
The Center on Law and Security considers a material support charge to be 18 U.S.C. § 2339, § 2339A, or § 2339B.<sup>11</sup> Harboring or concealing a terrorist, 18 U.S.C. § 2339, was charged in only 21 cases.

<sup>10</sup> Cases with no target include defendants who participated in terror training abroad or those who provided purely financial support to a terror organization, with no specific terror plots in mind.

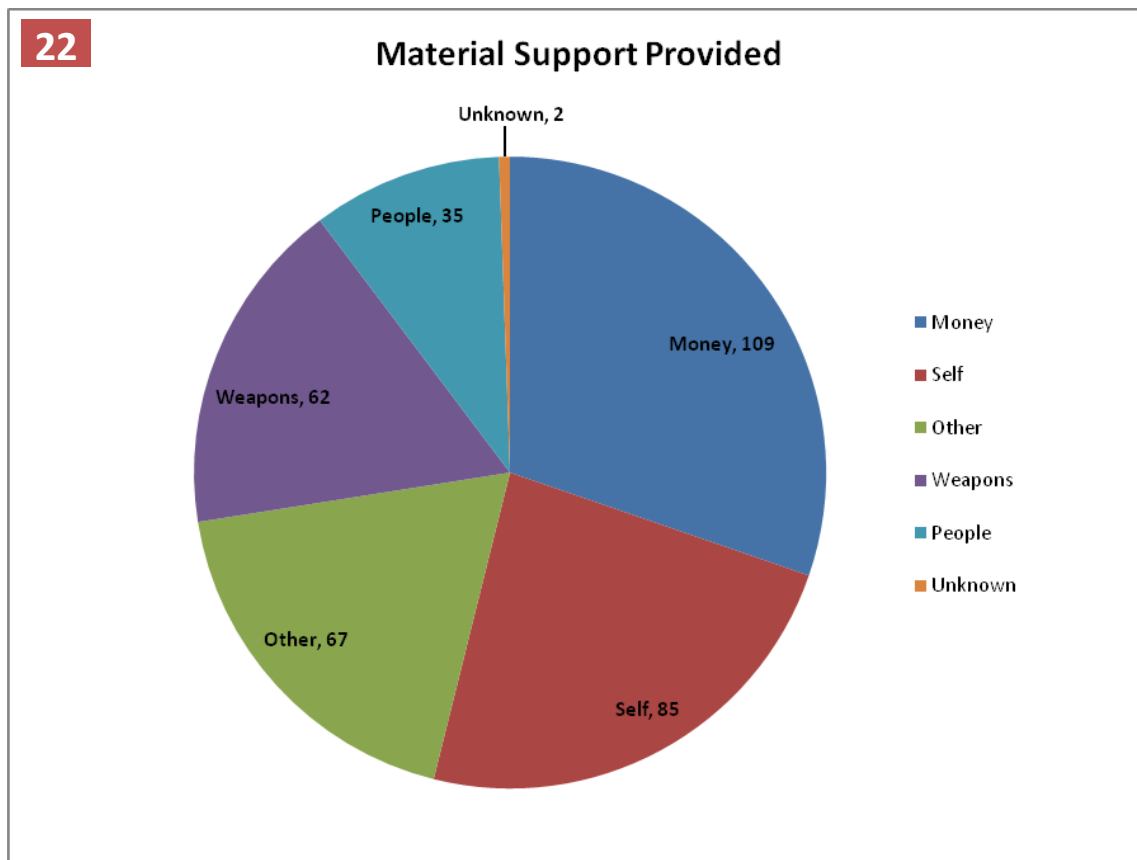
<sup>11</sup> 18 U.S.C. § 2339 prohibits harboring or concealing terrorists, whereas § 2339A and § 2339B outlaw providing material support to individuals or organizations. § 2339A makes it illegal to give material support to terrorists, while § 2339B prohibits providing material support or resources to designated foreign terrorist organizations. The former is more general and can include domestic terrorists, while the latter is confined to organizations designated by the State Department.



Since 2007, material support has gone from being charged in 11.6% of cases to 69.4% in 2010. **In 2011 so far, 87.5% of cases involve a material support charge.**



Material support<sup>12</sup> convictions may result in up to fifteen years for each count, or up to life in prison if the death of another person results. Actions that have been considered material support for terrorists or a terrorist group range from raising \$300 for Al Shabab to attempting to provide anti-aircraft missiles for Al Qaeda. Material support is a serious charge that usually results in long prison sentences. Where material support is the top charge, the resulting sentence is 7.8 times longer than for defendants not charged with terrorism or national security. **This is significant because § 2339B charges do not require proof of intent that the material support go to illegal activities.**



<sup>12</sup> The definition of material support in § 2339A and § 2339B is referred to § 2339A(b)(1-3), which includes a litany of examples of support for a terrorist operation at various stages of planning. Material support includes any property or service, exempting medicine or religious materials. Services can include training, expert advice, personnel (including oneself), transportation, safe houses, communications, and more. Section 2339A(b)(2) and 2339A(b)(3) further define training and expert advice to include specific or specialized, rather than general, assistance.

Material support charges have included the provision of money, weapons, personnel, communications, technical assistance, and the defendant's person and services.

Section 2339A requires that the defendant knows or intends the material support provided will be used to prepare or carry out a violation of certain sections of the criminal code. Section 2339C, the prohibition on the financing of terrorism, has a similar intent requirement to 2339A. Section 2339B requires knowing that the organization to which one is providing support is a designated FTO, that the organization engages in terrorist activities, or that the organization engages in or has engaged in terrorism. **The knowledge requirement does not require a showing that the defendant intended to further the illegal activities of the organization.**<sup>13</sup>

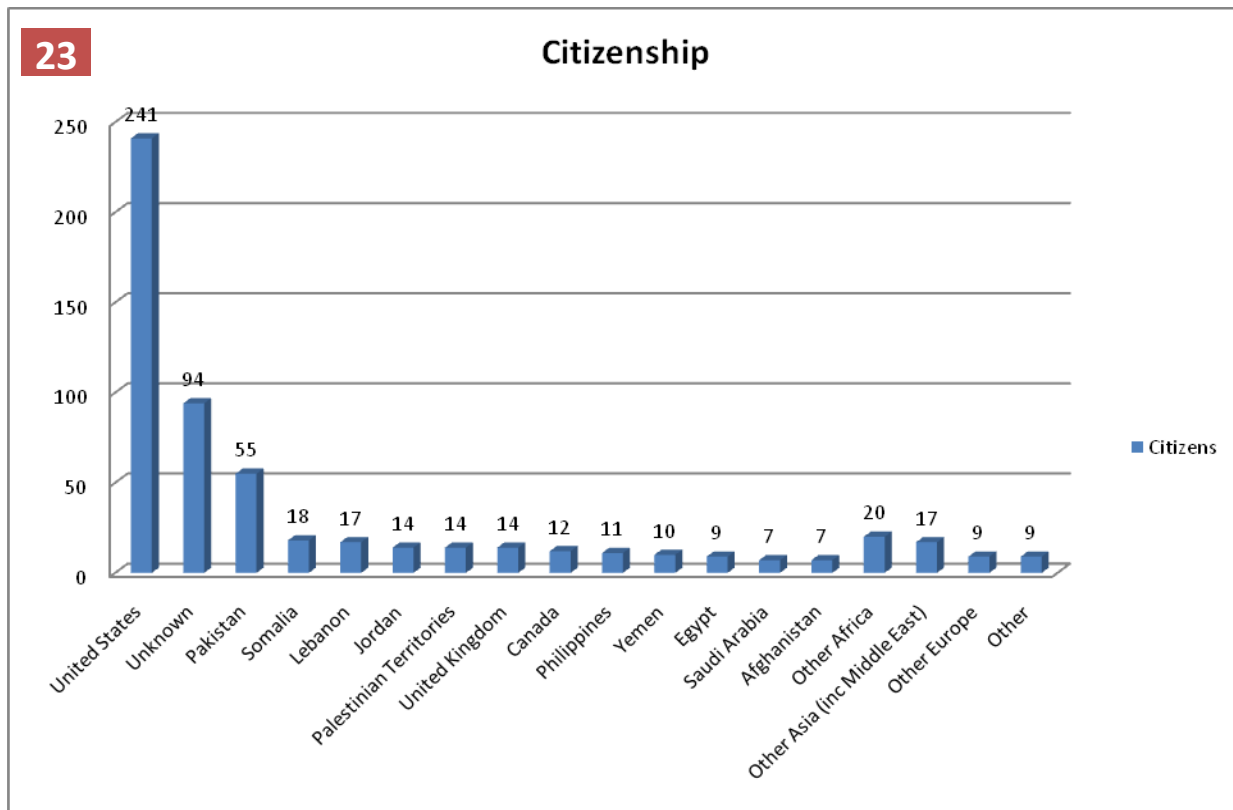
The statute's merging of the broad scope of activities that constitute material support with the lack of specific intent in Section 2339B means that any knowing material support for a foreign terrorist organization, whether intended to support illegal activity or not, can result in prosecution for very serious terrorism charges and in lengthy prison sentences. The Supreme Court found that Congress purposefully weakened the intent language in 2339B relative to 2339A. The Court also deferred to Congress' finding that there is no meaningful separation between a terrorist organization's legal and illegal activities, therefore support for one is functionally equivalent to support for the other.<sup>14</sup>

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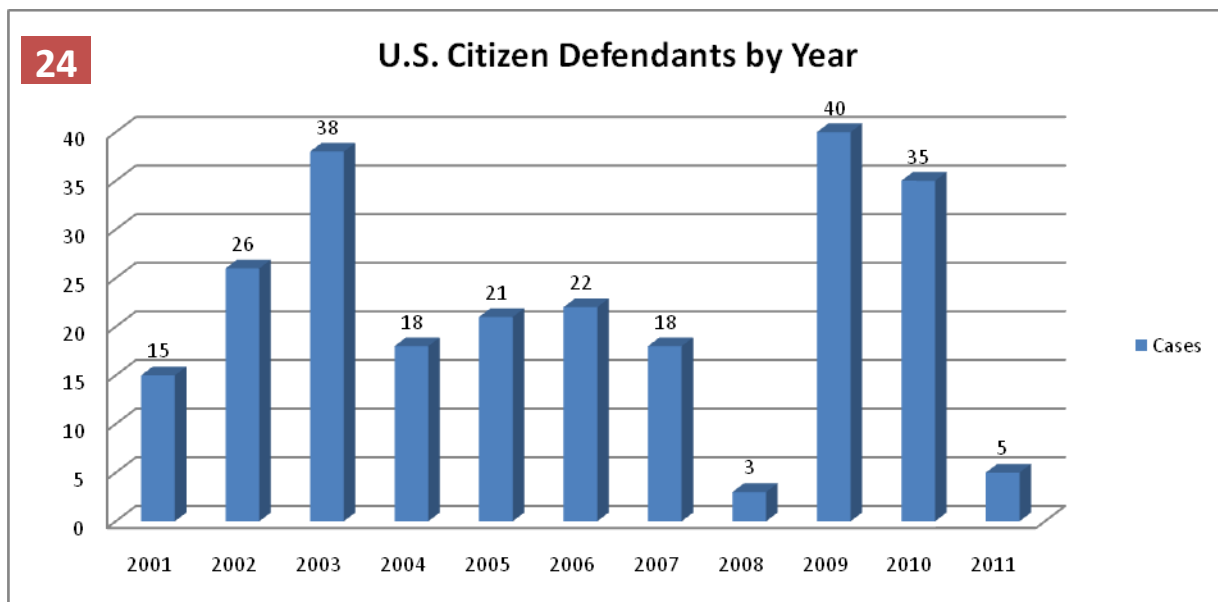
<sup>13</sup> *Holder v. Humanitarian Law Project*, 130 S. Ct 2705 (2010).

<sup>14</sup> *Id.* at 2710.

## 7. Citizenship of Defendants



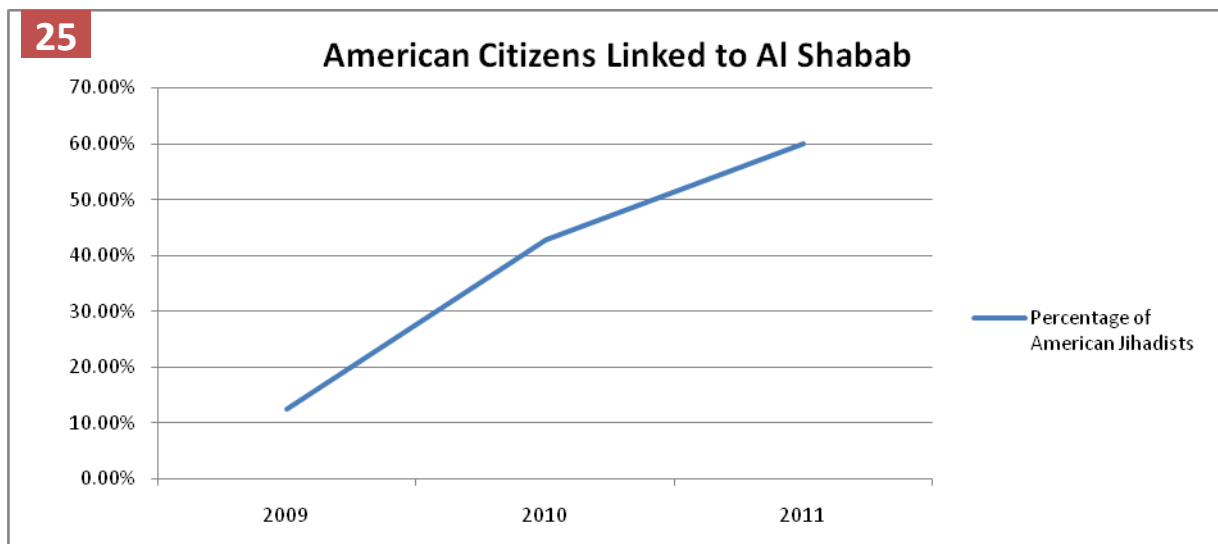
The group of defendants charged with jihadist crimes is highly diverse. **While 42% are U.S. citizens, the rest are citizens of more than 45 other countries.**



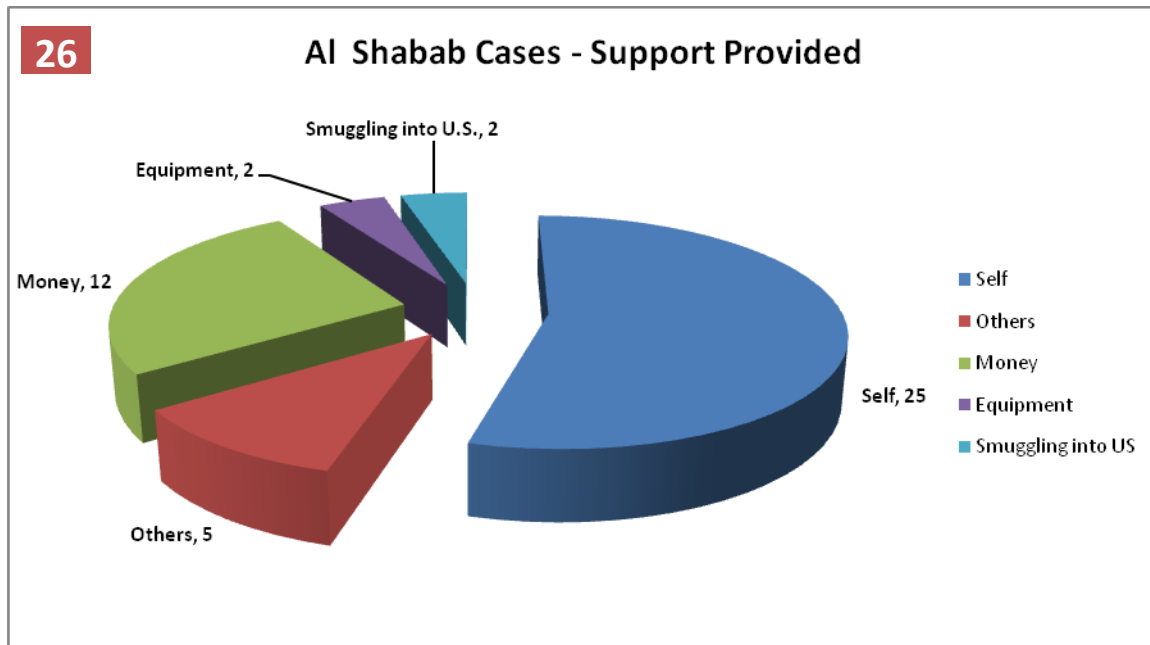
There has been an uptick in the number of U.S. citizens charged with jihadist terrorism since 2009, although so far in 2011, we have observed a reversal of this trend, as well as an overall decrease in terrorism prosecutions, compared to the last several years.

## 8. Al Shabab

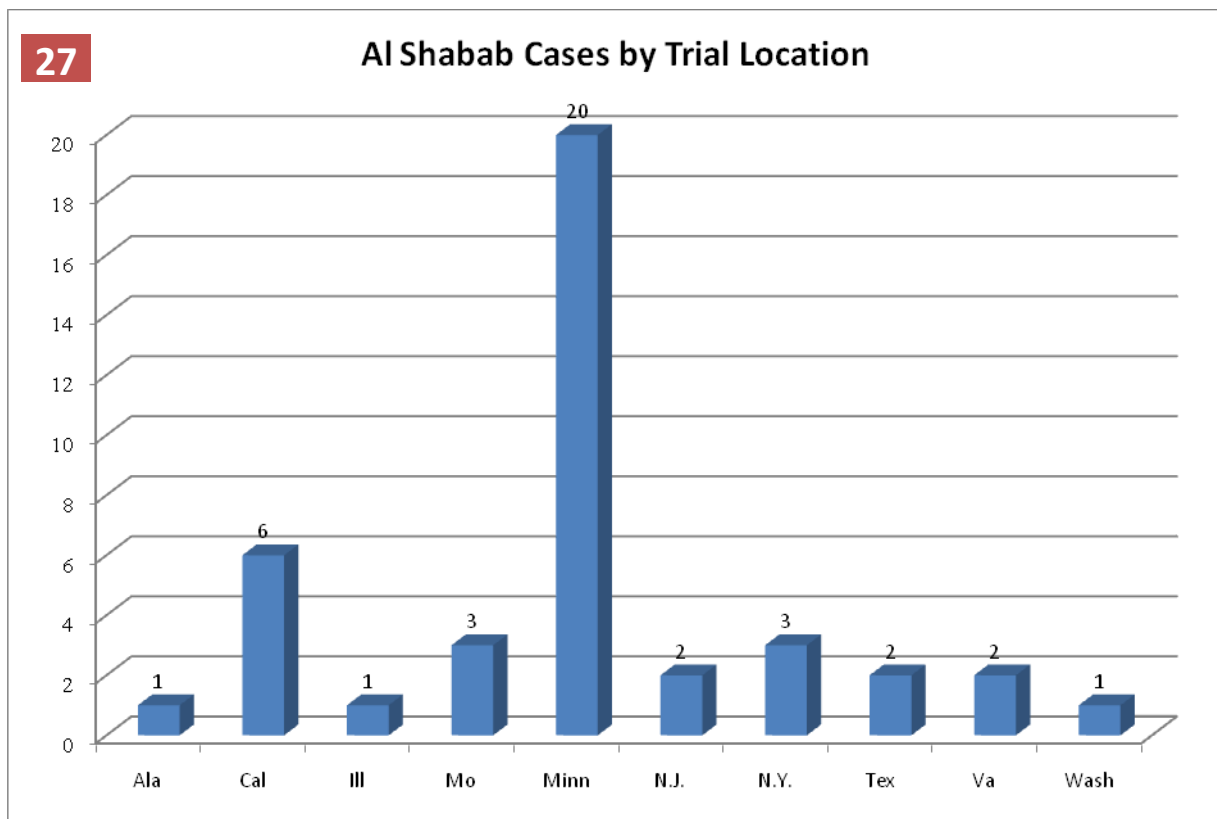
In recent months, Representative Peter King (R-NY) held a series of hearings about the homegrown terror threat in the U.S. One hearing focused primarily on the alleged domestic threat represented by the Somalia-based group, Al Shabab, which the U.S. State Department designated a foreign terrorist organization in February 2008.



The small increase in prosecution of U.S. citizens since 2009 can be partially explained by Somali-Americans predominantly charged with providing material support to Al Shabab.

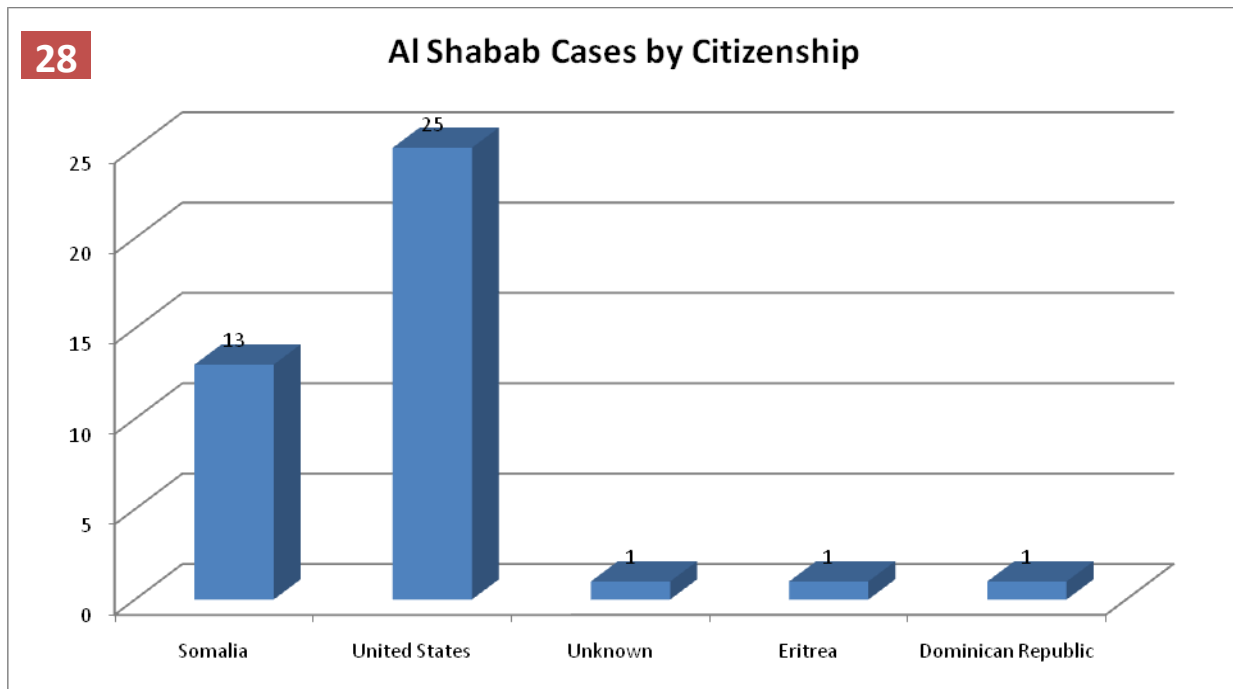


Of the 41 people alleged to have a link to Al Shabab, 30, or 73.2%, face a material support charge. Support ranges from providing equipment, sending others to fight, raising money, and providing oneself to fight.





About half of the Al Shabab cases are tried in Minnesota. Approximately 25,000 of the U.S.'s 87,500 Somali refugees live in that state.<sup>15</sup> Between 2007-2010, a conspiracy of 20 men in Minnesota allegedly sent individuals to Somalia. Some may have been lured to fight a nationalist struggle against Ethiopian troops who invaded in 2006. At least three are dead – one, Farah Mohamed Beledi, was shot in Mogadishu in 2011 before being able to blow up a suicide vest.<sup>16</sup> The group of 41 does not include Shirwa Ahmed, the first American suicide bomber who killed 31 people in Somalia<sup>17</sup>, because he was never charged by U.S. prosecutors.<sup>18</sup>



Those who have been accused in connection with Al Shabab are largely naturalized American citizens, though many are Somali citizens. Prosecutors have brought 93% of Al Shabab cases in the last three years. This could be a reflection of Al Shabab's recent addition to the designated foreign terrorist organization list, the growing importance of Somalia in the war on terror, or a combination of both.

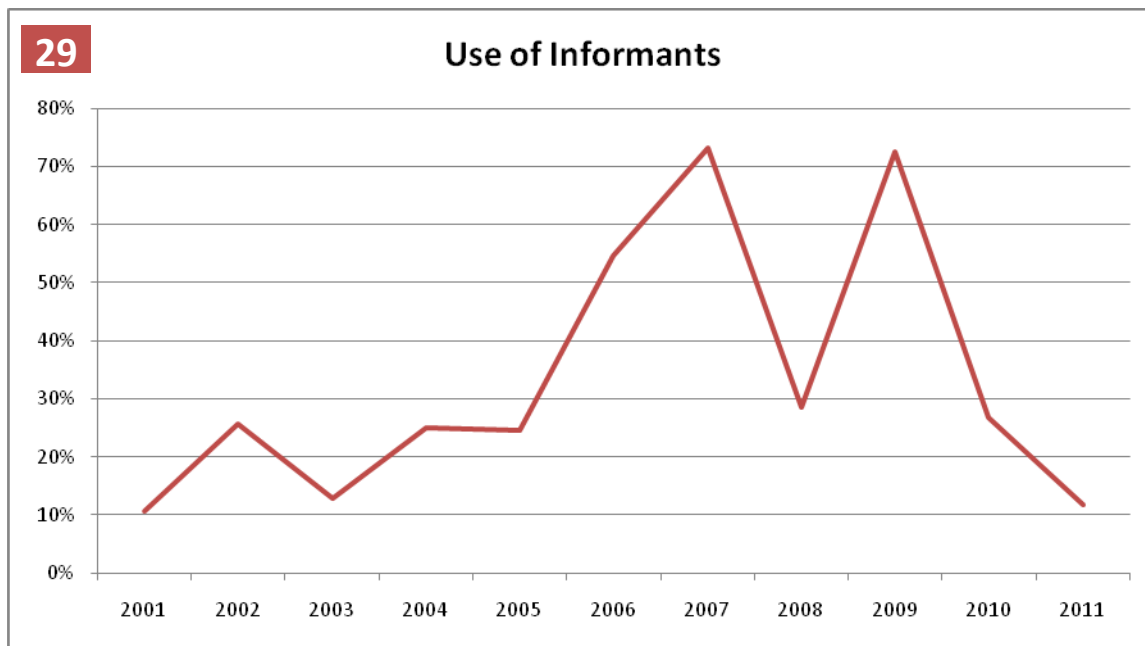
<sup>15</sup> U.S. Census Bureau's American Community Survey, 2009.

<sup>16</sup> "Minn. woman IDs alleged suicide bomber as stepson" *ABC News*, June 8, 2011 (<http://abcnews.go.com/US/wireStory?id=13787341>).

<sup>17</sup> U.S. Attorney's Office, District of Minnesota, Press Release November 23, 2009 (<http://www.fbi.gov/minneapolis/press-releases/2009/mp112309.htm>).

<sup>18</sup> "'A Call to Jihad, Answered in America' *N.Y. Times*, July 11, 2009 (<http://www.nytimes.com/2009/07/12/us/12somalis.html?pagewanted=all>).

## 9. Government Informants and Entrapment



Since 9-11, 41% of terrorism cases have involved an informant. Since 2009, the federal government has expanded its use of aggressive and often controversial investigations, whereby a confidential informant or undercover officer makes contact with a potential terror suspect and assists him in the planning of an attempted terror crime.<sup>19</sup> Sting operations often target American-born suspects who have expressed interest in committing jihadist crimes within the United States. Ten defendants who have been caught up in sting operations since 9-11 formally presented entrapment<sup>20</sup> as a defense in court proceedings, but the defense has never been successful in a terrorism prosecution.

<sup>19</sup> The crimes never threaten public safety, as defendants are either arrested before the violence is initiated or are arrested after attempted use of inert weapons provided by FBI agents.

<sup>20</sup> The entrapment defense is the claim that government officials induced an otherwise innocent person to commit a criminal act. The defendant has the initial burden of proving that he was induced to commit the crime. If the defense meets that burden, the prosecution must then prove that the defendant was predisposed to commit the crime in order to vitiate the defense. If the prosecution cannot prove predisposition, the jury must acquit the defendant.

## Appendix A: Table of Statutes by Category

### COMMERCIAL FRAUD, EMBEZZLEMENT, AND THEFT

7 U.S.C. § 2024	Agriculture -- Food stamp program: Violations and enforcement
18 U.S.C. § 471	Crimes and criminal procedure -- Crimes -- Counterfeiting and forgery: Obligations or securities of United States
18 U.S.C. § 473	Crimes and criminal procedure -- Crimes -- Counterfeiting and forgery: Dealing in counterfeit obligations or securities
18 U.S.C. § 513	Crimes and criminal procedure -- Crimes -- Counterfeiting and forgery: Securities of the States and private entities
18 U.S.C. § 542	Crimes and criminal procedure -- Crimes -- Customs: Entry of goods by means of false statements
18 U.S.C. § 545	Crimes and criminal procedure -- Crimes -- Customs: Smuggling goods into the United States
18 U.S.C. § 641	Crimes and criminal procedure -- Crimes -- Embezzlement and theft: Public money, property or records
18 U.S.C. § 659	Crimes and criminal procedure -- Crimes -- Embezzlement and theft: Interstate or foreign shipments by carrier; State prosecutions
18 U.S.C. § 1014	Crimes and criminal procedure -- Crimes -- Fraud and false statements: Loan and credit applications generally; renewals and discounts; crop insurance
18 U.S.C. § 1341	Crimes and criminal procedure -- Crimes -- Mail fraud and other fraud offenses: Frauds and swindles
18 U.S.C. § 1343	Crimes and criminal procedure -- Crimes -- Mail fraud and other fraud offenses: Fraud by wire, radio, or television
18 U.S.C. § 1344	Crimes and criminal procedure -- Crimes -- Mail fraud and other fraud offenses: Bank fraud
18 U.S.C. § 1347	Crimes and criminal procedure -- Crimes -- Mail fraud and other fraud offenses: Health care fraud
18 U.S.C. § 1349	Crimes and criminal procedure -- Crimes -- Mail fraud and other fraud offenses: Attempt and conspiracy
18 U.S.C. § 1365	Crimes and criminal procedure -- Crimes -- Malicious mischief: Tampering with consumer products
18 U.S.C. § 2314	Crimes and Criminal Procedure -- Crimes -- Stolen property: Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting
18 U.S.C. § 2315	Crimes and Criminal Procedure -- Crimes -- Stolen property: Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps
18 U.S.C. § 2320	Crimes and Criminal Procedure -- Crimes -- Stolen property: Trafficking in counterfeit goods or services
18 U.S.C. § 2342	Crimes and Criminal Procedure -- Crimes -- Trafficking in contraband cigarettes and smokeless tobacco: Unlawful acts
42 U.S.C. § 408	Public health and welfare -- Social Security Act -- Federal old age, survivors, and disability insurance benefits: Penalties
47 U.S.C. § 223	Telegraphs, telephones, and radiotelegraphs -- Wire or radio communication -- Common carriers -- Common carrier regulation: Obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications

### DRUG CRIMES

21 U.S.C. § 841	Food and Drugs -- Drug abuse prevention and control -- Control and enforcement -- Offenses and penalties: Prohibited acts A
21 U.S.C. § 844	Food and Drugs -- Drug abuse prevention and control -- Control and enforcement -- Offenses and penalties: Penalty for simple possession
21 U.S.C. § 846	Food and Drugs -- Drug abuse prevention and control -- Control and enforcement -- Offenses and penalties: Attempt and conspiracy
21 U.S.C. § 853	Food and Drugs -- Drug abuse prevention and control -- Control and enforcement -- Offenses and penalties: Criminal forfeitures
21 U.S.C. § 952	Food and Drugs -- Drug abuse prevention and control -- Import and export: Importation of controlled substances
21 U.S.C. § 959	Food and Drugs -- Drug abuse prevention and control -- Import and export: Possession, manufacture or distribution of controlled substance
21 U.S.C. § 960	Food and Drugs -- Drug abuse prevention and control -- Import and export: Prohibited acts A
21 U.S.C. § 963	Food and Drugs -- Drug abuse prevention and control -- Import and export: Attempt and conspiracy

**FRAUD AND FALSE STATEMENTS**

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18 U.S.C. § 1001	Crimes and criminal procedure -- Crimes -- Fraud and false statements: Statements or entries generally
18 U.S.C. § 1028	Crimes and criminal procedure -- Crimes -- Fraud and false statements: Fraud and related activity in connection with identification documents, authentication features, and information
18 U.S.C. § 1029	Crimes and criminal procedure -- Crimes -- Fraud and false statements: Fraud and related activity in connection with access devices
18 U.S.C. § 1030	Crimes and criminal procedure -- Crimes -- Fraud and false statements: Fraud and related activity in connection with computers
26 U.S.C. § 7201	Internal Revenue Code -- Procedure and administration -- Crimes, other offenses, and forfeiture -- Crimes -- General provisions: Attempt to evade or defeat tax
26 U.S.C. § 7202	Internal Revenue Code -- Procedure and administration -- Crimes, other offenses, and forfeiture -- Crimes -- General provisions: Willful failure to collect or pay over tax
26 U.S.C. § 7203	Internal Revenue Code -- Procedure and administration -- Crimes, other offenses, and forfeiture -- Crimes -- General provisions: Willful failure to file return, supply information, or pay tax
26 U.S.C. § 7206	Internal Revenue Code -- Procedure and administration -- Crimes, other offenses, and forfeiture -- Crimes: General provisions: Fraud and false statements
26 U.S.C. § 7212	Internal Revenue Code -- Procedure and administration -- Crimes, other offenses, and forfeiture -- Crimes -- General provisions: Attempts to interfere with administration of Internal Revenue laws
31 U.S.C. § 5313	Money and finance -- Money -- Monetary transactions -- Records and reports on monetary instruments transactions: Reports on domestic coins and currency transactions
31 U.S.C. § 5316	Money and finance -- Money -- Monetary transactions -- Records and reports on monetary instruments transactions: Reports on exporting and importing monetary instruments
31 U.S.C. § 5324	Money and finance -- Money -- Monetary transactions -- Records and reports on monetary instruments transactions: Structuring transactions to evade reporting requirement prohibited
31 U.S.C. § 5332	Money and finance -- Money -- Monetary transactions -- Records and reports on monetary instruments transactions: Bulk cash smuggling into or out of the United States

**IMMIGRATION VIOLATIONS**

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8 U.S.C. § 1253	Aliens and nationality -- Immigration and nationality -- Immigration adjustment and change of status: Penalties related to removal
8 U.S.C. § 1305	Aliens and nationality -- Immigration and nationality -- Immigration -- Registration of aliens: Notices of change of address
8 U.S.C. § 1306	Aliens and nationality -- Immigration and nationality -- Immigration -- Registration of aliens: Penalties
8 U.S.C. § 1324	Aliens and nationality -- Immigration and nationality -- Immigration -- General penalty provisions: Bringing in and harboring certain aliens
8 U.S.C. § 1325	Aliens and nationality -- Immigration and nationality -- Immigration -- General penalty provisions: Improper entry by an alien
8 U.S.C. § 1326	Aliens and nationality -- Immigration and nationality -- Immigration -- General penalty provisions: Reentry of removed aliens
18 U.S.C. § 911	Crimes and criminal procedure -- Crimes -- False personation: Citizen of the United States
18 U.S.C. § 1015	Crimes and criminal procedure -- Crimes -- Fraud and false statements: Naturalization, citizenship or alien registry
18 U.S.C. § 1425	Crimes and criminal procedure -- Crimes -- Nationality and citizenship: Procurement of citizenship or naturalization unlawfully
18 U.S.C. § 1542	Crimes and criminal procedure -- Crimes -- Passports and visas: False statement in application and use of passport
18 U.S.C. § 1543	Crimes and criminal procedure -- Crimes -- Passports and visas: Forgery or false use of passport
18 U.S.C. § 1544	Crimes and criminal procedure -- Crimes -- Passports and visas: Misuse of passport
18 U.S.C. § 1546	Crimes and criminal procedure -- Crimes -- Passports and visas: Fraud and misuse of visas, permits, and other documents

**NATIONAL SECURITY VIOLATIONS AND HOSTAGE TAKING**

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18 U.S.C. § 32	Crimes and criminal procedure -- Crimes -- Aircraft and motor vehicles: Destruction of aircraft or aircraft facilities
18 U.S.C. § 43	Crimes and criminal procedure -- Crimes -- Animals, birds, fish, and plants: Force, violence, and threats involving animal enterprises
18 U.S.C. § 175	Crimes and criminal procedure -- Crimes -- Biological weapons: Prohibitions with respect to biological weapons
18 U.S.C. § 229	Crimes and criminal procedure -- Crimes -- Chemical weapons: Prohibited activities
18 U.S.C. § 793	Crimes and criminal procedure -- Crimes -- Espionage and censorship: Gathering, transmitting, or losing defense information
18 U.S.C. § 841	Crimes and criminal procedure -- Crimes -- Importation, manufacture, distribution and storage of explosive materials: Definitions
18 U.S.C. § 842	Crimes and criminal procedure -- Crimes -- Importation, manufacture, distribution and storage of explosive materials: Unlawful acts
18 U.S.C. § 844	Crimes and criminal procedure -- Crimes -- Importation, manufacture, distribution and storage of explosive materials: Penalties
18 U.S.C. § 871	Crimes and criminal procedure -- Crimes -- Extortion and threats: Threats against President and successors to the presidency
18 U.S.C. § 951	Crimes and criminal procedure -- Crimes -- Foreign relations: Agents of foreign governments
18 U.S.C. § 956	Crimes and criminal procedure -- Crimes -- Foreign relations: Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country
18 U.S.C. § 960	Crimes and criminal procedure -- Crimes -- Foreign relations: Expedition against friendly nation
18 U.S.C. § 1114	Crimes and criminal procedure -- Crimes -- Homicide: Protection of officers and employees of the United States
18 U.S.C. § 1203	Crimes and criminal procedure -- Crimes -- Kidnapping: Hostage taking
18 U.S.C. § 1751	Crimes and criminal procedure -- Crimes -- Presidential and presidential staff assassination, kidnapping, and assault: Penalties
18 U.S.C. § 2155	Crimes and criminal procedure -- Crimes -- Sabotage: Destruction of national-defense materials, national-defense premises, or national-defense utilities
18 U.S.C. § 2381	Crimes and criminal procedure -- Crimes -- Treason, sedition, and subversive activities: Treason
18 U.S.C. § 2383	Crimes and criminal procedure -- Crimes -- Treason, sedition, and subversive activities: Rebellion or insurrection
18 U.S.C. § 2384	Crimes and criminal procedure -- Crimes -- Treason, sedition, and subversive activities: Seditious conspiracy
22 U.S.C. § 2778	Foreign relations and intercourse -- Arms export control -- Military export controls: Control of arms exports and imports
49 U.S.C. § 46306	Transportation -- Aviation programs -- Air commerce and safety -- Enforcement and penalties -- Penalties: Registration violations involving aircraft not providing air transportation
49 U.S.C. § 46314	Transportation -- Aviation programs -- Air commerce and safety -- Enforcement and penalties -- Penalties: Entering aircraft or airport area in violation of security requirements
49 U.S.C. § 46502	Transportation -- Aviation programs -- Air commerce and safety -- Enforcement and penalties -- Special aircraft jurisdiction of the U.S.: Aircraft piracy
49 U.S.C. § 46504	Transportation -- Aviation programs -- Air commerce and safety -- Enforcement and penalties -- Special aircraft jurisdiction of the U.S.: Interference with flight crew members and attendants
49 U.S.C. § 46505	Transportation -- Aviation programs -- Air commerce and safety -- Enforcement and penalties -- Special aircraft jurisdiction of the U.S.: Carrying a weapon or explosive on an aircraft
49 U.S.C. § 46506	Transportation -- Aviation programs -- Air commerce and safety -- Enforcement and penalties -- Special aircraft jurisdiction of the U.S.: Application of certain criminal laws to acts on aircraft
50 U.S.C. § 1702	War and national defense -- International emergency economic powers: Presidential authorities
50 U.S.C. § 1705	War and national defense -- International emergency economic powers: Penalties

**OBSTRUCTION**

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18 U.S.C. § 4	Crimes and criminal procedure -- Crimes -- General provisions: Misprision of felony
18 U.S.C. § 201	Crimes and criminal procedure -- Crimes -- Bribery, graft, and conflicts of interest: Bribery of public officials and witnesses
18 U.S.C. § 401	Crimes and criminal procedure -- Crimes -- Contempts: Power of court
18 U.S.C. § 1038	Crimes and criminal procedure -- Crimes -- Fraud and false statements: False information and hoaxes
18 U.S.C. § 1073	Crimes and criminal procedure -- Crimes -- Fugitives from justice: Flight to avoid prosecution or giving testimony
18 U.S.C. § 1503	Crimes and criminal procedure -- Crimes -- Obstruction of justice: Influencing or injuring officer or juror generally
18 U.S.C. § 1505	Crimes and criminal procedure -- Crimes -- Obstruction of justice: Obstruction of proceedings before departments, agencies, and committees
18 U.S.C. § 1512	Crimes and criminal procedure -- Crimes -- Obstruction of justice: Tampering with a witness, victim, or an informant
18 U.S.C. § 1621	Crimes and criminal procedure -- Crimes -- Perjury: Perjury generally
18 U.S.C. § 1623	Crimes and criminal procedure -- Crimes -- Perjury: False declarations before grand jury or court

**OTHER**

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18 U.S.C. § 2	Crimes and criminal procedure -- Crimes -- General provisions: Principals
18 U.S.C. § 371	Crimes and criminal procedure -- Crimes -- Conspiracy: Conspiracy to commit offense or to defraud United States
18 U.S.C. § 876	Crimes and criminal procedure -- Crimes -- Extortion and threats: Mailing threatening communications
18 U.S.C. § 981	Crimes and criminal procedure -- Crimes -- Forfeiture: Civil forfeiture
18 U.S.C. § 982	Crimes and criminal procedure -- Crimes -- Forfeiture: Criminal forfeiture
18 U.S.C. § 1716	Crimes and criminal procedure -- Crimes -- Postal service: Injurious articles as nonmailable
18 U.S.C. § 2252	Crimes and criminal procedure -- Crimes -- Sexual exploitation and other abuse of children: Certain activities relating to material involving the sexual exploitation of minors
18 U.S.C. § 3238	Crimes and criminal procedure -- Criminal procedure -- Jurisdiction and venue: Offenses not committed in any district
22 U.S.C. § 287C	Foreign relations and intercourse -- International bureaus, congresses, etc. -- United Nations educational, scientific, and cultural organization: Economic and communication sanctions pursuant to United Nations Security Council Resolution

**RACKETEERING**

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18 U.S.C. § 1951	Crimes and criminal procedure -- Crimes -- Racketeering: Interference with commerce by threats or violence
18 U.S.C. § 1952	Crimes and criminal procedure -- Crimes -- Racketeering: Interstate and foreign travel or transportation in aid of racketeering enterprises
18 U.S.C. § 1956	Crimes and criminal procedure -- Crimes -- Racketeering: Laundering of monetary instruments
18 U.S.C. § 1957	Crimes and criminal procedure -- Crimes -- Racketeering: Engaging in monetary transactions in property derived from specified unlawful activity
18 U.S.C. § 1960	Crimes and criminal procedure -- Crimes -- Racketeering: Prohibition of unlicensed money transmitting businesses
18 U.S.C. § 1962	Crimes and criminal procedure -- Crimes -- Racketeer influenced and corrupt organizations: Prohibited activities

**TERRORISM**

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18 U.S.C. § 1992	Crimes and criminal procedure -- Crimes -- Railroad carriers and mass transportation systems on land on water, or through the air: Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air
18 U.S.C. § 1993	Crimes and criminal procedure -- Crimes -- Railroad carriers and mass transportation systems on land, on water, or through the air: Terrorist attacks and other acts of violence against mass transportation systems (repealed)
18 U.S.C. § 2332	Crimes and criminal procedure -- Crimes -- Terrorism: Criminal penalties
18 U.S.C. § 2332a	Crimes and criminal procedure -- Crimes -- Terrorism: Use of weapons of mass destruction
18 U.S.C. § 2332b	Crimes and criminal procedure -- Crimes -- Terrorism: Acts of terrorism transcending national boundaries
18 U.S.C. § 2332f	Crimes and criminal procedure -- Crimes -- Terrorism: Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities
18 U.S.C. § 2332g	Crimes and criminal procedure -- Crimes -- Terrorism: Missile systems designed to destroy aircraft
18 U.S.C. § 2339	Crimes and criminal procedure -- Crimes -- Terrorism: Harboring or concealing terrorists
18 U.S.C. § 2339A	Crimes and criminal procedure -- Crimes -- Terrorism: Providing material support to terrorists
18 U.S.C. § 2339B	Crimes and criminal procedure -- Crimes -- Terrorism: Providing material support or resources to designated foreign terrorist organizations
18 U.S.C. § 2339C	Crimes and criminal procedure -- Crimes -- Terrorism: Prohibitions against the financing of terrorism
18 U.S.C. § 2339D	Crimes and criminal procedure -- Crimes -- Terrorism: Receiving military-type training from a foreign terrorist organization

**VIOLENT CRIMES**

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18 U.S.C. § 37	Crimes and criminal procedure -- Crimes -- Aircraft and motor vehicles: Violence at international airports
18 U.S.C. § 111	Crimes and criminal procedure -- Crimes -- Assault: Assaulting, resisting, or impeding certain officers or employees
18 U.S.C. § 373	Crimes and criminal procedure -- Crimes -- Conspiracy: Solicitation to commit a crime of violence
18 U.S.C. § 751	Crimes and criminal procedure -- Crimes -- Escape and rescue: Prisoners in custody of institution or officer
18 U.S.C. § 1111	Crimes and criminal procedure -- Crimes -- Homicide: Murder
18 U.S.C. § 1117	Crimes and criminal procedure -- Crimes -- Homicide: Conspiracy to commit murder
18 U.S.C. § 2261	Crimes and criminal procedure -- Crimes -- Domestic violence and stalking: Interstate domestic violence

**WEAPONS VIOLATIONS**

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18 U.S.C. § 922	Crimes and criminal procedure -- Crimes -- Firearms: Unlawful acts
18 U.S.C. § 924	Crimes and criminal procedure -- Crimes -- Firearms: Penalties
26 U.S.C. § 5841	Internal Revenue Code -- Alcohol, tobacco, and certain other excise taxes -- Machine guns, destructive devices, and certain other firearms -- General Provisions and Exemptions -- General Provisions: Registration of firearms
26 U.S.C. § 5861	Internal Revenue Code -- Alcohol, tobacco, and certain other excise taxes -- Machine guns, destructive devices, and certain other firearms -- Prohibited acts: Prohibited acts



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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA )  
)  
Plaintiff, ) CRIMINAL ACTION FILE  
) NO. 1:06-CR-147-WSD-2  
v. )  
) ATLANTA, GEORGIA  
EHSANUL ISLAM SADEQUEE (2) )  
)  
Defendant. )  
\_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE WILLIAM S. DUFFEY, JR.,  
UNITED STATES DISTRICT JUDGE

Monday, December 14, 2009

APPEARANCES OF COUNSEL:

For the Plaintiff: OFFICE OF THE U.S. ATTORNEY  
(By: Robert C. McBurney  
Christopher Bly)

For the Defendant: Ehsanul Islam Sadequee, *Pro Se*

Standby Counsel: GARLAND SAMUEL & LOEB  
(By: Donald Franklin Samuel)

Khurrum B. Wahid

*Proceedings recorded by mechanical stenography  
and computer-aided transcript produced by*  
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Monday Morning Session

December 14, 2009

10:08 a.m.

-- -- --

P R O C E E D I N G S

-- -- --

(In open court:)

THE COURT: Good morning. This is the sentencing in Mr. Sadequee's case.

Would counsel please announce their appearances?

MR. McBURNEY: Robert McBurney with Christopher Bly from the U.S. Attorney's Office. FBI Special Agent Michael Scherck is seated at counsel table as well.

THE COURT: Good morning.

MR. McBURNEY: Good morning.

MR. SAMUEL: Don Samuel with Mr. Sadequee, along with Khurrum Wahid. Mr. Sadequee will be representing himself today.

THE COURT: All right. I want to make sure that's clear on the record. Mr. Sadequee, I did grant you the opportunity to proceed *pro se* in your trial, which you did.

Then it was my understanding at the conclusion of the trial that you wanted Mr. Samuel to assist you with Mr. Wahid, to represent you in the sentencing. They have prepared a number of different memoranda for my review, which

1 I have studied.

2 Now it's my understanding that you -- now that they  
3 have done all that work, that you would like to proceed by  
4 yourself again?

5 MR. SADEQUEE: Yes.

6 THE COURT: All right. Let's begin with the --  
7 because I know that you have read the presentence report  
8 because there are a number of objections, and let's deal with  
9 those one at a time.

10 There are a number of factual objections. We will  
11 begin with those.

12 The first factual objection is an objection on page  
13 three that was asserted by the government.

14 Do you oppose that objection, Mr. Sadequee?

15 MR. SADEQUEE: I have no further objection.

16 THE COURT: Do you oppose the objection?

17 MR. SADEQUEE: No, no.

18 THE COURT: Then that objection is sustained.

19 The next is a factual objection asserted by the  
20 defendant also on page three. It's in response to material  
21 set forth in Paragraph 11.

22 What's the government's response to that  
23 objection?

24 MR. McBURNEY: It's a probably factually accurate  
25 statement by the defendant.

1 Paragraph 11 stands on its own. We don't object to  
2 the addition of the defendant observing that he translated  
3 documents and advocated for changes in government  
4 policy. I think that's what the trial reflected. It  
5 reflected more than that, but we don't oppose that.

6 THE COURT: Well, there is a characterization too  
7 about those that was asserted by the defendant. I of course  
8 will determine, because I have listened to the evidence in both  
9 of the cases, and I will determine how they should or should  
10 not be characterized.

11 So I will consider it -- to the extent that that  
12 provides context, I will consider it.

13 The next is the government's objection on page five  
14 to material set forth in Paragraph 15.

15 And do you have any response to that objection,  
16 Mr. Sadequee?

17 MR. SADEQUEE: No, no further objection.

18 THE COURT: Well, there was no response to that.  
19 Do you oppose the objection?

20 MR. SADEQUEE: No, I do not oppose the objection.

21 THE COURT: All right. Then that objection is  
22 sustained.

23 Next is an objection on page five, Paragraph 17.  
24 It's a government objection.

25 Mr. Sadequee, do you oppose that objection?

1 MR. SADEQUEE: No.

2 THE COURT: All right. Then I will consider that  
3 material and those comments.

4 The next is an objection on page six in response to  
5 materials set forth in Paragraph 18. That's a defense  
6 objection.

7 Mr. McBurney, what's your response to that  
8 objection?

9 MR. MCBURNEY: Similar to the previous one,  
10 Judge. It may provide context to the Court. I can't say one  
11 way or the other what the defendant was aware of. The  
12 evidence at trial didn't reveal whether he knew that fact or  
13 not. It's not central to any determination you need to make.

14 THE COURT: All right. Then to the extent that  
15 there is any factual material that's consistent with the  
16 evidence that was presented at trial, I of course will be  
17 guided by the evidence at trial. Therefore I'm going to -- I  
18 will accept this as context but will not consider those  
19 things that are not supported by the record.

20 All right. The next, Paragraph 20, there is an  
21 objection by the government.

22 Mr. Sadequee, do you have any opposition to the  
23 government's objection?

24 MR. SADEQUEE: No.

25 THE COURT: All right. Then it is sustained.

1           The next is on page eight to material on  
2 Paragraph 29. There is a government objection.

3           Mr. Sadequee, do you oppose the objection asserted  
4 by the government?

5           MR. SADEQUEE: No.

6           THE COURT: All right. Then I will consider  
7 that. It's sustained.

8           Next, an objection by the defendant on page nine in  
9 response to material at Paragraph 30.

10          What's the government's response to that  
11 objection?

12          MR. MCBURNEY: It's an accurate statement. I don't  
13 think it was intentionally omitted from the PSR. It may be  
14 helpful to the Court. We would never represent  
15 otherwise. There is no evidence that Defendant Sadequee saw  
16 that video.

17          THE COURT: All right. Then I will consider that  
18 material. That objection is sustained.

19          The next is an objection also on page nine to  
20 Paragraph 32. What's the government's response to that  
21 objection?

22          MR. MCBURNEY: Well, this is one that actually  
23 covers the entire section. It is placed after Paragraph 32,  
24 but it references Paragraphs 9 through 39, blurring the  
25 conduct.



1           We don't intend to attribute to Mr. Sadequee  
2           anything he didn't do or that his co-conspirators did. And  
3           if in some way the Court has questions about the PSR, we are  
4           happy to clarify the government's position.

5           The evidence at trial was clear. The defendant was  
6           found guilty of being a co-conspirator with others, and we  
7           are not taking a position different from that.

8           THE COURT: This is not a very specific  
9           objection. It's a paragraph characterization that has been  
10          asserted by the defendant.

11          I of course listened to all the evidence at  
12          trial. While I have read the objection, I'm going to  
13          consider the evidence that is in the record as supplemented  
14          by the information that's set forth in the presentence  
15          report, and that will be my ruling on that objection.

16          The next are all guideline objections.

17          So therefore having ruled on the objections to the  
18          facts and there being no other objections to the facts in the  
19          presentence report, then I will adopt the facts as set forth  
20          in the presentence report and will use those facts along with  
21          the facts that I know as a result of having presided over the  
22          trial in determining what a reasonable sentence is in the  
23          case.

24          So let's go to the guideline objections, the first  
25          of which is on Paragraph 13. It's an objection to a

1 conclusion and the application of the terrorism increase of  
2 twelve points to the underlying offense under Title 18 U.S.C.  
3 Section 956 that was applied in connection with the  
4 conspiracy to kill, kidnap, maim or injure persons or damage  
5 property in a foreign country.

6 What's the government's response to this  
7 objection?

8 MR. MCBURNEY: Twofold, Your Honor.

9 First, we presented the Court with our legal view  
10 in the sentencing memorandum.

11 But second, and perhaps dispositive, I was told by  
12 Mr. Samuel before we started proceedings today that it was  
13 Mr. Sadequee's intention to withdraw the guidelines  
14 objections.

15 I'm fully prepared to talk about it in more detail,  
16 but if we clarify that first, that might streamline the  
17 others.

18 THE COURT: All right. Is that true, Mr. Sadequee,  
19 that you are withdrawing the objection asserted to  
20 Paragraph 45 on page 13?

21 MR. SADEQUEE: No.

22 MR. SAMUEL: Can I just -- because I had the  
23 conversation with Mr. McBurney, I just wanted to correct  
24 that.

25 What I said to Mr. McBurney was not that he was

1 going to withdraw them, but he was just going to rely on what  
2 we have written and make no further argument, not that he was  
3 withdrawing anything.

4 But he can speak for himself. That's what my  
5 conversation was.

6 THE COURT: All right. Mr. Sadequee, why do you  
7 believe that this is double-counting?

8 MR. SADEQUEE: Actually, as Mr. Samuel has said, I  
9 was going to rely on whatever arguments that they made, but  
10 I'm not going to oppose any of the objections.

11 THE COURT: Do you know what Mr. Samuel said in his  
12 memoranda about double-counting, and why, if you are acting  
13 as your lawyer, would you support that, and what's your  
14 reasoning?

15 MR. SADEQUEE: I withdraw the objection. It  
16 doesn't really matter to me.

17 THE COURT: One of my responsibilities when  
18 somebody, even under these circumstances, decides to  
19 represent themselves is -- I have read the memoranda, and so  
20 I'm going to rule on the objection instead.

21 I have read government's response to the memoranda  
22 that was submitted by the defendant by Mr. Samuel. I have  
23 also evaluated 3 1.4, and note that Congress did in fact  
24 request -- they did not request, they directed the  
25 Sentencing Commission to provide enhancements with respect to

1 crimes committed in connection with terrorism. This was one  
2 of the enhancements that they passed.

3 I think it's interesting that rather than go back  
4 and just simply enhance generally the enhancements for  
5 terrorist-related crimes, they have decided to provide  
6 enhancements to existing crimes. I guess there is some logic  
7 to that, because it's hard to tell what underlying crime  
8 might be connected to terrorism. So I think I understand the  
9 reasoning of the commission.

10 I find that the guidelines provide for this  
11 enhancement under these circumstances, and therefore I'm  
12 sustaining the -- overruling the objection by the defendant  
13 to the enhancement.

14 The next is on Paragraph 14, the government asserts  
15 an objection to the base offense level determined in  
16 Paragraph 49.

17 Do you want to elaborate on that, Mr. McBurney?

18 MR. McBURNEY: Judge, it's something that we spoke  
19 about with Ms. Valagohar.

20 The government's perspective is that the base  
21 offense level guideline that more accurately reflects the  
22 conduct that the jury heard about, the evidence supported,  
23 was not a conspiracy to kidnap, but rather a conspiracy to  
24 assault with the intent to commit murder.

25 There was -- while Mr. Kohlmann did discuss the

1 fact that some of the organizations that this defendant and  
2 his co-conspirators sought to join and provide material  
3 support to did engage in kidnapping, the thrust of the  
4 evidence was we are going to set bombs off, we had Bektasevic  
5 with the explosives, we will do combat -- we will engage in  
6 combat with soldiers and, as Ahmed said, if necessary and  
7 directed, we will do something in the United States.

8 So the government's perspective is that the better  
9 fit was the assault with intent to commit murder. It's not  
10 something that moves the guideline needle very much.

11 THE COURT: It's a one-point difference.

12 MR. McBURNEY: It's a one-point difference, and we  
13 are effectively in the stratosphere with the guidelines  
14 anyway. So it doesn't change the final result.

15 But kidnapping is a word that came up extremely  
16 infrequently during the trial and almost exclusively, if not  
17 exclusively, through the expert witness Evan Kohlmann saying  
18 this is a tool that some of these organizations use.

19 I don't think we could find if we searched all the  
20 chats and e-mails, et cetera, that Defendant Sadequee or  
21 Ahmed ever said let's go grab this person and hold him  
22 hostage for ransom.

23 So that's why we flagged it. Not because we are  
24 seeking a higher or lower guideline. I think it is a more  
25 accurate reflection of the evidence of the nature of the

1 conspiracy that the government presented.

2 THE COURT: All right. Mr. Sadequee, what's your  
3 response to that?

4 MR. SADEQUEE: No objection.

5 THE COURT: All right. Then I'm going to sustain  
6 the objection.

7 And I think the government is right, that  
8 kidnapping was infrequently referenced. I think I can only  
9 recall one occasion, but there are a number of occasions  
10 where there was actually discussion about conduct in which  
11 other people's lives would be taken, including visual  
12 depictions of the use of devices that would have that impact,  
13 as opposed to causing somebody to be kidnapped. So therefore  
14 I'm going to sustain the objection.

15 All right. The next is an objection by the  
16 defendant to the adjusted offense level. The objection is in  
17 response to Paragraph 60.

18 What's the government's response to the objection?

19 MR. MCBURNEY: Two things.

20 One, I apologize for characterizing -- I apparently  
21 misunderstood what Mr. Samuel told me, so we will proceed  
22 with the objections.

23 We submitted the case law that we think will allow  
24 the Court to overrule the objection. It's not clear in this  
25 context that the Court does need to engage in

1 beyond-a-reasonable-doubt fact-finding.

2           Moreover, a jury has already done that for at least  
3 one of the two objects of the conspiracy. And again where we  
4 are in the guidelines, it really doesn't matter which one the  
5 jury found.

6           That being said, as we put forth in the sentencing  
7 memorandum, I believe there is more than sufficient evidence  
8 even if the Court were to apply the beyond-a-reasonable-doubt  
9 standard to show that this defendant conspired to provide  
10 material support to both forms of conspiracy.

11           And as a final overlay that I don't think came out  
12 clearly enough in our submission to the Court is the notion  
13 that the focus here -- and this is from the *Hassoun* case,  
14 which the Court has now read several times from our  
15 filings -- the focus here is the conspiracy to provide the  
16 material support.

17           It was not our obligation at trial, it was not our  
18 burden to show that the underlying conspiracy, be it a  
19 956 (a) or a 2332 (b), was even fully formed. It happened to  
20 become very well formed with Defendant Sadequee with the  
21 Al-Qaeda in Northern Europe, and I think that's why we  
22 cleared the beyond-a-reasonable-doubt threshold. But I  
23 think the law is unsettled, and it is a safe decision to  
24 say, I, the Court, don't even need to reach the  
25 beyond-a-reasonable-doubt, but I think we met it on both.

1           And even if you disagree, the jury found on at  
2     least one, and it's not going to change the final guidelines  
3     result for Defendant Sadequee.

4           THE COURT: All right. Mr. Sadequee, what is your  
5     response to that? What's your response to the objection?

6           MR. SADEQUEE: I don't have any response.

7           THE COURT: Do you agree with what the government  
8     said with respect to whether or not I have to find on one of  
9     those two areas beyond a reasonable doubt?

10          MR. SADEQUEE: I have no argument to make on it.

11          THE COURT: Well, I have read the government's  
12     memoranda, and I agree that's what the law provides.

13          I don't think that there is a required finding with  
14     respect to whether I have to find beyond a reasonable doubt  
15     which object was proven at trial.

16          I do agree, having sat through the trial, that one  
17     of the two was in fact proven, and frankly in this case I  
18     would agree with the conclusion that they were both proven.

19          And for those reasons I am overruling the  
20     objection.

21          The last is an objection on page 18 to the criminal  
22     history computation and category found by the -- in the  
23     presentence report that he is in a Category 6 as provided for  
24     in the guidelines, which was also a response to Congress and  
25     their admonition and direction to the Sentencing Commission



1 to find enhancements for crimes committed in connection with  
2 terrorism.

3 What's the government's response to the objection  
4 to Paragraph 60 on page 18?

5 MR. MCBURNEY: It's pretty much given. Congress  
6 gave a directive to the Sentencing Commission, and at least  
7 the Second Circuit -- I don't think the Eleventh Circuit has  
8 weighed in directly on this, but the Second Circuit has  
9 agreed that there was a rational basis for it and that it is  
10 appropriate to treat all those who are found to -- for whom  
11 the terrorism enhancement is found to apply, which is what  
12 the Court has found in this case, should be deemed to be  
13 Category 6.

14 The fact that no one has prior -- that a given  
15 defendant might not have any prior convictions doesn't lessen  
16 the threat posed by that defendant, the gravity of his or her  
17 crime, and thus giving everyone who qualifies for the  
18 terrorism enhancement a criminal history category of six is  
19 appropriate, and it wasn't improper conduct by the Sentencing  
20 Commission, and it was in fact a constitutional directive  
21 from Congress.

22 THE COURT: I mean, this just seems to me that if  
23 in fact I didn't do this, I think I could be criticized for  
24 not interpreting the guidelines correctly. The guidelines is  
25 pretty clear.

1           It's really more -- I think the argument is more in  
2     the form that it overstates the defendant's criminal history  
3     and that it's more appropriately an argument under *Booker* and  
4     whether or not a variance is appropriate in this case.

5           So I'm going to overrule this objection. I think  
6     that the finding has to be not only for the reasoning set  
7     forth in the Second Circuit, but I think in my obligations to  
8     interpret the guidelines, this is what Congress asked for the  
9     commission to do. They provided for this form of  
10    enhancement, and therefore I'm going to find that the  
11    criminal history category as set forth in the presentence  
12    report is the correct one.

13           So therefore my guideline findings are that the  
14    defendant's total offense level is 45 and that his criminal  
15    history category is six, and therefore his custody guideline  
16    range is life, but there is a 720-month statutory maximum.

17           Are there any objections to those findings?

18           MR. McBURNEY: No, sir.

19           THE COURT: Any objections, Mr. Sadequee?

20           MR. SADEQUEE: No.

21           THE COURT: All right. What we will do now is,  
22    having made the guideline findings, we will listen to  
23    whatever, Mr. Sadequee, you would like to present in  
24    mitigation or extenuation.

25           After that is done, I will -- I guess under these

1 circumstances what I will do is I will -- because I want to  
2 give you the final word, if you don't want to comment --  
3 I assume that you are going to want to talk about what  
4 sentence you think is appropriate also in your allocution.

5 So I think it would make sense to after you present  
6 whatever you are going to present in mitigation or  
7 extenuation, then I will let Mr. McBurney say what he thinks  
8 would be a reasonable sentence, and then I will let you  
9 allocute and also allow you to state what you think would be  
10 a reasonable sentence in the case.

11 MR. SADEQUEE: I will waive my first speech.

12 THE COURT: All right. Mr. McBurney?

13 MR. MCBURNEY: Your Honor, as the government set  
14 forth in its sentencing memorandum, our position is that an  
15 appropriate sentence, a reasonable sentence for  
16 Defendant Sadequee is a 20-year term. That's significantly  
17 less than what the guidelines prescribe. They prescribe  
18 life, but there is a statutory cap of 60 years for  
19 Defendant Sadequee.

20 And we spent most of all of the sentencing  
21 memorandum justifying why twenty years isn't too high,  
22 because I think that would be the debate between the  
23 parties. But I do want to spend a moment addressing the  
24 issue of why isn't that too low. It is a significant  
25 downward variance from what the guidelines call for.

1 Defendant Sadequee engaged in extremely serious  
2 criminal conduct. He will tell you it was speech, you have  
3 heard that, but the jury decided otherwise. They decided  
4 that he provided material support to terrorism and  
5 terrorists, all four counts, that he sought to support a more  
6 disparate group that was just forming, the Bektasevics and  
7 Tsoulis of the world, but that he also conspired to support  
8 LeT, a known terrorism organization that kills people every  
9 year.

10 In light of that, one could say, well, give him the  
11 max, throw away the key. But there are certain factors that  
12 you have read about in the letters that have been submitted  
13 to you that Mr. Sadequee alluded to in his closing, that  
14 petitioners have presented to you throughout this process,  
15 one of which is the defendant's age, and another is the hope  
16 of, if not rehabilitation, some sense that after enough time  
17 in prison, Defendant Sadequee will get it; that if he really  
18 does seek to change the system here in the United States,  
19 there is another way to go about it. And the government's  
20 perspective is that twenty years will achieve that.

21 Twenty years is appropriate for several other  
22 reasons.

23 While we can't point to a specific attack that  
24 occurred, we presented uncontroverted evidence that one of  
25 Defendant Sadequee's closest conspirators had already begun

1 to amass a stockpile, plastic explosives, guns, silencers,  
2 things that the two of them actively discussed. So it's not  
3 a notion of we are trying to have Defendant Sadequee held  
4 accountable for aspects of the conspiracy that were just  
5 beyond the edge of his knowledge.

6 The Court saw, the jury saw the chats between  
7 Sadequee and Bektasevic about how he gets the things that  
8 make the big booms or the little booms and the sound that a  
9 silencer makes. This is a defendant who, as you saw from the  
10 communications, was trying to get out of Bangladesh, get to  
11 Sweden where Bektasevic was from, where they were going to  
12 meet, where all this material was going to be brought.  
13 Whatever happened next was going to be something serious  
14 where we would be talking about sixty years as the right  
15 sentence for this man.

16 This is a defendant who in a way differentiates  
17 himself from Defendant Ahmed, sought to bring others to this  
18 same cause.

19 We didn't present at trial but I put in the  
20 sentencing memorandum the final chapter of the Saajid  
21 story. You will recall the postings, the private messages  
22 between this defendant, who was viewed by others who shared  
23 this view that the way to change American policy and American  
24 views was to engage in armed combat, that Defendant Sadequee  
25 was viewed as a mover and a shaker in that community, someone

1 who could help you get involved.

2 So you saw at least two individuals. There was a  
3 Hamzah from South Africa, and more importantly, the Saajid  
4 from the United States, from Culver City in California, who  
5 reached out to Defendant Sadequee to say, How can I do this,  
6 how can I get involved? And Defendant Sadequee talking about  
7 how Saajid had the ability to serve his higher cause here in  
8 the homeland.

9 And what investigation revealed is that  
10 Martin Sharp, Saajid Wazi, did go to the United Kingdom as he  
11 and Defendant Sadequee discussed, he married a Muslim female  
12 in the United Kingdom, and ended up in Somalia where he was  
13 lost. His wife doesn't know where he is. His mother doesn't  
14 know where he is.

15 I don't attribute that and we shouldn't attribute  
16 it directly to Defendant Sadequee, but in light of last  
17 week's arrest of five more Muslim-Americans in Pakistan who  
18 were seeking to get into camps, much like Defendant Sadequee  
19 and Defendant Ahmed conspired to do, shows this threat  
20 continues, that there are people in the United States who  
21 ally themselves with others who believe that the way to fix  
22 what they think is wrong is to take up arms against American  
23 soldiers and to attack American interests which could include  
24 attacks here in the United States.

25 Now, what I say sounds dramatic, but that's

1 because it's what it is. You will recall that when  
2 Defendant Sadequee would refer to the United States in his  
3 chats with his online co-conspirators, it wasn't my country  
4 or America. It was either the Land of Pharaoh or more  
5 tellingly Land of Two Towers. This is a man for whom 9/11  
6 was a cause of celebration, not a cause of concern or a cause  
7 of grief.

8 And it's for those reasons that a significant  
9 sentence is appropriate. And twenty years is a significant  
10 term. It's a long time for someone who is 23 right now. But  
11 it could be much more. The guidelines call for  
12 more. I think there are reasons for it to be less than  
13 that.

14 But the government believes that twenty years  
15 serves the purpose of deterrence both for this defendant, who  
16 in his sentencing memorandum told the Court, I don't believe  
17 your laws anyway, I follow a different set of laws, so  
18 punishing me, locking me up isn't going to change who I am.

19 I don't think that's right. It may well be what he  
20 believes, but I think there is a corrective effect of being  
21 locked up for a while.

22 It serves a deterrent role for all those who would  
23 follow in Defendant Sadequee's footsteps, the five who were  
24 arrested in Pakistan last week. It shows that the government  
25 of the United States of America takes seriously crimes like

1 this, that they will seek people out who break the law, who  
2 seek to take up arms against the United States, not to rob a  
3 bank, not to bust up a drug deal, but to oppose what that  
4 flag stands for. That's what Defendant Sadequee conspired to  
5 do.

6 It's hard to conceive of a more serious crime,  
7 and the penalty needs to be serious. It will deter him,  
8 it will deter others, and it's the right sentence for  
9 Ehsanal Islam Sadequee.

10 THE COURT: All right. Thank you, Mr. McBurney.

11 Mr. Sadequee?

12 MR. SADEQUEE: May I speak?

13 THE COURT: Yes.

14 MR. SADEQUEE: (Speaks in Arabic) Peace be upon  
15 those who follow true guidance.

16 I begin in the name of Allah, *Allahu A'lam ar*  
17 *Rahmim*, which means the Lord of Grace, Most Merciful. The  
18 translation is not exact. All praise belongs to God alone  
19 and no one else, and the kingdom belongs to God, and  
20 authority belongs to God, and sovereignty belongs to God and  
21 no one else. And the judgment belongs to God and no one  
22 else. He alone governs His kingdom.

23 (Speaks Arabic.)

24 God says in the Quran in the chapter *Al-Anbia*, The  
25 Prophets, the reckoning of mankind, the counting and the



1 judgment of mankind draws near while they turn away in  
2 heedlessness. There does not come to them any new reminder  
3 from their Lord, but they listen to it while they amuse and  
4 entertain themselves, and their hearts are oblivious and  
5 distracted.

6 *Al-Mu'minum*, the chapter of The Believers, the 23rd  
7 chapter in the Quran, God says (Speaks Arabic), God will say  
8 to mankind on the day of resurrection, How long -- how many  
9 years did you stay on earth?

10 They will respond, We stayed a day or a part of a  
11 day. Ask those who keep account.

12 (Speaks Arabic.)

13 Did you think that we created you for amusement  
14 without any purpose and that you will not be brought back to  
15 us? And indeed exalted and lofty is God, the True  
16 King. None is to be served but Him, the Lord of Noble  
17 Thrown.

18 Today one talks about Islam, you know, the subject  
19 matter of the day. Everyone says whatever they think. They  
20 talk about what does Islam stand for, what's it about? Why  
21 is Islam doing this and that, why are Muslims doing this and  
22 that?

23 Some will tell you Islam is a religion of terror,  
24 and they will paint it to you in whatever deformed shape they  
25 want to paint it to you in.

1           And then there is others from amongst us Muslims  
2           who will try to tell you that Islam is a religion of peace.  
3           And the meaning of that when they say it is that, you know,  
4           surrendering to the enemies and go along with what everyone  
5           else is doing, and that's the peace that they mean that Islam  
6           is supposed to stand for as the only definition of peace.

7           It's not the peace as God has defined it. Both  
8           parties have misrepresented the true nature of Islam.

9           So what is the true nature of Islam and what is its  
10          true image?

11          To see that you have to go -- there is no better  
12          place but the Quran itself, the Book of Islam itself. So how  
13          does the Quran describe Islam?

14          If you read the Quran, you will find many of the  
15          messengers of God and the prophets who are also mentioned in  
16          the Bible and others who are not mentioned in the Bible. You  
17          find them mentioned and their stories narrated.

18          Amongst them is Khalil al Rahman al Ibrahim, the  
19          Intimate Friend of the Most Compassionate was the title that  
20          he was given, Abraham, the Intimate Friend of God.

21          The reason Muslims went on hajj, you know, the  
22          pilgrimage, it's an occasion when we commemorate Abraham  
23          fulfilling the command of God to sacrifice his only son. We  
24          Muslims believe it was Ishmael while the Jews and Christians  
25          say it was Isaac, but that does not impact the story and the

1 actual significance and moral and teaching.

2 I mean, the lesson, who it was is not too relevant,  
3 but -- and this is a story which is well known to Jews,  
4 Christians and Muslims. This is why it is a must for us to  
5 reflect.

6 It's where the King of the Heavens and the Earth  
7 Himself has unveiled the true image of Islam in His own  
8 words, and He made it the widespread and well-known story  
9 amongst all of the faiths. But few people have truly  
10 reflected upon it and understood it.

11 So God, *Azza Wajjal*, the Mighty and Magestic, says  
12 as He described the scenes as they took place in the chapter  
13 *As-Saaffat*, Chapter 37 of the Quran, He said his name and  
14 when he, meaning Abraham's son, was old enough to walk with  
15 him, he said, Oh, my son, I have seen in a dream that I am  
16 slaughtering you, offering you in sacrifice to God. So look,  
17 what do you think?

18 So his son replies, Oh, father, do what you have  
19 been commanded. God willing will find me amongst those who  
20 are patient.

21 Then when they had both surrendered and he had laid  
22 him prostrate on his forehead to be slaughtered, we called  
23 out to him, Oh, Abraham, you have fulfilled the  
24 dream. Verily thus reward those who excel in piety. Verily  
25 that indeed was a manifest trial, and we ransomed him with a

1 great sacrifice and we left for him a pious remembrance among  
2 the later generations. Peace be upon Abraham. Thus indeed  
3 do we reward those who excel in piety. Verily he was one of  
4 our loyal and faithful servants. That's the verses.

5 So in Arabic, which I did not recite, not now, the  
6 word -- when God says then when they had both surrendered and  
7 had laid him prostrate on his forehead the verse is  
8 (Speaks Arabic).

9 The word Islam is used there, and it's where the  
10 word is surrendered, submitted, handing themselves over to  
11 and giving themselves up to God. So this is God Himself  
12 using this word, Islam, and this is how He's using it.

13 And later on in this passage God says, Peace be  
14 upon Abraham, *sala*.

15 Now, there is tremendous lessons here to be  
16 learned. This is the true and accurate image of Islam. This  
17 is what God requires of His servants. This is the foundation  
18 of a true Islamic message, and it is the true expression of  
19 love to God.

20 If Jews and Christians and Muslims were to reflect  
21 on this, this story in and of itself is a sufficient guide to  
22 direct them to what their relationship should be with God,  
23 what the proper relationship between the creature and the  
24 Creator and the servant and the Lord is to be.

25 So we find in this passage first God told them to

1 sacrifice and submit and surrender themselves to the King,  
2 their Creator. Then after when they fulfilled it, God said  
3 peace.

4 Likewise in the early days of Islam, the early  
5 Muslims, the early generations, they used to say to the  
6 nonMuslims (Speaks Arabic), surrender yourselves to God and  
7 you will be safe and have peace.

8 But now as for those who instead choose to  
9 contradict and oppose the orders of the only one who has  
10 authority, the only King beside whom there is no king, the  
11 Lord of pride, they should know beforehand that God is fully  
12 capable, the King is fully capable of crushing any rebellion  
13 in this kingdom, and He only delays them, their destiny, for  
14 reasons which He knows in His tremendous and endless  
15 wisdom.

16 When God first created Adam, the father of mankind,  
17 He said to His angels -- the angels were created before  
18 mankind, so He said to His angels when He created -- before  
19 He created Adam (Speaks Arabic), And when your Lord said to  
20 the angels verily I am going to place -- the Arabic word  
21 there is *khalifa*, which we will come back to and examine, but  
22 it's translated as generations after generations on earth --  
23 I am going to place a *khalifa*, generations after generations  
24 on earth.

25 They said, the angels, they replied, Will You place

1       therein those who will make mischief and corruption and shed  
2       blood while we glorify Your flawlessness with praises and we  
3       sanctify You -- sanctify Your holiness?

4               God replied, I know that which you know not.

5               The word *khalifa* has a number of connotations and  
6       meanings. The well-known one is what is in English called  
7       chaliphe or a viceroy or a vice general, a ruler. But here  
8       this is not what -- it is not its primary meaning in this  
9       verse.

10              In this verse the translators translate it  
11       generation after generation, but the root word of *khalifa* is  
12       rooted in the word *khalafa* and *ikhtalafa*, which means  
13       contradiction or opposition.

14              God is saying, as I examine this verse, the angels  
15       reply, Will You place therein those who will make mischief  
16       and shed blood, because their understanding of the word  
17       *khalifa* is that God is going to place in His kingdom -- and  
18       everything that He created is His kingdom -- He was going to  
19       allow on earth a contradiction to His orders.

20              In His kingdom, God is --

21              THE COURT: Mr. Sadequee, the purpose of an  
22       allocution at a sentencing would be for you to relate to me  
23       comments that you would like me to consider in connection  
24       with your personal circumstances for me to determine what a  
25       reasonable sentence would be in your case.

1 I know that in your case your faith fits into what  
2 you believe I ought to do in imposing sentence, but I think  
3 that we have varied from what the purpose of the allocution  
4 is, and I would ask you to see how you might relate what you  
5 are saying to your circumstances.

6 MR. SADEQUEE: My intention is to bring the message  
7 of God and His greatness and His wisdom and His purpose, to  
8 speak about that, and that is completely related to me.

9 In my speech I have not and will not request for  
10 any sentence, because it does not matter to me. But the  
11 speech that I have prepared, I have intended to speak about  
12 who is in fact the true authority and why I am here to begin  
13 with.

14 So I'm here, as I was saying, because I submit to  
15 no one's authority but to the authority of God. So I want to  
16 explain that, and everything that I was going to say is  
17 related to that.

18 And so to explain my beliefs, for which reason I am  
19 here, and explain what message it is that has brought down  
20 the government upon me, and if having explained some of this,  
21 thereby whatever impact it has -- I have no intention nor  
22 does it matter to me if it has any bearing on my  
23 sentencing. If it does, it does. If it does not, it does  
24 not. If it makes it worse, it makes it worse. If it makes  
25 it less, it makes it less. But to me it's all irrelevant.

1 But my intention was to speak the truth as I have  
2 come to learn it and see it, and the truth is tremendously  
3 powerful.

4 THE COURT: Well, I will give you some additional  
5 time to do that. How much time do you need to make your  
6 speech?

7 MR. SADEQUEE: I would think it would take less  
8 than two hours, I hope.

9 THE COURT: Well, I'm not giving you two hours to  
10 make your speech, which you have already acknowledged has  
11 nothing to do with your sentence because you don't submit to  
12 the authority of the Court. But I will give you another  
13 twenty minutes. So proceed.

14 MR. SADEQUEE: So the angels knew as is implied in  
15 the verse that any bloodshed and corruption that takes place,  
16 it is only because its source is because that God has allowed  
17 in His wisdom and with His devine purpose for there to be a  
18 contradiction to His commands. So He's giving us commands  
19 and an order and has arranged everything in the universe  
20 according to His order, and that's why everything in the  
21 universe is perfect.

22 And the angels understood that if God would allow  
23 his disobedience -- for His orders to be disobeyed, this  
24 meant by necessity that there is going to be corruption and  
25 bloodshed.



1           And when they did say that, when they brought that,  
2           they asked God, God said -- He did not say that they were  
3           wrong, but He said, I know that which you know not, which  
4           means He has another purpose. Not that they are wrong, but  
5           there is a different wisdom in that, in His allowing there to  
6           be a contradiction to His will.

7           And now the question is why did God allow a  
8           contradiction to His will to take place on earth. God did  
9           not create us on this planet except that He would test us.

10          One of the reasons why when God created Adam He  
11          ordered the angels to bow down to Adam, the question is --  
12          Adam had something and the children of Adam have something  
13          which can elevate them above the angels.

14          The angels, they have free will, but they don't  
15          have any inclination to contradict God. But Adam and his  
16          children were created and within them a will or an  
17          inclination to contradict God. God created that part as  
18          well.

19          Why Adam can and his children can become more  
20          favored by God is related -- is -- what is it that elevated  
21          Adam above the angels that God would say bow down to Adam?  
22          Because the angels, they do not have that inclination to  
23          contradict God.

24          So the children of Adam are required by God to  
25          fight that will, that contradictory will, and to overcome

1 that. This is what's known as jihad. It is both inward and  
2 outward.

3 So inward God has placed that contradictory will,  
4 and outwardly has placed a contradictory order and system.  
5 Those who fight that will, inwardly and outwardly, are  
6 elevated above the angels. It's two forms of worship which  
7 the children of Adam can do which the angels cannot do, and  
8 by which they have been elevated above the angels.

9 The angels, they glorify God endlessly and praise  
10 Him and sing His praises from time endless and they worship  
11 Him, but they cannot do what the children of Adam can do.

12 There is two forms of worship which has elevated  
13 Adam and his progeny. One is that jihad, to struggle and  
14 fight and sacrifice for the sake of God. The angels cannot  
15 sacrifice for the sake of God because they are created  
16 inclined towards God naturally.

17 But the children of Adam have a contradictory will  
18 within them. So they have to continuously choose  
19 intentionally and purposely to not follow their -- that will  
20 which contradicts God.

21 The other one is when they fail to do that, as we  
22 all fail, to repent. The angels cannot repent because they  
23 cannot contradict God's will.

24 So God created us. Our purpose -- or His purpose  
25 in creating us in this life is only to test us, to see who

1 will choose to please Him above all else, as Abraham, as he  
2 tested Abraham and his son. Who will choose above everything  
3 else that they love and that they cherish, above all that  
4 they will love and cherish God, regardless of what sacrifice  
5 they must pay.

6 And then God does not, as He saved Abraham from  
7 sacrificing his son, He just wants to see who is willing.  
8 Once He sees who is willing, He does not punish them or make  
9 them suffer. He removes it. And what seems as outward  
10 suffering is not necessarily inwardly suffering.

11 It's God's methodology when we read His book, both  
12 in the Bible and we see in the Quran, God does not love the  
13 arrogant. He loves the humble.

14 And so we see that His messengers in the Quran, the  
15 prophet who is most frequently mentioned and whose story is  
16 most often repeated over and over and from different angles  
17 and from different aspects is the Prophet Moses and his  
18 confrontation with Pharaoh.

19 Now, why is it that Moses is so frequently  
20 mentioned, even more than Abraham and Jesus and the other  
21 messengers of God? The reasoning is because it was God's  
22 intention and God's purpose that the Prophet Muhammad --  
23 peace be upon him -- had his community. The mission that He  
24 has tasked the Prophet Muhammad and his followers with most  
25 resembles the mission that He tasked to Moses and the

1 children of Israel with.

2 So Moses was sent to confront Pharaoh to free the  
3 children of Israel and to establish God's law. The mission  
4 of the Muslims and the Prophet Muhammad -- peace be upon  
5 him -- is the same but on a broader level, to confront all of  
6 the pharaohs, to free all the children of Adam from slavery  
7 to other than God's authority, and establish the kingdom of  
8 God all over the world.

9 But the kingdom of God will be not established  
10 until God wills, and His purpose is to test us. Because He's  
11 the King, He does not -- His purpose is to see who can see  
12 His kingdom and who will sacrifice for Him and who is going  
13 to rebell against Him, who is blind, who can't see Him, even  
14 though He's the most obvious.

15 So in Islamic text we find a narration which is  
16 perhaps rooted in the Judaic tradition and our scholars  
17 mentioned it perhaps, it's narrated by Iman Ahmed in his  
18 *Kitab al-Zuhd*, it was a conversation which God had with Moses  
19 before He sentenced Pharaoh, and it's tremendous in its  
20 lessons.

21 God said, Oh, Moses, this day I have -- this is an  
22 approximate translation because I'm reading from the Arabic,  
23 I'm going to -- you know, it's not a word-for-word  
24 translation.

25 God said, I have made you stand today a standing

1 where it will not be for any man after you, and I have  
2 brought you near and close so that you would hear My own  
3 words, and I have brought you to the closest of lands to  
4 Me.

5 So go with My message. You are in My eyes, and I  
6 am hearing you. With you is My hand and My assistance and  
7 support, and I have given you a shield from My own  
8 power. You are a tremendous -- a tremendous force from  
9 amongst My forces.

10 I am sending you to a weak creation from My  
11 creation, meaning Pharaoh and his empire. I am sending you  
12 to a weak creation from My creation who has been  
13 ingrateful -- ungrateful of My blessings and feels secure  
14 from My planning, who has been deceived by this world until  
15 he rejected My rights, the rights of God, and has rejected My  
16 Lordship and has been served instead of Me and claims to not  
17 know Me.

18 And if it was not for the purpose of establishing  
19 the final argument, the final -- the decisive proof between  
20 Me and My creation, I would have seized him with tremendously  
21 brutal force, with such that the heavens and the earth, the  
22 mountains and the oceans would be enraged against him.

23 If I were to command the heavens, it would collapse  
24 upon him. If I were to command the earth, it would swallow  
25 him. If I were to command the mountains, it would crush

1 him. If I were to command the oceans, it would sink him.

2 But he has become completely insignificant in front  
3 of Me, and My patience is more vast than all his crimes, and  
4 I am completely not in need of him.

5 So go to him and tell him of My messages and call  
6 him to My worship, to My service, to My *tawhid*, My oneness,  
7 and to the purity of My name, and remind him of My days and  
8 warn him of My wrath and My force, and notify him that  
9 nothing stands in the face of My wrath.

10 And go to him and speak gently so that perhaps he  
11 might come to remember and feel awe, and notify him that I am  
12 quicker to forgive than I am to My wrath.

13 And do not become afraid of what garments of the  
14 world I have clothed him in. Do not become afraid -- what it  
15 means is that because God gave Pharaoh such a military and  
16 such force and such worldly materials and resources, God  
17 said, Do not be afraid, for his forelock is in My hands. He  
18 does not blink, nor does he speak, nor does he breathe except  
19 with My permission.

20 And say to him, Respond to your Lord, for He is  
21 tremendously forgiving. He has delayed you and let you be  
22 for many years, even though you have come out to wage war  
23 against Him and rebell against Him. You tried to imitate Him  
24 and you hinder His servants from His way, even though He  
25 still blesses you from the heavens and the earth with the

1 rain and His provision and food.

2 THE COURT: All right. You have a few more  
3 minutes, Mr. Sadequee.

4 MR. SADEQUEE: So God continues to say to Moses,  
5 And wage jihad against him with your own self and with your  
6 brother Harun, or Aaron, and you will be appreciated by God  
7 for your jihad.

8 And if God had will -- God is saying, If I had  
9 will, I could have sent against Pharaoh such forces that he  
10 could not withstand. But so that this weak servant would  
11 come to realize what he has arrogantly boasted of himself and  
12 his many resources and materials of this world, so that this  
13 weakling would realize that just a few -- and there is  
14 nothing few when God is with them -- that just a few can  
15 indeed overcome many with the permission of God.

16 And do not become overcome by the adornments of  
17 Pharaoh nor what he has, of his luxuries, and do not even  
18 look at it. It is just the adornment of this lowly world.  
19 And if I had wanted to, I could have adorned you with such  
20 adornments and luxuries so that if Pharaoh saw you, he too  
21 would think that he is not capable of matching you.

22 But I have taken those away from you, and thus do  
23 I do with My royal servants, and that has been My way. And  
24 know that My servants have not adorned themselves with any  
25 beauty more than abstaining from this world and its luxuries

1 and its glitter, its false glitter.

2 And it's God's way when He wanted people or a  
3 person, the way He tests, and His plan, because He's the all  
4 wise and the almighty in His plan, see, when He destroyed  
5 Pharaoh -- when did He destroy Pharaoh, and how? It was at  
6 that precise moment when Pharaoh thought when Moses and his  
7 people, the children of Israel, were standing trapped and  
8 before them was the sea and behind them was Pharaoh and his  
9 troops.

10 And the children of Israel were saying, as God  
11 mentions in the Quran (Speaks Arabic), We are done, we are  
12 dead.

13 And Pharaoh, you can imagine, he was saying, Now I  
14 have got Moses right where I want him.

15 It's at the peak of arrogance, God lets you rise so  
16 that -- it's God who is trapping the arrogant, in fact, and  
17 for His servants it's just a test, and an honor.

18 True honor is not in this world and worldly  
19 forces. The honor was with Moses, who had nothing with  
20 him. He had a stick and he had God with him. That was  
21 honor.

22 And so right when Pharaoh and the arrogant thought  
23 that they had Moses and the faithful trapped and cornered, at  
24 that precise moment God destroys him.

25 And it is the way of God. It's not that He's



1     delaying the arrogance for their own benefit. No, He has a  
2     plan.

3             And God is very precise in his judgments. He does  
4     not make mistakes. As Moses said (Speaks Arabic), My Lord  
5     does not err, nor does He forget.

6             So why did God drown Pharaoh the way He did? He  
7     could have done anything. He could have destroyed him any  
8     other way through all His forces in the heavens and the  
9     earth.

10            But God is precise, because Pharaoh said -- and his  
11     punishment that he got, the way he was destroyed was not  
12     because of all the crimes he committed against the children  
13     of Israel. It was merely because of three statements that he  
14     said, because God is very precise and is severe when He  
15     punishes.

16            He said on one day, he said -- and he did not know  
17     what he was saying out of his mouth, but God recorded it, and  
18     He is very precise. He said one day to the Egyptians, he  
19     said (Speaks Arabic), Does not the kingdom of Egypt belong to  
20     me, and are not these rivers flowing beneath me, do you not  
21     see?

22            And so God wrote that sentence, that one  
23     sentence. And the angels wrote it down and said, You will  
24     see what you said, it will come back to you.

25            THE COURT: All right. You need to wrap it up in

1 about a minute.

2 MR. SADEQUEE: So I had more than 40 pages written,  
3 but since I'm going to be hindered from speaking -- I had  
4 some quotes from the Bible that I was going to share with  
5 perhaps some -- someone will awaken.

6 It was from Isaiah, the Book of Isaiah, Chapter 2,  
7 Verse 8: Their land has also been filled with idols. They  
8 worship the work of their hands, that which their fingers  
9 have made.

10 Verse 9: So the common man has been humbled and  
11 the man's importance has been be abased.

12 Verse 10: Enter the rock and hide in the dust from  
13 the terror of the Lord and from the splendor of His  
14 majesty. The proud look of man will be abased and the  
15 loftiness of man will be humbled, and the Lord alone will be  
16 exalted in that day.

17 For the Lord of Hosts will have a day of reckoning  
18 against everyone who is proud and lofty and against everyone  
19 who is lifted up that he may be abased. And it will be  
20 against all the ceders of Lebanon that are lofty and lifted  
21 up, against all the oaks of Bashan, against all the lofty  
22 mountains, against all the -- all hills that are lifted up,  
23 against every high tower, against every fortified wall,  
24 against all the ships of Tarshish, against all the beautiful  
25 craft, the pride of man will be humbled and the loftiness of

1 men will be abased and the Lord alone will be exalted in that  
2 day.

3 In this passage, God repeats -- Isaiah repeats --

4 THE COURT: You needs to wrap up, Mr. Sadequee.

5 MR. SADEQUEE: I am.

6 Not once, not twice, but thrice God says the  
7 threat, three times, before the terror of the Lord and the  
8 splendor of His majesty. And after the last time, He says  
9 when He arises to make the earth tremble, stop regarding man,  
10 meaning stop honoring man, stop worshipping man. Whose  
11 breath is life in his nostrils, for why should he be  
12 esteemed?

13 And I will want to end -- explain the word majesty.  
14 It's also used in the Quran, *eng ara*, He in whose presence  
15 everyone is to be humbled as insignificant.

16 Since I am forced to end, I am -- the message of  
17 God cannot end. To God belongs all praise, in the beginning  
18 and the end, in this world and in the hereafter, in heaven  
19 and on earth. (Speaks Arabic.)

20 THE COURT: Mr. Sadequee, you have confused your  
21 faith with the processes that apply in an American court of  
22 law, and I think that it is that confusion that has justified  
23 in your mind the crimes that you have committed.

24 This is not about your faith. This is about your  
25 conduct. This is about the rule of law in our country which

1 you have decided does not apply to you and as you have  
2 announced today will never apply to you. And that is who  
3 confronts me today and for whom I have to determine a  
4 reasonable sentence.

5 I would note that just like you have throughout  
6 this case, today you hid behind the rule of law, and you did  
7 it twice during your statement when you said I'm being cut  
8 off. What you are really saying is that you are not allowed  
9 to do what you want to do even though our system doesn't  
10 permit it, just like you have hidden behind the rule of law  
11 as you claimed in committing the crimes for which you have  
12 now been convicted that you are simply engaged in free  
13 speech.

14 You use our country to advance your self-interest  
15 and your distorted view of the world.

16 The God I know is the God who refused to allow  
17 Isaac to be killed. Your God is one who would promote people  
18 to be killed in order to fulfill what you believe is  
19 righteousness within our world.

20 You said God delayed your destiny. Your destiny  
21 will be decided today. And if there is any contradiction to  
22 God's will, you are it.

23 I will say when I began presiding over this case  
24 now many months ago, I was unsure about your role and  
25 uncertain about the claimed gravity of your conduct. But I

1 have been emersed in the facts of this matter for many months  
2 and I have presided over two trials, and what seemed at one  
3 time clouded now is very, very clear.

4 This is a case about your conduct, conduct which  
5 was calculated and dangerous, cunning and disturbing. What  
6 was unclear before today I am now certain.

7 There is a great battle in America and around the  
8 world with those who twist the tenets of a faith to justify  
9 their response to a call to arms to attack with words and  
10 with weapons the foundations of democracies.

11 To raise resources, the strategy is to recruit  
12 young Muslim men as the ground troops, focusing recruitment  
13 on those already embedded in our culture and our communities,  
14 and then hold them in reserve until they are ready and  
15 resolved to fight.

16 This troubling and pervasive pattern has played out  
17 throughout the world, including in the past few days. We  
18 have seen in your case in intimate detail how the strategy is  
19 employed, and we have seen without question and without  
20 contradiction your willingness to join in it. Who and what  
21 you are was revealed with troubling clarity. The risk you  
22 and those like you present was troublingly obvious in the  
23 evidence that was presented in your case.

24 There are not many sitting here today including the  
25 press who have been as immersed in this case as I have now

1 for months. I have listened intently and studied dutifully  
2 the facts of your conduct.

3 What I now have is not just a glimpse into the dark  
4 side of terrorist cell development. What I now have is a  
5 full portrait of two men who, through their tortured  
6 interpretation of what is right in the eyes of their God and  
7 then justified in their own twisted morality, decided in the  
8 middle of this decade to join the fight, to join forces with  
9 others, and to recruit others to join your cause.

10 In conspiring with others literally around the  
11 world, you presented a real and visible threat to those who  
12 seek to live life according to the values of their cultures  
13 in free and peaceful communion with their neighbors. You  
14 threaten their way of life because you believe yours is  
15 better, and as true believers you committed to impose your  
16 will and your way on others. Your conduct was calculated  
17 and, while occasionally halted, it always progressed  
18 forward.

19 The evidence of who you are and what you are  
20 willing to do was disclosed with disturbing clarity in the  
21 evidence in the case. Some of the most striking strokes in  
22 the picture of who you are and what you were willing to do  
23 had to do with those with whom you chose to conspire and to  
24 offer yourselves in support of a war that you were willing to  
25 support.

1           Telling and chilling was the discussion we watched  
2           between you and your co-conspirator in this courtroom. What  
3           struck me was the manner in which you talked with each other,  
4           detached from the reality of the trial. It was as if you had  
5           elected to engage in a private conversation conducted in  
6           public to justify what you had done and to encourage each  
7           other in the good fight.

8           It, like most of your conduct and conversations,  
9           was coded and enveloped in symbolism. Your discussion about  
10          symbols, including those on our currency and in movies,  
11          showed your detachment from our very real world and your  
12          willingness to find even in movie fantasy fanciful support  
13          for that which you believe.

14          I found it interesting and odd that you would  
15          distort the character of Superman into the Antichrist, and  
16          was not until I wondered why you would select that character  
17          as your symbol that I remembered that when I watched these  
18          programs as a young child, that Superman was introduced as  
19          the person who symbolized truth, justice and the American  
20          way. Then I saw these values are your Antichrist and they  
21          are what motivated the crimes that you committed and for  
22          which you have been convicted.

23          In our country you have every right to reject our  
24          country and its values and to openly criticize or even  
25          condemn them. I have allowed you to do that repeatedly in

1 this case, and you have done it even in the website that  
2 supports you by including Mr. Ahmed's letter in which he  
3 soundly rejects this country and its justice system.

4 But what we don't allow in our civilized society  
5 here or abroad is to engage in crimes that put others at  
6 risk, literally at risk for their lives and their  
7 well-being. This is what you are being held accountable for  
8 today.

9 The evidence supports without question your  
10 conviction and shows with a fair degree of precision who you  
11 are and what you were becoming. The evidence disputes the  
12 views of those who have been recruited to write scores of  
13 form letters that I received, and in law the specific is more  
14 persuasive than the general.

15 The specific evidence discredits the general  
16 impression of those who have sent the generic letters that I  
17 have received that you are a peace-loving innocent. The  
18 evidence proves that generalization is wrong.

19 We have seen who you are in e-mails that disclose  
20 the plot you hatched in Canada to travel to "Curry Land" and  
21 your call to jihad.

22 We have seen who you are in your willingness to  
23 disguise the truth of your conduct when confronted by law  
24 enforcement, that you would conceal evidence of your crimes  
25 in the linings of your luggage.



1           We saw it in your willingness to keep secret that  
2           one internet communication means that you had with Mr. Ahmed  
3           so that you could engage in final communications to warn each  
4           other and, in your case, to assess the risk of Mr. Ahmed's  
5           confessions to you.

6           It was chillingly displayed as you drove past the  
7           Pentagon and commented about what your brothers had done on  
8           9/11, comments without any regard for those innocent fathers  
9           and mothers and children who were on the plane that crashed  
10          in that building on that terrible day not in just our history  
11          but in the history of the world.

12          And it was clear, Mr. Sadequee, in your recruitment  
13          of young Muslims in South Africa and in California, our very  
14          country.

15          If there is a communication that tells me who you  
16          are and what you had become in conspiracy with Tsouli and  
17          Bektasevic, it was this secret communication to another young  
18          man similar to you, a young person in our country who sought  
19          to join your terroristic cause and who you decided to  
20          guide.

21          Do you remember that e-mail, Mr. Sadequee?    This  
22          is what you said:

23                 If you wish to fulfill your obligations,

24                 I always advise the brothers to do what you are

25                 capable of doing to the maximum.   Read the chapter

1 from, quote, Fundamental Concepts Regarding Jihad,  
2 the Chapter of Martyrdom.

3 So since you are a convert and you are young  
4 and hopefully you haven't exposed your beliefs to  
5 those who would want to harm you, you have the  
6 capacity of fulfilling your largest obligations in  
7 your native land, although, yes, you have to  
8 advance and learn and get trained elsewhere. But I  
9 know that the brothers are looking for people like  
10 you, Muslims, but at the same time they disappear  
11 into the *kafir* assembly.

12 This was you telling a 17-year-old boy in  
13 California how to be like you.

14 I received a letter from one of your supporters  
15 just a few days ago. He told me that he didn't like  
16 preemptive cases. Like others who wrote, he does not  
17 understand the responsibility of a free society, and you  
18 don't either.

19 We are using tools, legitimate, constitutional, and  
20 necessary tools to prevent that which has been forced on our  
21 country in the past. We are here not to punish you for what  
22 you believe. We are not here to punish you for your critical  
23 rejection of western values. You are here to be punished for  
24 what you did, even though what you did was motivated by who  
25 you are.

1 I am responsible for determining a fair  
2 sentence. All the criteria in 3553 (a) that Congress has  
3 asked me and directed me to consider I have. But after this  
4 morning and your comments, I am drawn again, as I have been  
5 now for a few weeks, to the need to deter you and to deter  
6 others from conduct that literally threatens our society.

7 Not once, not once in this case have you expressed  
8 any remorse for anything that you have done. You have not  
9 expressed any remorse for your willingness to join with  
10 violent men to inflict harm and in some cases death on  
11 others, and it's because, as you told us this morning, that  
12 you are subject to no authority other than the God that you  
13 believe requires you to proceed even further in your quest to  
14 impose on others a way of life that you believe God seeks to  
15 impose on us.

16 I will say this. Our Gods are very different. And  
17 I am sorry that we have in our country people that would see  
18 a God that loves others to engage in the sort of vigilante  
19 justice that some in your religion would engage for the  
20 purpose of manipulating and changing cultures.

21 This is a day of reckoning for you and it's a day  
22 of justice for our community. And with that, if you will  
23 please rise, I will announce the sentence I intend to impose.

24 Would you please rise? You stood and spoke to me,  
25 maybe you can stand to answer to your country.

1 MR. SADEQUEE: In the Quran, Allah says that on the  
2 day of judgment, mankind rises for God, and the attributes of  
3 God are only for God. So we cannot stand in honor of man.

4 THE COURT: Pursuant to the Sentencing Reform Act  
5 of 1984, it's my judgment that you, Ehsanul Islam Sadequee,  
6 be committed to the custody of the Bureau of Prisons to be  
7 imprisoned for a term of 17 years on Counts One through Four,  
8 each count to run concurrently to each other.

9 It's further ordered that you shall pay to the  
10 United States a special assessment of \$100, and that is due  
11 immediately.

12 I find that you do not have the ability to pay a  
13 fine and the cost of incarceration, and therefore I'm waiving  
14 the fine and cost of incarceration in your case.

15 When you are released from prison, you shall be  
16 placed on supervised release for a term of 30 years. And  
17 within 72 hours of release from the custody of the Bureau of  
18 Prisons, you shall report in person to the probation office  
19 in the district into which you are released.

20 While on supervised release, you shall not possess  
21 or use any device of any kind, including but not limited to a  
22 computer, Blackberry, iPhone, internet-enabled television or  
23 other device to access the internet, provided however that  
24 you may possess one computer, provided that computer is  
25 disabled from accessing the internet.

1           You shall provide to your probation officer all  
2     passwords and other information necessary to access your  
3     computer or other internet-capable device.

4           You shall identify to your probation officer the  
5     model, location, owner and serial number of the computer that  
6     you possess, and you shall not -- you shall allow your  
7     probation officer to search your computer and any other  
8     internet-capable device and any data or other information on  
9     it at the request of your probation officer.

10          If you seek to change the computer or other  
11     internet-capable device that you use, you shall first request  
12     permission to do so from your probation officer, and you  
13     shall comply with the requirements of this condition upon use  
14     of a new computer or other internet-capable device as  
15     authorized by your probation officer.

16          While you are on supervised release, you also shall  
17     not commit another federal, state or local crime, you shall  
18     comply with the standard conditions that have been adopted by  
19     our Court, as well as the following additional conditions.

20          You shall submit to one drug urinalysis within  
21     fifteen days after being placed on supervision, and at least  
22     two tests thereafter at the direction of your probation  
23     officer.

24          And under federal law that requires mandatory DNA  
25     testing for those convicted in federal court of felony

1 offenses, you shall cooperate in the collection of DNA  
2 material as directed by your probation officer.

3 You shall make a full and complete disclosure of  
4 your finances, and shall submit to an audit of financial  
5 documents at the request of your probation officer. And you  
6 shall not incur new credit charges or open additional lines  
7 of credit without the approval of your probation officer and  
8 unless you are in compliance with any other financial  
9 obligations that you may have.

10 You shall not own, possess or have under your  
11 control any firearm, dangerous weapon or other destructive  
12 device. That in and of itself as a person convicted of a  
13 felony is an independent crime for which you can be  
14 prosecuted.

15 And you shall submit, in addition to a search of  
16 your computer, to a search of your person or any property  
17 that you have upon request of your probation officer.

18 As I have said, I have over now a few weeks  
19 considered all of the requirements of 3553 in deciding what  
20 guideline sentence to impose, and having considered those,  
21 I determine this to be a fair and reasonable sentence under  
22 the circumstances of this case.

23 And this is the sentence that I would impose even  
24 if I have, although I don't believe I have, made any mistakes  
25 in calculating the guidelines. This is the proper, fair,

1 just, and reasonable sentence based upon the crimes for which  
2 you have been convicted.

3 Is there any objection from the government?

4 MR. McBURNEY: Just so that your pronouncement and  
5 the J&C don't differ, I believe you said \$100 was the special  
6 assessment. It's per count. For him it will be a total of  
7 \$400.

8 THE COURT: A total of \$400, that's correct, yes.

9 MR. McBURNEY: Thank you.

10 THE COURT: Any objection from the government?

11 MR. McBURNEY: No, sir.

12 THE COURT: Any objection from the defense?

13 MR. SADEQUEE: No objection.

14 THE COURT: Then I hereby impose the sentence that  
15 I have just announced.

16 Let me go over your appellate rights. You are  
17 entitled to appeal your conviction and your sentence. If you  
18 decide to do so, you begin that process by the filing of a  
19 notice of appeal, which is a short expression of your  
20 intention to appeal.

21 I don't know to what extent you are going to allow  
22 your lawyers to represent you, but if you refuse to allow  
23 them to assist you, which I know that they are more than  
24 willing to, to file the notice of appeal, if that's your  
25 desire, and you wanted to represent yourself in the appellate

1 process, if you will let the Clerk of Court know, the Clerk  
2 of Court will assist you in filing a notice of appeal.

3 The time to file a notice of appeal is very short.  
4 It's ten days from the entry of the judgment and committal  
5 order, which that will be entered either tomorrow or the day  
6 after.

7 Do you wish Mr. -- your counsel to assist you in  
8 your evaluating an appeal, or do you wish to do that on your  
9 own?

10 MR. SADEQUEE: I have no intention of appealing.

11 THE COURT: Well, would you please consult with  
12 Mr. Samuel and --

13 MR. SAMUEL: Your Honor?

14 THE COURT: Yes.

15 MR. SAMUEL: Your Honor, with the Court's  
16 permission, I have spoken with Mr. Sadequee at length about  
17 this. I've asked him to reflect upon that, let me spend yet  
18 more time to talk with him about it.

19 With the Court's permission, I would like to file a  
20 notice of appeal. I have explained to him that doesn't cross  
21 the rubicon.

22 If I could just file the notice, spend a little  
23 time with him and see where it goes, would that be okay with  
24 the Court?

25 THE COURT: You know, as you and your co-counsel



1 have in this case, you have gone well above the call of duty  
2 in representing Mr. Sadequee. I know that this has been  
3 difficult.

4 I think that that is good legal judgment, and you  
5 may do that.

6 Is there anything else?

7 You will stay in the custody of the Marshal Service  
8 until you receive your prison assignment.

9 And that's all that I think I need to  
10 cover. Anything else, Mr. McBurney?

11 MR. MCBURNEY: No, sir. Thank you.

12 THE COURT: Anything else from the defendant?

13 MR. SADEQUEE: No.

14 THE COURT: We will be in recess.

15 (Proceedings adjourn at 11:53 a.m.)  
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## C E R T I F I C A T E

UNITED STATES OF AMERICA :  
:  
NORTHERN DISTRICT OF GEORGIA :

I, Nicholas A. Marrone, RMR, CRR, Official Court Reporter of the United States District Court for the Northern District of Georgia, do hereby certify that the foregoing 56 pages constitute a true transcript of proceedings had before the said Court, held in the city of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 17th day of December, 2009.

*/s/ Nicholas A. Marrone*

---

NICHOLAS A. MARRONE, RMR, CRR  
Registered Merit Reporter  
Certified Realtime Reporter  
Official Court Reporter  
Northern District of Georgia

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA

_____	)	
	)	
Plaintiff(s)	)	
	)	Case No. _____
V.	)	
	)	
_____	)	
Defendant(s)	)	

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_____	_____
Date	Court Reporter

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Proceeding Type: \_\_\_\_\_

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

Volume Number: \_\_\_\_\_

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as counsel/party in this case. He/She is to be provided with remote access to the transcript via CM/ECF and PACER.

_____	_____
Date	Court Reporter

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA )  
)  
Plaintiff, ) CRIMINAL ACTION FILE  
) NO. 1:06-CR-147-WSD-1  
v. )  
) ATLANTA, GEORGIA  
SYED HARIS AHMED (1) )  
)  
Defendant. )  
\_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE WILLIAM S. DUFFEY, JR.,  
UNITED STATES DISTRICT JUDGE

Monday, December 14, 2009

APPEARANCES OF COUNSEL:

For the Plaintiff: OFFICE OF THE U.S. ATTORNEY  
(By: Robert C. McBurney  
Christopher Bly)

For Defendant Ahmed (1): Syed Haris Ahmed, *Pro Se*

Standby Counsel: MARTIN BROTHERS  
(By: John Richard Martin)

*Proceedings recorded by mechanical stenography  
and computer-aided transcript produced by*

NICHOLAS A. MARRONE, RMR, CRR  
1714 U. S. Courthouse  
75 Spring Street, S.W.  
Atlanta, GA 30303  
(404) 215-1486

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I N D E X

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FAIQA AHMED	
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Monday Afternoon Session

December 14, 2009

2:41 p.m.

-- -- --

P R O C E E D I N G S

-- -- --

(In open court:)

(In open court:)

THE COURT: Good afternoon. This is the sentencing in the United States v. Syed Haris Ahmed, which is Criminal Action No. 06-147.

Would counsel please announce their appearances?

MR. McBURNEY: Robert McBurney and Christopher Bly for the United States. Special Agent Mark Richards from the FBI is also seated at our table.

THE COURT: Good afternoon.

MR. MARTIN: Jack Martin as standby counsel for Mr. Ahmed.

THE COURT: Good afternoon, Mr. Martin.

And good afternoon, Mr. Ahmed.

I know that you have gone through the presentence report, because there are some objections. So let's take those up one at a time. I have read the submissions, but I want to make sure that I rule on each of the objections.

1           The first is on page two. That's a government  
2       objection to material contained in Paragraph 10 of the  
3       presentence report.

4           Mr. Ahmed, what is your response to government's  
5       objection on page two to Paragraph No. 10?

6           MR. AHMED: I don't have a response to that.

7           THE COURT: All right. So do you --

8           MR. MARTIN: Your Honor, if I may? We have -- I  
9       have discussed this briefly, and you have asked me to assist  
10      Mr. Ahmed in this regard.

11          We have no particular responses to any of the  
12      specific objections made by the government as to the  
13      presentence report. And we would adopt, as we have, as the  
14      Court permitted, the objections regarding the guidelines  
15      calculations of Mr. Sadequee that his counsel has presented,  
16      and we adopt those.

17          We do not offer any additional argument in support  
18      of those objections this morning or this afternoon, and we  
19      will rely upon our written pleadings and whatever reservation  
20      we can make at the conclusion of those objections.

21          But otherwise we have nothing further to address  
22      the Court regarding those matters.

23          THE COURT: Well, of course there are now  
24      objections that are not addressed in here because you elected  
25      to adopt them, so I am still going to go objection by

1 objection to make sure the record is clear for whoever might  
2 review my decisions.

3 So with respect to page two, Paragraph 10,  
4 I understand that there is no response to that objection, so  
5 I'm going to sustain it and I will consider that  
6 clarification.

7 The next is an objection on page four to material  
8 in Paragraph 15. It is also a government objection.

9 I assume, Mr. Martin, that you don't have any  
10 further response to this objection; is that correct?

11 MR. MARTIN: Yes, sir.

12 THE COURT: All right. Then I will sustain that  
13 objection and will consider the context that's provided for  
14 in the objection.

15 The next is an objection by the government on page  
16 five concerning material in Paragraph 17. I assume,  
17 Mr. Martin, there is nothing further you would like to say  
18 about that objection?

19 MR. MARTIN: No, sir.

20 THE COURT: Is that correct?

21 All right. Then I will sustain that objection,  
22 which it provides additional context for the material that is  
23 in the presentence report specifically at Paragraph 17.

24 The next is a government objection on page six to  
25 material in Paragraph 20. Again it's to provide some context



1 for the material in Paragraph 20.

2 I assume, Mr. Martin, there is nothing further that  
3 you care to say about that objection; is that correct?

4 MR. MARTIN: No. I mean, there was evidence to  
5 that.

6 THE COURT: Then I will sustain that objection.

7 The next is an objection by the government at page  
8 seven to the material in Paragraph 29.

9 Anything further that the defendant has to say  
10 about that objection?

11 MR. MARTIN: Well, I guess it's all really a matter  
12 of semantics in that one. As I remember, it's whether or not  
13 he was recruiting people for Al-Qaeda in Iraq as potential  
14 suicide bombers.

15 I believe that the evidence indicated that there  
16 was some indication that these people were going to be  
17 suicide bombers. It really has to do with the culpability of  
18 another defendant or another alleged co-conspirator.

19 So I don't know if it makes any big difference  
20 whether they were potential recruits or potential suicide  
21 bombers. Whatever they were recruited for, it was obviously  
22 for something that wasn't anything good. So I don't know if  
23 it makes much difference.

24 So my recollection is the word suicide bombers was  
25 actually used during the trial, but it's not a big issue.

1 THE COURT: All right. Then I will sustain that  
2 objection and the context clarification provided by the  
3 objection to Paragraph 29.

4 And then there is a final concluding objection by  
5 the defendant at page eleven, Paragraph 39, which is -- it's  
6 hard to say it's really an objection. It's an argument that  
7 is presented on behalf of the defendant.

8 What's the government's response to the objection  
9 by the defendant on page eleven to virtually all other  
10 paragraphs in the PSR?

11 MR. McBURNEY: We oppose it and ask the Court to  
12 overrule it, if only because it is as you characterized  
13 it. It is perhaps the closing argument that Mr. Martin  
14 would like to have given at the trial, but that was not his  
15 role.

16 For the most part it provides the defense's  
17 characterization of evidence that was presented at trial, and  
18 at times it's an effort to place Defendant Ahmed's role lower  
19 down in the hierarchy of culpability, if you will.

20 It doesn't take issue with specific facts, and in  
21 fact it concludes, the final paragraph: We do not here  
22 quarrel with the Court's verdict. And then goes on to say  
23 Mr. Ahmed never actually did anything that in any way posed a  
24 serious threat to anyone.

25 You should hear that today from either Mr. Martin

1 or Defendant Ahmed. I don't think it's something that should  
2 become the content of a PSR.

3 The facts have been found by the Court. The  
4 factual findings were very clear and very detailed, and this  
5 is commentary on those as opposed to showing you actually on  
6 June 18th something different happened.

7 MR. MARTIN: Your Honor, my only response is the  
8 PSR has several functions. One of course is for the Court's  
9 determination of sentence, but it will also follow him  
10 through the prison system.

11 And I agree with counsel for the prosecution that  
12 it in some respect is our -- it emphasizes those pieces of  
13 evidence that we think are helpful to the defendant in  
14 putting his actions in context.

15 I don't believe that -- I didn't hear from  
16 Mr. McBurney any specific objection to any specific  
17 fact. Indeed I basically heard him say, well, these are our  
18 facts, but they don't make any difference for the ultimate  
19 question of his guilt, and that may be true.

20 But it places in context the summary of the other  
21 evidence which, as the Court well knows, basically comes from  
22 the probation officer reviewing the prosecution file, and  
23 those are the facts that they emphasize.

24 I don't see any harm in leaving in the presentence  
25 report those facts which are not contested which put his

1 behavior in context for your purposes and as well as for the  
2 purpose of any other person down the road in the prison  
3 system in trying to assess how to house Mr. Ahmed.

4 THE COURT: Well, I will make my own decision,  
5 because I know the facts in the case because I have now  
6 presided over two trials, and I have since the trials  
7 reviewed independently the evidence that was admitted at both  
8 trials. So I'm familiar with the facts.

9 I do think that the presentence report ought to  
10 note to the extent that it follows the defendant that I find  
11 these comments to provide context that is inconsistent with  
12 the facts in the case, that there are a number of particulars  
13 here that I think are not a fair characterization of the  
14 evidence or the defendant's motivations, and therefore the  
15 facts of the case as presented in the trial transcript and  
16 the evidence that was introduced ought to govern his conduct  
17 as well as the sentence that's imposed.

18 But to the extent that I allow these to stay within  
19 the PSR, I'm going to ask the probation officer to note that  
20 I disagree with many of the characterizations and the  
21 opinions that are set forth in this objection.

22 So that is the way that I would rule on that  
23 objection.

24 We now get to the guideline objections.

25 The first is an objection by the government at

1 page 14, and it relates to the Paragraph 49 application of  
2 the base offense level.

3 And let's go ahead and have the government  
4 summarize their objections so that that's on record.

5 MR. MCBURNEY: Judge, the guideline calculation for  
6 a material support count is a little more complex than the  
7 typical one because it sends the reader first to an inchoate  
8 offense, and you have to try to find the guideline that best  
9 fits the crime of conviction. And our disagreement with the  
10 probation officer here is simply what she selected as the  
11 best fit.

12 The government's position is that a conspiracy with  
13 the intent to commit murder better fits what this defendant  
14 and his co-conspirators discussed, acted on, and in his case  
15 in particular pursued by going to Pakistan in an effort to  
16 get into a training camp. And in Sadequee's case we already  
17 discussed the explosives, et cetera.

18 Kidnapping may have been something on these  
19 defendants' minds. We don't see that concept coming up in  
20 their communications. Evan Kohlmann discussed it as a tactic  
21 used by some of the organizations the defendant and others  
22 sought to support.

23 But in terms of their conduct taken and the  
24 conspiracy they sought to support, the government's view is  
25 that the assault with intent to commit murder guideline is a

1 better factual fit.

2 I will close by noting that it doesn't change the  
3 overall calculation. It shifts it by one level, and we are  
4 to a point, especially given the fact that this defendant is  
5 capped at fifteen years because he went to trial on only one  
6 count, it's not something that changes the ultimate decision  
7 you have to make.

8 But I don't think it's the right fit.

9 THE COURT: Do you want to respond to that,  
10 Mr. Martin or Mr. Ahmed?

11 MR. MARTIN: My only response is that I have to  
12 agree with Mr. McBurney that it probably doesn't make any  
13 difference in the long run, but the evidence as I recall it  
14 was that his intent was to join a training camp and possibly  
15 fight in Kashmir just the Indian Army.

16 Now, whether that is attempted murder I will leave  
17 with you. It is in the context of a battlefield situation.

18 So that's all I have to say.

19 THE COURT: Well, most of the battlefields I'm  
20 aware of, there is very little kidnapping, there is more  
21 killing. So I think I agree --

22 MR. MARTIN: Well, his testimony was that he wanted  
23 to go to Kashmir to fight the Indian Army, so I will leave it  
24 at that.

25 THE COURT: I agree with the government. I think

1 the assault with intent to commit murder more directly and  
2 appropriately applies, and therefore I'm going to find that  
3 the base offense level is 33 and not 32.

4 But I agree with both counsel that it won't make  
5 any difference in this case in view of the cap that is on the  
6 defendant's exposure.

7 All right. The next question is whether or not the  
8 terrorism enhancement applies. That is -- I think that's  
9 more one that was adopted by the defendant based upon  
10 Mr. Sadequee's objections.

11 MR. MARTIN: Your Honor, I have looked for  
12 additional case law to support our position and haven't found  
13 any other than the ones I previously cited, so I have nothing  
14 further to say as legal argument other than the general  
15 proposition that it seems like double-counting to be tried  
16 and convicted of a conspiracy to provide material support to  
17 terrorists and then get additional time for it being a  
18 terrorism-related crime.

19 THE COURT: Well, but isn't it true that basically  
20 you go to the basic assault with intent to commit murder, and  
21 the purpose of the enhancement as Congress directed the  
22 Sentencing Commission to do is to say that when it is in the  
23 context of a terrorist act or associated with terrorism, that  
24 that core guideline as it relates to any kind of assault with  
25 intent to commit murder should be enhanced.

1           And then what they have done is they, while they  
2     have taken this procedure, I noted in the last sentencing  
3     that the other way they could have done it is set a whole  
4     different set of guidelines for terrorism-related issues, in  
5     which case they could have made the base offense level 40  
6     versus 33 or 32 or whatever applied.

7           Simply the purpose of this is to say in a terrorist  
8     context, you add twelve points to make it more serious.

9           MR. MARTIN: I understand the *Mahdi* case talks  
10    about that, but those were typically cases where somebody is  
11    charged with arson and something else and then they get  
12    tacked on.

13          It just seems odd that we are charged with  
14    support -- material support for terrorism, and then get  
15    additional time. But as I told the Court honestly from the  
16    beginning, I have no case law that confirms it.

17          THE COURT: I agree with the government. I believe  
18    that this is not an objection that has any legal basis and  
19    does in fact apply in a case where you are using the core  
20    2A 2.1 assault with intent to commit murder, which can apply  
21    in a number of different contexts, use that as the base  
22    offense level that Congress directed the Sentencing  
23    Commission, and the Sentencing Commission added an  
24    enhancement. That enhancement is twelve, and I find that  
25    that applies.



1           Then I think for Mr. Ahmed the last question is the  
2 criminal history category he believes is too punitive.

3           And do you have anything further to say about that,  
4 Mr. Martin?

5           MR. MARTIN: No, sir. And again I wasn't able to  
6 find any case law on this particular situation that supports  
7 our proposition, but we wanted to raise the issue, because  
8 you never know what somebody will decide later.

9           So we just raise the issue. I have no further  
10 argument. It just seems if the purpose of the criminal  
11 history is really to determine whether somebody has a  
12 criminal history, it makes little sense to say a particular  
13 offense includes a criminal history.

14           But that's the way the commission did it and  
15 I understand, and I will just rest on that.

16           THE COURT: Anything else you would like to say on  
17 that, Mr. McBurney?

18           MR. McBURNEY: No, sir.

19           THE COURT: I think my obligation is to apply the  
20 guidelines. The guidelines provide for a defendant under  
21 these circumstances to be assigned a criminal history  
22 category of six, and that is what we will apply in this  
23 case.

24           So my guideline findings are that the total  
25 offense level is 45, that the criminal history category

1 for the defendant is six, and that his guideline range is  
2 life.

3 Any objections to those findings?

4 MR. McBURNEY: No, sir.

5 But out of an abundance of caution, Defendant Ahmed  
6 adopted all of Defendant Sadequee's objections, and I believe  
7 the other one we discussed this morning does apply, the one  
8 about whether you are required to find beyond a reasonable  
9 doubt which prong of the conspiracy.

10 The one count that Defendant Ahmed went to trial on  
11 was in fact a conspiracy count wherein there was an  
12 allegation of both a 956 (a) and 2332 (b). So I just didn't  
13 want to leave that objection hanging.

14 I think it also isn't well supported by the case  
15 law, but Mr. Martin can address that. But I wouldn't want  
16 that to be something you didn't rule on and then --

17 THE COURT: Do you have any response, Mr. Martin?

18 MR. MARTIN: No, I don't.

19 THE COURT: So you are relying upon what  
20 Mr. Sadequee's lawyers told me about that objection?

21 MR. MARTIN: Yes, sir.

22 THE COURT: Well, as I found this morning,  
23 I believe that both were proved at trial, regardless of  
24 whether it was one or the other of the offenses, that the  
25 defendant has been found guilty of a conspiracy and he's been

1 found guilty beyond a reasonable doubt.

2 And I further find that the evidence supported in  
3 fact beyond a reasonable doubt the commission of both of  
4 those offenses, and therefore that's the record that needs to  
5 be made with respect to that, that that objection is  
6 overruled.

7 Now is there anything further with respect to the  
8 guidelines?

9 MR. McBURNEY: No, sir.

10 MR. MARTIN: No.

11 THE COURT: Then with my findings on the factual  
12 objections, the Court will adopt as part of its findings of  
13 fact the facts set forth in the presentence report as I have  
14 ruled on the objections as well as the evidence that was  
15 presented to me at trial, and I will use those in determining  
16 a reasonable sentence in the case.

17 Then having made my guideline findings, the next  
18 thing we will do if there is anything in extenuation or  
19 mitigation that Mr. Ahmed wants to present, we will begin  
20 with that.

21 And then I will let Mr. McBurney state what he  
22 believes is a reasonable sentence in the case.

23 And then I will assume that rather than having  
24 separate statements from Mr. Ahmed, that he can state what he  
25 thinks is a reasonable sentence, and he may allocute at the

1 same time after Mr. McBurney is done.

2 All right. So let's begin. Mr. Ahmed?

3 MR. AHMED: One second.

4 I want to call my mom to testify about the phone  
5 call that was in evidence and ask some of -- what she meant  
6 by some of the comments and explain it to the Court.

7 THE COURT: All right. Mrs. Ahmed?

8 Is she here?

9 MR. AHMED: Yes, she's here.

10 THE COURT: She can come forward and we will swear  
11 her in.

12 (The oath is given by the Clerk and affirmed by  
13 Ms. Ahmed.)

14 MR. MARTIN: Your Honor, Ms. Ahmed speaks fairly  
15 good English. We have an interpreter here which we would ask  
16 the Court to swear in because there may be something that  
17 comes up of some technical nature that she would need the  
18 assistance of an interpreter.

19 THE COURT: Well, let's try that. It doesn't look  
20 like there was a lot of clarity in what we just did, but  
21 let's see how it goes

22 MR. MARTIN: Here is the interpreter right here,  
23 Your Honor.

24 THE COURT: Ms. Ahmed, you may be seated.

25 Ms. Vyas?

1 THE INTERPRETER: Yes. How are you?

2 THE COURT: I'm fine, thank you.

3 Could you please swear in the interpreter.

4 (The oath is given by the Clerk to Interpreter  
5 Rupa Vyas.)

6 MR. AHMED: Now I would like to present the  
7 transcript in Exhibit S-1, the transcript of the phone call.

8 THE COURT: All right. You want to introduce that  
9 into evidence?

10 MR. AHMED: As evidence.

11 THE COURT: Any objection?

12 MR. MCBURNEY: No, sir.

13 THE COURT: All right. It's admitted.

14 -- -- --

15 FAIQA AHMED

16 First duly affirmed by the Courtroom Deputy, testifies and  
17 says as follows:

18 -- -- --

19 DIRECT EXAMINATION

20 BY MR. AHMED:

21 Q. Can you state your name and spell it for the transcript,  
22 your full name?

23 A. Faiqa Ahmed.

24 Q. And spell it.

25 A. F-a-i-q-a A-h-m-e-d.

1 Q. Okay. I'd just say that I would like to talk about a  
2 little bit of your background a little bit so we know about  
3 your language skills.

4 A. Uh-huh.

5 Q. How much -- okay, you were in Pakistan for most of your  
6 life; right?

7 A. Yes.

8 Q. How long did you study in school over there?

9 A. Twelve years.

10 Q. Twelve years?

11 A. (Nods head.)

12 Q. Did you study English in Pakistan or no?

13 A. Yeah.

14 Q. A little bit?

15 A. A little bit.

16 Q. Okay. Are you able to understand enough?

17 A. When I speak it's hard for me, but I can most of it --

18 Q. You can understand, but to speak it is a problem?

19 A. Yes, I have a problem.

20 Q. Okay. So if I ask you a question and you have a  
21 problem, you can ask her. But if the answer is simple, you  
22 can say it in English.

23 A. Sure.

24 Q. But if you think you will not be able to express  
25 yourself completely, you can I guess tell her and she can

1 help.

2 A. Yes.

3 Q. That's the education part.

4 Okay. I would just like to ask a little bit of the  
5 background about my family so we can put it a little bit in  
6 context.

7 Where were your parents born?

8 A. In India.

9 Q. In India?

10 A. Uh-huh.

11 Q. And where are they living right now?

12 A. In Peshawar in Pakistan.

13 Q. How did they move from India to Pakistan?

14 A. Because of the separation of the subcontinent.

15 Q. So in 1947?

16 A. 1947, no -- yeah, August 1947.

17 Q. So the migration from India to Pakistan?

18 A. Yes.

19 THE COURT: Excuse me. Ms. Ahmed, you have to wait  
20 until Mr. Ahmed is done asking you questions, otherwise you  
21 are talking over each other, and he needs to take down all  
22 the testimony verbatim. So let's slow down a little bit.

23 THE WITNESS: I understand.

24 BY MR. AHMED:

25 Q. So they basically made migration from India to

1 Pakistan?

2 A. Yes, for Islam.

3 Q. For Islam?

4 A. Yes.

5 Q. And in India, were they part of the upper class or  
6 middle class?

7 A. Upper class.

8 Q. Upper class. And in Pakistan where they were living,  
9 where was it?

10 A. Middle class.

11 Q. Middle class?

12 A. Yes.

13 Q. So they made a sacrifice for their religion?

14 A. Yes.

15 Q. Is that the same for my grandparents on my dad's side?

16 A. Yes.

17 Q. So the two made migration --

18 A. Yes.

19 Q. -- when Pakistan and India were created?

20 A. Yes.

21 Q. And they too made sacrifices when they migrated --

22 A. Yes.

23 Q. -- in terms of their financial status?

24 A. Yes.

25 Q. So would that be something, part of my family culture --



1 part of my family history to have sacrifices made for Islam?

2 A. Yes.

3 Q. Would it be unusual if I would like to have a feeling of  
4 following my ancestors and do some sacrifice?

5 A. Uh --

6 Q. Okay, if you don't understand the question --

7 (Translated by the Interpreter.)

8 A. Yes, that is true.

9 Q. No, I'm saying would it be unusual or would it not be  
10 unusual?

11 A. No, it would not be unusual. But their sacrifice is  
12 different.

13 Q. Yeah, but -- no, I'm saying the desire. So would it be  
14 unusual for me to have the desire to sacrifice something to  
15 follow upon, you know, my family history?

16 A. No.

17 Q. So that's not unusual for me to have that?

18 A. No.

19 Q. It's not something out of the blue for me, but it's part  
20 of my family history?

21 A. Yeah.

22 Q. However, Pakistan is not being created right now, so  
23 there is no cause for me right now; right?

24 A. Uh --

25 Q. I mean, Pakistan was created 60 years ago, so I cannot

1 migrate?

2 A. Yes.

3 Q. So would it be something like I have a desire to do  
4 something for Islam but I cannot find a cause? Would that  
5 be a right way to describe my position in 2006, 2005?

6 A. I don't know.

7 Q. Okay. Would it be the right way to describe it, I have  
8 a desire to do something for Islam but I cannot find a  
9 cause --

10 A. Yeah.

11 Q. -- to do sacrifice for Islam?

12 A. Yes.

13 Q. Would that be a right way to describe my emotional  
14 feeling according to your observation as my mother?

15 A. Yes.

16 Q. Like in 2005 and 2006, you were my mother, you knew my  
17 emotional state a little bit?

18 A. Yes.

19 Q. Would that be your observation of me, that I had a  
20 desire to do something but no cause? I was looking for a  
21 cause?

22 A. I just observed that you were -- it was key to learn  
23 Islamic study, and you want to do first Islamic study, then  
24 engineering education. I just feel that.

25 Q. All right. For the benefit of the Court, I would like

1 to -- so you can read this.

2 MR. AHMED: I'm showing the Defendant's S-1 exhibit  
3 so the Court can read it.

4 BY MR. AHMED:

5 Q. Can you read it at the --

6 THE COURT: What page are you on?

7 MR. AHMED: I'm on page number 26.

8 BY MR. AHMED:

9 Q. It's at the screen. I would like to point out to my  
10 comment over here where my finger is. I say: Patience is  
11 not just doing it. Patience is sadness and pain.

12 And you can read that yourself.

13 A. Yes. Patience is not just doing it. Patience is  
14 sadness and pain. Separating from your relatives and  
15 parents, this is patience.

16 Q. Yeah, so was that, you know, the feeling that you  
17 observed from me throughout the time, that I wanted to do  
18 something regarding patience, like separate from family and  
19 friends, just like my grandparents did when they migrated  
20 from Pakistan? That's just to prove that I had this desire  
21 to do something without a cause?

22 A. Yeah.

23 Q. Okay. Now, on page number seven, on 6:04 to 6:26, you  
24 said -- I will ask you.

25 Okay. You mentioned the statement of my father, Riaz.

1 You said Riaz was saying yesterday I don't think Haris will  
2 study now.

3 What kind of studies are you talking about there?

4 A. Islamic.

5 Q. Islamic?

6 A. Yes, I think Islamic.

7 Q. No, I think you should read the whole sentence. This is  
8 the phone call on January 9, '06.

9 A. Oh, yeah. The engineering education.

10 Q. Georgia Tech?

11 A. Georgia Tech education.

12 Q. And then I say on 6:30, Yes, fine, I -- I am irritated  
13 now. I have already told you this, that I am irritated with  
14 this degree.

15 So this degree means the Georgia Tech degree; right?

16 A. Uh-huh.

17 Q. Okay. And then later on you said that, I don't say it  
18 is God, Haris, but one should find some way to spend their  
19 life. What will you do?

20 So are you trying to get me to finish my studies?

21 A. Yes, get first the degree, yes.

22 Q. Is that one of your goals in this conversation as we go  
23 on to see?

24 A. I was trying to say that you have to first finish your  
25 Georgia Tech degree, then you go further Islamic studies,

1 yes.

2 Q. So you were --

3 A. That's the whole time I was thinking this.

4 Q. To get me to finish my degree.

5 Okay. And then at 6:45, you said, Listen to me. I told  
6 you not to go to Pakistan. Why did you go then?

7 Why did you tell me not to go to Pakistan?

8 A. Because I said you would go over there, it is expensive  
9 over there, and I said go to other Arabic school because  
10 there is very good study over there. That's what  
11 I said. And I said go to Saudi Arabia university, and you  
12 said no.

13 Q. And then at 11:09 you said again, When I told you,  
14 Haris, go wherever you want, but don't go to Pakistan. Go  
15 there, you will be able to manage whatever happens there. We  
16 don't have any objection.

17 You said, I said go to Saudi Arabia. What is in  
18 Saudi Arabia?

19 A. Saudi Arabia is very good university. And you said I  
20 can't get admission because their first qualification is you  
21 have to memorize the Holy Quran. That's why you didn't go  
22 over there.

23 Q. Okay. And then you said, Why didn't you go? Go over  
24 there. Go to -- sorry, I stutter -- Y-e-m-e-n?

25 A. Yemen.

1 Q. Okay, go to Yemen. Why did you mention Yemen?

2 A. Because in Saudi Arabia study is very good over there  
3 and they have free education, because we cannot afford the  
4 study expenses. And it's very pure Arabic study over there.

5 MR. AHMED: Now I would like to admit -- to offer  
6 Defendant's Exhibit S-2 in evidence.

7 THE COURT: What is that?

8 MR. AHMED: It's an application for Islamic --

9 THE WITNESS: University.

10 MR. AHMED: -- University --

11 THE WITNESS: University.

12 MR. AHMED: -- in Saudi Arabia. And that's one of  
13 my applications that I had that was found in my room. It was  
14 in the discovery as GNL 000479 and 478.

15 THE COURT: Any objection, Mr. McBurney?

16 MR. MCBURNEY: No.

17 THE COURT: It's admitted.

18 MR. AHMED: Okay. I just want to show that.

19 BY MR. AHMED:

20 Q. Over here it says Islamic University. So that's the  
21 application for Islamic University?

22 A. Yes.

23 Q. And the proof that's in Saudi Arabia is over here it  
24 says, Specify the country that has a Saudi Embassy where you  
25 wish to apply for entry?

1 A. Yeah.

2 Q. So if I was you could say serious about going to an  
3 Islamic University in Saudi Arabia, would getting the  
4 application be the first step I guess towards it?

5 A. Yes. But after that, you said they did not give me  
6 admission because I didn't memorize the Holy Quran, first  
7 obligation.

8 Q. But I did you could say take one step towards it?

9 A. Uh-huh.

10 Q. Can you say I took one step towards applying to there or  
11 not?

12 A. First step, yes.

13 Q. And if someone accused me of conspiracy to go to  
14 Pakistan and to fake studying over there and wait until my  
15 co-conspirators came, I mean, I would not be going to  
16 Saudi Arabia, right, for that? Right?

17 A. Uh --

18 Q. Okay, if I was accused of conspiracy to go to jihad in  
19 Pakistan, would Saudi Arabia be part of the way that I would  
20 go there or no?

21 A. No.

22 Q. If I was accused -- if I had a conspiracy to go to  
23 Pakistan and I was dead sure on that -- you don't  
24 understand? Okay. Forget it.

25 And then -- okay, over here at 29:37 you said, That is

1 fine. I told you this, to not go to Pakistan at all. Again  
2 you mentioned that. You could have gone to India or there.

3 Okay. What is in India?

4 A. India has a big school for Islamic. Everybody knows  
5 India is very big in Asia, biggest institute of Islamic  
6 study.

7 Q. Islamic school?

8 A. Yes.

9 Q. It's not about training for jihad or army training or  
10 anything like that?

11 A. No, no, nothing.

12 Q. Just study?

13 A. My grandfather studied from there, so it's not that kind  
14 of thing.

15 Q. So you have been giving me the permission to go study --

16 A. Yeah.

17 Q. -- and not to blow up myself in a bus or anything?

18 A. No. I never thought about this, no.

19 Q. So when you are saying, Go, go, you are talking about  
20 studying --

21 A. Yes.

22 Q. -- and not blowing up things or anything like that?

23 A. Can I say one thing? When you went to Karachi,  
24 Pakistan, I wrote you a letter -- an e-mail, sorry, but it's  
25 not wrote in English so I cannot bring it. I said, Please



1 take care of you as you are going to find another Islamic  
2 study, and you have to finish the engineering degree to get  
3 admission over there. I said that.

4 I didn't think about you were going to something,  
5 training otherwise. I don't believe in Karachi anywhere  
6 there is any good training center.

7 Q. That is how you -- your permission you gave me?

8 A. Yeah, I said that.

9 Q. Okay. At 9:01 I say, Okay, now, one. I tried once and  
10 failed, but that doesn't mean I can't try again.

11 And then you said, No, that is right, you can't, but you  
12 are not able to do it right now; right? You should study  
13 for the time you are not able to do something.

14 So was that -- were you trying to basically say that,  
15 okay, do what you want to do, but until then finish your  
16 studies in Georgia Tech?

17 A. Yeah, yeah. I want first your study complete here, and  
18 then you go over there and you take -- that was my wish, you  
19 have to learn Islamic study too, but I want you to finish  
20 first Georgia Tech engineering degree.

21 Q. Okay. Again you said that, I want you to accomplish  
22 whatever you want, but just accomplish that while you are  
23 here.

24 By that, you mean the degree in Georgia Tech?

25 A. Huh?

1 Q. Read that. I want you to accomplish whatever you want,  
2 but just accomplish that while you are here.

3 By that, you mean the degree at Georgia Tech?

4 A. Yeah, the Georgia Tech degree.

5 Q. And then you say, It is not forbidden to get education  
6 in this world. Is it a sin if I said so?

7 A. Where is it?

8 Uh-huh.

9 Q. Okay, that's enough. I think I'm just asking that you  
10 were trying to again say finish the degree?

11 A. That's what I encouraged.

12 Q. Okay. At 7:29 I say, This is not about my  
13 choice. I look at what God has commanded.

14 And then you said, That is fine.

15 Then later on I say, Now today what is the requirement  
16 for Muslims nowadays? You and I know it too, that's why  
17 I went, and this -- and it's cut off.

18 I was talking about jihad. Did you understand me as  
19 talking about jihad or no?

20 A. I don't know. I would say engineering study. I don't  
21 know.

22 Q. No, I mean, I said I know what I meant. I was talking  
23 about the requirement meaning the jihad. Is that what you  
24 understood or not?

25 A. I don't think so.

1 Q. Okay.

2 A. Because I didn't understand that.

3 Q. And at 14:25, I said, But mom -- all right. I will try  
4 to do as much as I can, but you should think that when there  
5 is a fire, then we don't think about anything other than  
6 putting out the fire in the house. The main purpose is to  
7 put out the fire in the house. Everything else, everything  
8 else, decorating the living room and such, are all for  
9 later. How can I think I have to do this when there is a  
10 fire?

11 I was talking about the war that's going on, and again I  
12 was thinking that the need is for, you know, for me to stop  
13 the war or something about jihad. Is that how you understood  
14 it?

15 A. Maybe.

16 Q. Maybe, okay.

17 A. I don't know.

18 Q. I'm just saying that was my -- I am mentioning I'm  
19 studying, but --

20 A. This I don't know.

21 Q. You can't recall?

22 A. Uh-huh.

23 Q. You don't recall or you don't know or what?

24 A. I don't know.

25 Q. You don't recall?

1 A. No.

2 Q. I mean, by recall, meaning you don't recall what you  
3 meant or you understood at that time?

4 (Translated by the Interpreter.)

5 A. I don't remember anything.

6 Q. All right. Then I said, We will have to do something  
7 when the chance comes at that time.

8 Again, I meant -- since you don't recall, okay. All  
9 right.

10 Then you say, You can do it. I won't say anything  
11 then. All right.

12 So you mentioned a vague comment do it and when you get  
13 a chance, but it's a vague comment. Did you understand it to  
14 be -- what did you understand it to be, okay, do it?

15 A. Islamic study.

16 Q. So is that what was your understanding? My  
17 understanding was something else, though.

18 A. I cannot read your heart.

19 Q. Okay. All right. So the permission you gave me --

20 A. Was Islamic study.

21 Q. -- was Islamic study, but I understood it as something  
22 else?

23 A. Yes.

24 Q. Okay. At 15:20, you mentioned something about in the  
25 paragraph down here, 15:54, it says, You will go there and

1 get a job or study more, what will you do for the rest of  
2 your life? You will still not achieve your objective. This  
3 is all I want.

4 So if you had given me permission to blow up myself in a  
5 bus, would you be talking about getting a job and rest of my  
6 life?

7 A. I --

8 Q. I mean, after a suicide bombing, I won't be alive, so I  
9 won't need a job or the rest of my life to worry about.

10 A. I said you have to study engineering because Islamic  
11 study cannot give you a high quality job. That's what  
12 I said.

13 Q. Okay. At 26:21, you mention later on, I think about  
14 your welfare and pray whatever he wants. I say -- you won't  
15 believe I just -- okay.

16 Then later on I say, It is not what he wants. It is  
17 what God wants. This you -- why do you say this?

18 Then later on you said, Okay, whatever your wish is, God  
19 definitely wants that to be done.

20 But then I say, So who knows? Who knows? It is  
21 possible that my wish is bad, what I want to do may not  
22 happen. So whatever God wants for me -- sorry.

23 It says, So who knows? Who knows? It is possible that  
24 my wish is bad, what I want to do may not happen. So  
25 whatever God wants for me is better. That is . . .

1 I just want your opinion on this statement, that did  
2 that show that I was convinced about my plan to go, or does  
3 it show confusion on my part that I wasn't even sure, that  
4 maybe what I want is not good?

5 MR. MCBURNEY: Judge, I'm going to interpose an  
6 objection here.

7 I want to give Mr. Ahmed a lot of leeway, but he  
8 has now begun to use his mother as a sounding board for  
9 whatever argument he may want to make to you. He's having  
10 her interpret his own statements.

11 So this calls for speculation, and it's a leading  
12 question.

13 THE COURT: Sustained, which means that you are  
14 trying to tell your mother to adopt what your thinking was,  
15 and frankly she's consistently said that she, one, is having  
16 a hard time understanding what you are asking her.

17 The best thing for you to do is to ask her direct  
18 questions about what she knows and ask her to answer those.

19 MR. AHMED: Okay. Can I ask her her observation of  
20 what she thought as the mother of me? Because a  
21 mother has -- she knows about my emotions too.

22 THE COURT: You may ask her that. But what you  
23 can't do is you can't say didn't you see in me that I was  
24 thinking about so-and-so or that I believed that I was going  
25 to do so-and-so. You can ask her what did you see, what did

1 you observe.

2 MR. AHMED: Okay.

3 BY MR. AHMED:

4 Q. Just keep this comment in mind. I will mention some  
5 more comments and ask your observation on what you thought --

6 MR. AHMED: Can I ask like that?

7 THE COURT: Well, let's take them one question at a  
8 time.

9 MR. AHMED: No, I'm saying that I want to put some  
10 of -- like a few of my comments and then ask her how did she  
11 observe me as --

12 THE WITNESS: As a person?

13 MR. AHMED: I mean, how does she see me after  
14 I made all those comments, what was her opinion of my -- of  
15 me.

16 THE COURT: I can't rule without any context. Why  
17 don't you do what you want to do and then we'll see whether  
18 or not it's proper.

19 MR. AHMED: Okay.

20 BY MR. AHMED:

21 Q. I'm saying keep this comment in mind.

22 A. Okay.

23 Q. Did you read it?

24 A. Yes.

25 Q. And in 28:33 I say, Fine. When I went there, I cried a

1 lot too. I cried a lot too when I was there.

2 A. Uh-huh.

3 Q. I would just like -- keep it in your mind as a further  
4 comment.

5 Now my question is -- my question is this. I mentioned  
6 that I cried. What -- how do you -- how would you describe  
7 my -- what is your opinion of my going to Pakistan or my  
8 desire to go to Pakistan if in putting this in context,  
9 putting this comment in context that I cried when I went  
10 there, that what I want may be bad or may not be good?

11 A. I didn't know if you were going because of --

12 Q. No, no. How did you understand your observation of me  
13 that --

14 A. I don't understand.

15 Q. Okay.

16 MR. AHMED: I would just like the Court to keep  
17 this --

18 A. I cannot tell you.

19 MR. AHMED: I would offer in my allocution what I  
20 am trying to say over here, so just keep that in mind.

21 BY MR. AHMED:

22 Q. Again, 31:03. In 31:03 I mentioned, Okay, I think -- I  
23 am also trying to study more Islamic studies this time. So I  
24 will try to take some time out for that also, but we will see  
25 when I will have time.



1 And you said, Where?

2 And I said, Anyone I could find who would teach me.

3 A. Yeah.

4 Q. So I was looking for an Islamic teacher?

5 A. For a teacher, yes.

6 Q. Okay, I was looking for a teacher.

7 A. Yeah, for Islamic studies.

8 Once you mentioned that I had a student from Arabic  
9 school, he's going to teach you Arabic language to understand  
10 the Quran. That's what you mentioned over there.

11 Q. So was I again looking for -- actively looking for a  
12 genuine teacher to guide me?

13 A. Uh-huh, yeah.

14 Q. Again, 34:58 I mentioned, Okay, anyways, I had another  
15 intention. If possible in the next year, we will all go for  
16 hajj, God willing.

17 I mentioned specifically the upcoming hajj; right?

18 A. Insha'Allah. I said that I will go with you,  
19 insha'Allah, next.

20 Q. And keeping my comment about trying again or whatever,  
21 this comment is specific; right? I mean, my comment about  
22 going back, I mentioned earlier that I wanted to go back, was  
23 that comment specific about when I want to do it or what I'm  
24 going to do, or was it a vague comment, I want to go back?

25 A. I don't understand.

1 (Translated by the Interpreter.)

2 A. You had a strong decision about going to Pakistan.

3 Q. But it was vague. Did I mention a date or time that I  
4 was going?

5 A. Next year.

6 Q. No, no, not about going back. Just when I said that  
7 later on?

8 A. No, no, no.

9 Q. But over here, did I mention a specific time for hajj?

10 A. No. You said next year.

11 Q. A fixed time; right? I mean, the next meaning upcoming  
12 hajj?

13 A. The upcoming hajj.

14 Q. And it's fixed, it happens every year?

15 A. Yeah.

16 Q. That's my point, it was a specific plan?

17 A. Yeah. And I said strongly I wish I would go with you to  
18 hajj, yes.

19 Q. This was a specific plan as compared to --

20 A. Yeah.

21 Q. -- going back, which was a vague statement?

22 A. Yeah.

23 Q. Over here I said, If I get a chance to get a job or  
24 something, then -- 36:48 -- then you will see, God willing.

25 Again I'm talking about -- am I talking about my plan,

1 specific plan to prepare for hajj or no?

2 A. Yes. You'd get a job, you'd get the money, and then we  
3 will go.

4 Q. So we were talking about a specific plan to go hajj?

5 A. Yeah.

6 Q. Okay. Then 38:27 I said, The first thing is that --  
7 laughs -- that when -- no, hajj is not as important as  
8 that. Because when the land is captured, then all the  
9 scholars say that hajj for Muslim men doesn't have as much  
10 importance as that. So for me right now it is, but I will go  
11 if it happens, God willing. Do you understand?

12 You say, Okay.

13 I say, Okay, do you understand? What I am trying to say  
14 is very difficult. I am having great difficulty in saying  
15 it.

16 You said, Yes, yes.

17 I said, So --

18 You say, I know, jihad.

19 I said, So this is it. When this happens that the lands  
20 have been captured, then hajj for men is not that -- so,  
21 fine. Okay, I am going home now.

22 Okay. My comment is this. How did you understand that  
23 I am talking about hajj, I say I want to do hajj and then  
24 I just jumped to jihad? How do did you understand my mental  
25 state at that time?

1 A. You were confused at that time.

2 Q. Speak up.

3 A. Sometimes -- you were confused at that time. You wanted  
4 to go over there for Islamic studies, and I said no, and then  
5 you said I go, and after that you said like this.

6 Q. You can say it in Urdu and she can say the whole thing  
7 in English?

8 A. (Through the Interpreter:) You were aggravated and you  
9 were just confused about everything. So sometimes you say  
10 this and sometimes you say that.

11 Q. What you are saying is I was just saying something,  
12 I want to study, and then I want to go to jihad, and then  
13 I want to go to hajj and then jihad again? Is that what you  
14 are saying, that I was just not sure myself?

15 A. Yeah. But first priority is your Islamic study. Then  
16 I said, No, don't go. First you complete your study in  
17 engineering.

18 Q. Okay.

19 MR. AHMED: And it's not possible to hear the tone  
20 of the conversation, but does the Court recall the tone of my  
21 conversation in the beginning and the end, is it possible?  
22 I mean, I want to bring that in context too, the tone I was  
23 speaking in.

24 Do you recall the phone conversation?

25 THE COURT: I remember this conversation

1 distinctly.

2 MR. AHMED: So I just wanted to --

3 THE COURT: I remember the conversation.

4 MR. AHMED: Okay.

5 BY MR. AHMED:

6 Q. Okay. I want to ask you, do you recall the tone I spoke  
7 to you in the beginning of the conversation and the end of  
8 the conversation, my tone?

9 A. Well --

10 Q. I am saying do you recall that?

11 A. Not much. I remember, but not much.

12 Q. Okay. My concern was is that were you trying -- like in  
13 the end I was calm.

14 A. Yeah.

15 Q. And in the beginning --

16 MR. AHMED: Can I say this, mention -- describe the  
17 tone to her?

18 THE COURT: I remember the tone.

19 MR. AHMED: Okay.

20 THE COURT: I remember that entire conversation.

21 MR. AHMED: Okay.

22 BY MR. AHMED:

23 Q. Were you trying -- were you trying to somehow calm me  
24 down from the beginning to the end?

25 A. Yes.

1 Q. And is it a strategy that moms use that when their sons  
2 are confused or emotionally disturbed --

3 A. Yes.

4 Q. -- they don't confront them about what -- about what  
5 they don't agree with, they just placate them, they just try  
6 to appease them into doing what they want them to do? And  
7 then -- sorry, sorry about that.

8 MR. AHMED: I think that's all I have for her right  
9 now.

10 THE COURT: Mr. McBurney?

11 -- -- --

12 CROSS-EXAMINATION

13 BY MR. MCBURNEY:

14 Q. Good afternoon, Ms. Ahmed. You have family members who  
15 live in Pakistan?

16 A. Yeah.

17 Q. Your husband has family members who live in Pakistan?

18 A. Yeah.

19 Q. You have a daughter who lives in Pakistan?

20 A. Yes.

21 Q. Friends?

22 A. Uh-huh.

23 Q. Syed Haris Ahmed has cousins and apparently a sister and  
24 maybe even a niece or a nephew who live in Pakistan?

25 A. Yes.

1 Q. Yes?

2 A. Yes.

3 Q. In this phone call you were encouraging your son to go  
4 to Saudi Arabia or Yemen, maybe even India, but not  
5 Pakistan. Why did you not want him to go to Pakistan despite  
6 having friends and family in Pakistan? What was your  
7 concern?

8 A. Because I told him because I want you to go to a  
9 specific -- got to a good education center.

10 Q. And you didn't think he would get a good education in  
11 Pakistan as opposed to Yemen or India?

12 A. Yeah. India is good, I said India has a very recognized  
13 big institute, and Yemen and Saudi Arabia obviously has very  
14 huge, big university.

15 Q. But Pakistan doesn't have --

16 A. It's a small, you know, institute, not big. Not good,  
17 big institute. Especially in Karachi I didn't know about  
18 it. Now I know about it, but before I didn't know. I didn't  
19 know about a big institute in Karachi. And I don't want to  
20 go and send him into the countryside.

21 Q. And last question I had. On page 36 of this transcript  
22 of the phone conversation you had with your son, which of the  
23 two of you, you or your son, actually identified your son's  
24 interest as being jihad? Who used that word?

25 A. I did.

1 Q. You did?

2 A. Yes.

3 MR. McBURNEY: Okay. Thank you.

4 THE COURT: All right. Anything further?

5 MR. MARTIN: Not with this witness. She can be  
6 excused.

7 THE COURT: Ms. Ahmed, we appreciate your  
8 testimony. You can return back with your family.

9 MR. AHMED: I would like to offer into evidence  
10 Defendant's Exhibit S-3, which is the transcript of my  
11 Georgia Tech. That is it.

12 THE COURT: Any objection to that?

13 MR. McBURNEY: No. I have seen actually S-3  
14 through I think it's S-10. I will let the defendant identify  
15 them. We don't have objections to any of them. Many of them  
16 are former trial exhibits.

17 MR. AHMED: I would like to offer S-4, which is a  
18 private message on the Tibyan Forum between Aboo Khubayb  
19 al-Muwahhid and Abu Dhaar al-Farisee about me not going to  
20 Toronto.

21 THE COURT: Mr. McBurney, any objection?

22 MR. McBURNEY: No. I'm sorry, no objections to any  
23 of these remaining.

24 MR. AHMED: So do I just go one by one?

25 THE COURT: Why don't you just list them without



1 describing them, just list the exhibit numbers, and we will  
2 see if Mr. McBurney has an objection to any of them.

3 MR. AHMED: Okay. S-5 and S-6, S-7, S-8, S-9, and  
4 then S-10.

5 THE COURT: Any objection to any of those,  
6 Mr. McBurney?

7 MR. McBURNEY: No. Those are all single-page  
8 excerpts from chats that were recovered from Aabid Hussein  
9 Khan's hard drives. No objection.

10 THE COURT: All right. They are all admitted.  
11 All right. Mr. Ahmed, what is next?

12 MR. MARTIN: That's all the evidence. I think  
13 that's all the evidence he has.

14 THE COURT: So what we will do is I will have  
15 Mr. McBurney give his view of what a reasonable sentence is,  
16 and then I will hear from Mr. Ahmed, including his  
17 allocution.

18 MR. McBURNEY: Your Honor, as you already know, the  
19 government is recommending a term of fifteen years for  
20 Defendant Ahmed. That's the statutory maximum. It's also  
21 the guideline sentence because it's the statutory  
22 maximum. The guidelines recommend a term of life, but that's  
23 not a possibility for Defendant Ahmed.

24 This is a different conversation than -- or  
25 presentation than the one from this morning. What

1 Defendant Ahmed has been doing -- and I suspect he will do in  
2 his allocution -- is attempt to convince you -- address the  
3 facts before you, but attempt to convince you that he just  
4 really wasn't serious about all of this, that it was, as  
5 Mr. Martin put it in his sentencing memorandum, a youthful  
6 indiscretion, and as Defendant Ahmed was just putting it,  
7 someone who was indecisive, maybe buffeted by life's events,  
8 sometimes on, sometimes off, with the whole violent jihad  
9 syndrome.

10 I don't think that's what the evidence  
11 showed. I think what the evidence showed in this case was  
12 that if there was one point on the compass that  
13 Defendant Ahmed always returned to, whatever life threw at  
14 him in the period we looked at, when he was in college, it  
15 was the pursuit of violent jihad.

16 You saw, you read, you heard how he connected with  
17 Defendant Sadequee, how they traveled to Canada and met up  
18 with other like-minded individuals. You looked at in great  
19 detail in both trials the chats over the course of a month  
20 involving this defendant as they laid out the specific plans  
21 to get to Pakistan.

22 And of all the people that you heard about, this is  
23 the one defendant who went to Pakistan. And he's admitted  
24 that he went to Pakistan in an effort to enter a paramilitary  
25 training camp and ultimately join the fight.

1           He acknowledged as much when he, in his terms,  
2           turned on his heels and returned to the United States.  
3           Within a day or two of returning, he was expressing regret at  
4           his lack of success to his potential co-conspirator  
5           Zubair Ahmed.

6           And it continued -- you remember the phone call, as  
7           do I -- up until time Defendant Ahmed was arrested, he  
8           pursued this course of action. Not just words, but a course  
9           of action.

10          So I ask you to keep that in mind -- I know you are  
11          very well versed in the facts of the case -- that this isn't  
12          something that once a month Defendant Ahmed would take  
13          seriously and take a step in that direction. It was his  
14          cause and his passion as reflected in his e-mails, his chats,  
15          et cetera.

16          The question before you now is not is he guilty;  
17          that's already been discovered, been determined. The  
18          question is what should the appropriate sentence be. And  
19          there are a number of factors for the Court to consider.

20          One is deterrence. I talked about this earlier  
21          today as well. There is the specific deterrence of this  
22          defendant.

23          And before I and the government had an opportunity  
24          to read the letter that Defendant Ahmed posted on the  
25          Free Shifa website, I was a bit more sanguine that we had an

1 opportunity with Defendant Ahmed, not to get him to change  
2 his mind -- that's not what this is about -- but not to act  
3 on his beliefs in a way that breaks the law and endangers  
4 people in the United States.

5 I received a copy of the letter about a week and a  
6 half ago from one of the case agents who frequents the  
7 Free Shifa website, and it echoes what you heard this  
8 morning. I don't know that you will hear it this afternoon.

9 But Defendant Ahmed tells the reading world that  
10 goes to that website that he is not governed and his  
11 co-defendant is not governed by the laws of men. Those are,  
12 to quote him, a system created by the whims and desires of  
13 the politicians who were chosen by the whims of the public at  
14 large.

15 That's what I call democracy, and that's what  
16 I call the system that works in this country. That's not  
17 Defendant Ahmed's chosen system. And as you informed  
18 Defendant Sadequee this morning, he doesn't need to love it,  
19 he doesn't need to like it. He can speak out against  
20 it. But when he takes steps to take up arms against it, as  
21 he did in this case, something needs to be done.

22 Fifteen years provides specific deterrence for this  
23 defendant, as well as the general deterrence for all the  
24 others who seem to want to travel in Syed Haris Ahmed's  
25 footsteps. The five arrested last week in Pakistan, others

1 who have conspired to join in this perceived war against  
2 American values, western civilization, whatever one might  
3 call it.

4 I want to emphasize -- and I didn't say this this  
5 morning -- this is not about the defendant's religion. We  
6 are here because of actions he took, not because he believes  
7 in this God or that God or prays in this way or that  
8 way. It's because of actions he took that posed a  
9 significant threat to people in Pakistan and Afghanistan and  
10 the United States.

11 This is the defendant who told the FBI that had he  
12 been successful, had he gotten into the camp and been so  
13 directed, he would have taken action here in the  
14 United States, action beyond making the casing videos in  
15 Washington, D.C., action beyond talking about possible  
16 targets, oil refineries and et cetera.

17 But he didn't get to the camp. What I suspect you  
18 will hear is, you know, it didn't work out, I changed my  
19 mind. There is no evidence that this defendant ever gave up  
20 the hope, the desire of getting into the violent jihad,  
21 getting into a camp and getting the necessary training. It  
22 didn't work out.

23 He did meet with the facilitator, Aabid Hussein  
24 Khan, something no one else you've heard about managed to do,  
25 got to Pakistan, met with the guy who could get him into a

1 camp. It didn't work out. We don't have evidence as to  
2 exactly why, but the point is he went that far. He has  
3 demonstrated a willingness to pursue it further even than  
4 Defendant Sadequee.

5 The 15-year term would address punishment,  
6 deterrence. It is not out of line with other sentences, to  
7 include the one handed down this morning.

8 The government strongly believes that  
9 Defendant Sadequee posed an additional threat because of his  
10 recruitment efforts, although I will point out that  
11 Defendant Ahmed spared no effort in his attempt to get Zubair  
12 to rejoin him.

13 They had a number of communications where Haris --  
14 Defendant Ahmed was insisting that Zubair come down to  
15 Atlanta, just let me tell you what we are doing, I just need  
16 one more person, we can do this, we can do this.  
17 Zubair Ahmed testified as much in the trial, but  
18 Defendant Ahmed's own words make that clear.

19 He was not nearly as successful, he was not nearly  
20 as effective in the way he painted the allure of this cause  
21 of violent jihad, but he took some of those same steps. So  
22 it's another reason why a term of fifteen years is  
23 appropriate.

24 Defendant Ahmed has, as with his mother, it came up  
25 at trial, Show me the specifics. There was just this

1 inchoate general plan. The specifics that show that this is  
2 someone who needs to be incarcerated: We have the  
3 conversations, the chats, the travel to Canada, the travel to  
4 Washington, D.C., the travel to Pakistan, the coded language,  
5 the secret e-mail account that he hid from the FBI even while  
6 confessing to some of the acts that make up the backbone of  
7 this prosecution.

8 So that even when he was ostensibly coming clean  
9 and saying, Well, you know what, this was all kid's play,  
10 child's play I think was his phrase, at the same time he is  
11 contacting Sadequee saying, Don't come back here, I slipped  
12 up, I made a mistake, but now it's all damage control.

13 It's someone who kept from -- his sister testified  
14 at trial, Defendant Ahmed's sister, and I asked her, Well,  
15 you said he's a peaceable, fun-loving person. Did you know  
16 about Omer Kamel?

17 Well, I know he had a friend Omer Kamel.

18 Do you know what they talked about? Did you know  
19 Shifa?

20 I knew he had a friend Shifa, but that's all I  
21 know.

22 Did you know about the guys in Canada? Did you  
23 know about Aabid Hussain Khan?

24 He led a life that he kept from his family. I'm  
25 confident the Court can see through that.

1           The point of this is this is a sophisticated  
2 individual who on his own made it to Pakistan in an effort to  
3 complete the process and get into one of the camps. It was  
4 ultimately an unsuccessful effort, and that's why we are here  
5 with a single count of conviction, not an allegation that he  
6 took up arms on the battlefield. That's why the government  
7 didn't pursue the other three counts, and we are not here  
8 asking for a term of more than fifteen years.

9           Fifteen years is a reasonable sentence that  
10 accurately reflects the seriousness of what this defendant  
11 attempted to do, and it sends the right message to others who  
12 would do the same.

13           THE COURT: Thank you.

14           Mr. Ahmed?

15           MR. AHMED: They just made a big deal about me  
16 being ameer, the guy who was calling the shots. I just want  
17 to bring something up regarding how much I was obeyed or what  
18 people thought of me.

19           Exhibit S-9 -- sorry, S-10 before S-9 over here,  
20 there Abu Umar is saying -- it's Abu Umar said that our  
21 leadership vision is poor. This is April 21st, so this is  
22 two days I was elected ameer that people are calling my  
23 leadership vision is poor.

24           So I just want to put this in context, you know,  
25 that I was not somehow, you know, undisputed leader of this,



1 you know, these people.

2 And over here in S-9, okay, it says -- again it's  
3 Abu Umar saying, Because we did a bad job of *e mashwarah*.  
4 *E mashwara* in Arabic is consultation, and *e* is just  
5 electronic, like e-mail. So this was when we decided that --  
6 I decided that, okay, we would not go to Toronto, and we  
7 discussed that. And then people in Canada, Azdee and  
8 others. And so this is what he's talking about.

9 And then later on he says, We don't have a proper  
10 leadership going which is based on experience. And later on  
11 he says, I mean we just poorly elected someone who not  
12 everyone knows, nor agreed with. Just to put this in context  
13 about my leadership and how they thought of it as.

14 I have the one Georgia Tech transcript, S-3, just  
15 to show that since I came back from Pakistan, I did start  
16 taking my studies seriously, and my GPA was 3.33 at Georgia  
17 Tech.

18 And then they mentioned about in the sentencing  
19 memorandum about being against the western  
20 civilization. I just want to say that if they mean by  
21 western civilization -- if they mean by western civilization  
22 the people that live here, that's not I guess the case  
23 anymore you could say.

24 Because, I mean, in almost the four years that I  
25 have been here, I mean, I have thought about a lot of things,

1 and I just think that, you know, I have been guided by a  
2 logic to this thing that blowing up, you know, I mean, buses  
3 and MARTA stations and stuff, it's not about -- it's not  
4 helping Islam, it's not Islamic, and, you know, killing  
5 random people, this is not the way to promote justice or the  
6 values that we want to promote.

7 But if they mean by western civilization some of  
8 the crimes that the western civilization has done against  
9 people, then, yeah, such as how the colonization of our  
10 countries have been and the exploitation of our resources and  
11 people occurred, yeah, I'm against that, or how the western  
12 civilization unleashed upon, you know, mankind all these  
13 weapons of mass destruction, that, yeah, I'm against  
14 that. But not the people who live here who have all this  
15 time been nice to me.

16 So I think that injustice cannot be stopped by acts  
17 of injustice or evil things cannot be answered with  
18 evil. They must be stopped with good.

19 My thought -- my thoughts are that I have a real  
20 duty now to preach. I mean, I don't really care where you  
21 put me. Actually I'm ashamed to ask for anything other than  
22 fifteen too because my co-defendant got seventeen. I ask for  
23 fifteen. I don't want to get less than him, because I'm  
24 ashamed to ask for anything less than that.

25 But -- and then they mention the thing about he

1     abhors the fundamental concepts of democracy and liberty that  
2     are at the core of what is the United States of  
3     America. I just want to say that I have studied the  
4     U.S. history since my high school years and college and even  
5     outside of it, and I was really in the beginning very much  
6     impressed by the language that they had been using, the  
7     founding fathers and later on about this country being a city  
8     upon a hill and other statements, in God we trust and God  
9     bless America, and -- what is it -- and whatever.

10           But what I saw is that the actions do not conform  
11     with it when it comes to the American foreign policy or how  
12     they conduct their affairs even here. So I am not against  
13     the concepts, but it's just that I find the actions to be  
14     inconsistent with it. It's my opinion. I mean, I think I  
15     can have that opinion.

16           But I still believe that killing, you know,  
17     American civilians is not the answer. But I used to believe  
18     that American government does not live up to the statements  
19     they make about liberty and justice, because since in the  
20     past what they have been, you know, conducting, such as the  
21     genocide of native Americans, then there was slavery, and  
22     then there was wars conducted against other countries.

23           And then even in this country, you know, they do  
24     not -- they know of God, but they do not obey His command.  
25     And when God sends them a book, a Messenger, a book, the

1 Holy Quran, they do not accept it. And I find it's just like  
2 how Jews say they are the chosen people of God and they love  
3 God, but when Jesus came to them they rejected Him, and  
4 that's why God punished them.

5 And in my closing argument, in my closing  
6 statement, I mentioned that God asks us to be like disciples  
7 of Jesus, and I understand that to be to preach the message  
8 of God, of Allah, to everyone just like the disciples of  
9 Jesus did it, and that's what I'm going to do. I mean,  
10 that's my focus now. For what happened in the past, I mean,  
11 that's just past.

12 But then I would just say a few words of the Quran  
13 and that will be the end of my statement. The statement is  
14 that (Speaks Arabic).

15 These words mean that, And they swore by Allah  
16 their strongest oaths that if a warner came to them, they  
17 would be more guided than any one of the other nations. But  
18 when a warner came to them, it did not increase them except  
19 in aversion, arrogance in the land, and plotting of evil.  
20 But the evil plotting does not encompass except its own  
21 people.

22 Then do they await except the way of the former  
23 peoples? But you will never find in the way of Allah any  
24 change, and you will never find in the way of Allah any  
25 alteration. Have they not traveled through the earth and

1 observed how was the end of those before them, and they were  
2 greater than them in power?

3 And Allah is not to be frustrated by anything in  
4 the heavens nor or earth. Indeed he is ever knowing and all  
5 powerful.

6 So my whole thing is that when America is saying  
7 that in God we trust and they invoke the name of God, I just  
8 want them to say that they should accept His message too.  
9 Because there have been previous empires who were even  
10 greater in power and they were destroyed by God because they  
11 rejected the message of God.

12 This is not a threat from me or anything like that  
13 or a terrorist act. I'm just saying that it is my sincere  
14 desire to American people that they accept what they claim,  
15 that in God we trust. So God sent them a messenger just like  
16 Jesus and He sent them a book just like the gospel, so they  
17 should accept this.

18 And in fact, if you give me fifteen years and you  
19 become Muslim, it would be more pleasing to me than if you  
20 give me time served and not become a Muslim. So this is just  
21 my concern towards you and anyone else, that I would rather  
22 you give me fifteen years and become Muslim than even say,  
23 okay, go, time served, and I will remain a nonMuslim.

24 Thank you.

25 THE COURT: Thank you.

1 MR. AHMED: Should I leave these?

2 MR. MARTIN: Yeah, I will put them back up there.

3 Do you want us to come around for sentencing?

4 THE COURT: No, he may stay there.

5 I'm going to repeat what I told you after you made  
6 your -- not a closing argument, but your closing statement.  
7 And you were not here this morning, but what has happened  
8 here today is a testament to the greatest democracy in the  
9 world, to allow you to stand up in front of all these people  
10 and in front of me and state -- and try to convince me that  
11 your distorted views of America and your distorted views of  
12 the people of this country somehow justifies what you did and  
13 then try to convince me that you are not like that anymore,  
14 is what we do in our country.

15 In this country we allow people to speak freely,  
16 and this is the second time that we have allowed you to do  
17 that. And you are not being punished for what you  
18 believe. You are being punished for what you have done.

19 And if this is my most intense glimpse of what it  
20 is to be of your faith, I don't want it. This is the third  
21 time you have tried to convert me to your religion, and I  
22 will not adopt your view of God and what it calls you to do,  
23 nor will I be hoodwinked by what you have tried to do  
24 repeatedly throughout this case and what I saw you do today  
25 with your very mother.

1           You know what I remember about your conversation  
2 with your mother? How angry and disrespectful you were to  
3 the woman who raised you. And when that conversation was  
4 over, you manipulated what she said to justify your desire  
5 because you had rocked back on your heels to do what you had  
6 intended to do from the beginning of your involvement in  
7 this, which is to engage in violent jihad.

8           And in no civilized country anywhere in the world  
9 do we condone people in the name of a God or in the view of  
10 their faith to force upon others through violence and  
11 intimidation what you and others who have distorted the  
12 values of your faith tried to do here.

13           You have consistently explained away your  
14 responsibility for what you have done and you have refused to  
15 accept responsibility for what you sought to accomplish.

16           You have taken bits and pieces of the evidence as  
17 you have done throughout this case to try to justify that you  
18 were a naive young man that was somehow, I'm not sure by  
19 whom, manipulated into joining this conspiracy and take an  
20 active role in it.

21           And then you point to this criticism that the  
22 leadership was not something that was being thought well of  
23 by one of your co-conspirators. That's what happens in  
24 emerging organizations. They seek to hone the way that they  
25 are organized and seek to target their objectives.

1           You showed me your transcript and you claim that  
2           you are naive, yet you are a smart, calculating, and when you  
3           want to be -- and you were in this case -- committed young  
4           man, committed to conduct and values that we abhor as a  
5           culture, conduct that we punish as a nation.

6           You say what happened in the past is in the  
7           past. You know, when I started this case and your very  
8           capable lawyers, who you have decided not to use, began to  
9           try to paint this picture of somebody who was young and naive  
10          and somehow impressionable and manipulated, I was open to the  
11          prospect that that might be true. I was open to the prospect  
12          and the possibility that somebody at your age may well have,  
13          while adopting distorted views, may at some point have  
14          decided that they were errant and rejected them.

15          But what I have seen through the course of these  
16          trials and what I see today is a myopic, self-interested  
17          person who seeks to achieve what you want to achieve at the  
18          cost of other people. And it's for that, your conduct, that  
19          you are going to be held accountable today.

20          As I said this morning, the evidence at least in  
21          this last year is too clear. It should be too clear to  
22          everybody in this courtroom, and it should be too clear to  
23          your community, that the people that are being recruited as  
24          the foot soldiers in this war are young, impressionable, but  
25          smart and committed young Muslims to join the battle. And,



1 Mr. Ahmed, that was your intention, and those were the steps  
2 that you took.

3 To meet with somebody that we know is a recruiter  
4 for training camps -- it was no accident that you were in  
5 Pakistan. It was your commitment to take the step that  
6 nobody else in your conspiracy took, which was to go and take  
7 the first steps and in this case to provide the leadership  
8 example of moving beyond mere talk, but moving to a country  
9 where action could be realized.

10 Did you falter? Yes, you did. Were you going to  
11 overcome your faltering? Yes, you were. And that's what  
12 the evidence in this case shows.

13 We have seen within the last week this pattern, and  
14 for some reason those in your community with your intellect  
15 and with your cunning don't yet get the point that not only  
16 is it this country, but it is the world that rejects what it  
17 is that you would seek to do, what it is that you would seek  
18 to become, and what it is that you attempt through force to  
19 impose upon others.

20 As I have noticed in the evidence, what was most  
21 striking and frankly chilling to me was the discussion  
22 between you and Mr. Sadequee during his trial when you  
23 decided I think to make your further statement as you have  
24 made throughout this case --

25 MR. MARTIN: Your Honor, I have to object, because

1 that was immunized testimony. And if you are going to be  
2 relying upon that, we have got a problem.

3 THE COURT: I'm not relying on that, Mr. Martin.  
4 You may sit down.

5 MR. MARTIN: Okay.

6 THE COURT: But we saw what motivates you, and we  
7 have seen throughout this trial what motivates you. It's in  
8 all of the chats over and over and over.

9 Is there some joking? Yes. But I think people  
10 that collectively decide to engage in criminal conduct are in  
11 fact people that behind the laughter and the joking have  
12 serious intents.

13 The evidence in your case is abundantly clear. You  
14 manipulated people. You sat with FBI agents -- I told you  
15 and you know I listened to every single word of those  
16 interviews. And it was through the course of the interviews  
17 that were conducted of you that ultimately you agreed to tell  
18 the truth. And nobody has ever denied that when you got down  
19 to that final e-mail, that you finally, after being  
20 questioned about it over and over and over, explained what  
21 the plan was.

22 It was in writing, a secret communication with  
23 everybody else in your organization, and who you are and what  
24 you were becoming was clear as a bell. And your immediate  
25 reaction, once you realized that you had disclosed the plan,

1 and the one thing that you were repeatedly asked in those  
2 interviews is, What are all the e-mails, names, and systems  
3 that you used? You kept one secret.

4 And your instinct immediately was to tell your  
5 co-conspirator Mr. Sadequee two things: They found out about  
6 us, I was weak, and stay out of the country.

7 MR. AHMED: Can I say something about that?

8 THE COURT: No, this is my turn to speak. I have  
9 allowed you to speak for literally hours in this case. The  
10 time for speaking is done. The time for accountability has  
11 come.

12 I thought maybe, maybe -- it was my hope, believe  
13 it or not, that the time that you have spent in detention  
14 might have changed you. I actually was under the illusion  
15 that you might come in here and accept responsibility and  
16 state that you have some remorse for what you have done and  
17 the danger that you presented. I thought that until last  
18 week.

19 And now I know how you feel and I know who you are,  
20 because this is the e-mail that not -- this is the letter  
21 that not only did you write, but you asked to be published  
22 for the public to hear and for the public to read. And this  
23 is how you begin it:

24 I am writing a short letter to express my  
25 gratitude to Allah that my conviction and the

1 conviction of my friend and co-defendant  
2 Ensanul Islam Sadequee served to expose the  
3 hypocrisy and injustices of the so-called American  
4 justice for anyone who has eyes to see, brain to  
5 think, and intellect to comprehend.

6 You have disdain and disrespect for this culture,  
7 this community, and this country, and it's that that  
8 motivated your desire to do what you could to attack it.

9 We have taken as a country the step to pass laws to  
10 intercept and intervene with people and organizations like  
11 you, and in this case it was successful. Because while  
12 there was no attack in this case, it's because you were  
13 stopped.

14 You are just one of many threats that face our  
15 country, but it's a threat that we have detected, addressed,  
16 and now will continue to remove from the community.

17 It's my responsibility to evaluate what a fair  
18 sentence is, and a fair sentence is one that addresses two  
19 I think overriding principles.

20 I am convinced now more than ever that you  
21 personally need to be deterred. And I am as certain that  
22 others like you -- we don't know where they are, but we know  
23 that they eventually emerge -- to let them know that what you  
24 wanted to do and what plan you put into place and the steps  
25 that you took are going to be dealt with harshly and

1 severely, and that it's not worth the risk.

2 I have tried to take into account, and I will,  
3 somewhat your age, and I have tried to craft a sentence that  
4 allows appropriate authorities to monitor your conduct after  
5 you are released from prison.

6 And while you would like to further manipulate me  
7 into a sentence, I'm not going to allow you to do that  
8 either, because I'm going to do what I think is my job.  
9 Because I trust my country and its values, and in pursuing  
10 them in reaching my conclusion about this sentence and  
11 considering all of the criteria that I'm supposed to, I think  
12 the sentence that I have decided upon is in fact what's fair  
13 not only to you, but it's fair to my country.

14 So with that, if you would please stand, I'm going  
15 to announce the sentence I intend to impose.

16 Pursuant to the Sentencing Reform Act of 1984, it's  
17 my judgment that you, Syed Haris Ahmed, be committed to the  
18 custody of the Bureau of Prisons to be imprisoned for a term  
19 of 13 years.

20 I am further ordering that you shall pay to the  
21 United States a special assessment of \$100, and that's due  
22 immediately.

23 I find that you don't have the ability to pay a  
24 fine and the cost of incarceration; therefore, I'm waiving  
25 those in your case.

1           When you are released from prison, you shall be  
2     placed on supervised release for a term of 30 years. And  
3     within 72 hours of release from the custody of the Bureau of  
4     Prisons, you shall report in person to the probation office  
5     in the district to which you are released.

6           While on supervised release, you shall not commit  
7     another federal, state or local crime, and shall comply with  
8     the standard conditions that have been adopted by this Court,  
9     as well as the following additional conditions.

10          You shall not possess or use any device of any kind  
11     including but not limited to a computer, Blackberry, iPhone,  
12     internet-enabled television, or any other device that can  
13     access the internet, provided, however, that you may possess  
14     one computer provided that the computer is disabled from  
15     accessing the internet.

16          You shall provide to your probation officer all  
17     passwords and other information necessary to access your  
18     computer and any other internet-capable device. You shall  
19     identify to your probation officer the model, location,  
20     owner and serial number of any computer that you possess, and  
21     that computer is the one computer that you are allowed to  
22     have.

23          You shall also allow your probation officer to  
24     search your computer and any data or other information on it  
25     at the request of your probation officer. If you seek to

1 change the computer that you are using, you shall first  
2 request permission to do so from your probation officer, and  
3 you shall comply with the requirements of this condition as I  
4 have set forth in this condition upon your use of the new  
5 computer as authorized by your probation officer.

6 You shall also submit to one drug urinalysis within  
7 fifteen days after being placed on supervision, and at least  
8 two periodic tests after that in the discretion of your  
9 probation officer.

10 And under federal law that requires mandatory DNA  
11 testing for those convicted of felony offenses, you shall  
12 cooperate in the collection of DNA material as directed by  
13 your probation officer.

14 You shall make a full and complete disclosure of  
15 your finances and submit to an audit of your financial  
16 documents at the request of your probation officer.

17 You shall not incur new credit charges or open  
18 additional lines of credit without the approval of your  
19 probation officer and only if you had paid the assessment  
20 that has been assessed upon you.

21 You shall not own, possess, or have under your  
22 control any firearm, dangerous weapon, or other destructive  
23 device. Possession of any of those is in itself an  
24 independent crime for which you can be prosecuted and  
25 sentenced.

1           And you shall submit to a search of your person and  
2           any property in addition to the computer which you are  
3           required to allow to be searched at the request of your  
4           probation officer.

5           As I have stated, I have considered all of the  
6           criteria set forth in 3553 in reaching this decision, and  
7           even if I was wrong, which I don't think I was, in my rulings  
8           on the guidelines, this is the sentence that I would impose  
9           upon you.

10           Now, that's the sentence I intend to impose. Is  
11           there any objection from the government?

12           MR. MCBURNEY: No, sir.

13           THE COURT: Any objection from the defendant?

14           MR. MARTIN: Well, Your Honor, I would just for the  
15           record, to protect his record, we would renew our objections  
16           being made to the guidelines calculations, and I will be  
17           advising Mr. Ahmed -- I guess you are going to advise him of  
18           his right to appeal?

19           THE COURT: I will in just a second.

20           Any other objections to the sentence as it's  
21           been --

22           MR. MARTIN: Your Honor, I do have to state that  
23           there was some concern I had when you mentioned that what  
24           Mr. Ahmed said during his trial -- Mr. Sadequee's trial was  
25           something that concerns you, and that did strike me because



1 that was immunized testimony. As the Court well knows, that  
2 should not be used against him in any respect.

3 I know you represented it didn't affect your  
4 decision and, quite frankly, you have given us a decision  
5 less than what the government is recommending. But -- and I  
6 don't know what to make of that right now.

7 I just -- I pointed it out as quickly as it  
8 occurred just because I'm sensitive to that issue. And  
9 I don't know what else to say at this point.

10 THE COURT: Well, let me respond then, Mr. Martin.

11 MR. MARTIN: Sure.

12 THE COURT: The evidence in this case is abundantly  
13 clear of this defendant's participation in a criminal  
14 conspiracy to provide material support to terrorist  
15 organizations. We know more about him from his conduct that  
16 was intercepted on the communications and his interaction  
17 with law enforcement to amply, fully and completely justify  
18 this sentence, and that's what I have used to reach this  
19 decision.

20 And in the bit -- see, my God requires me to do  
21 justice and love mercy, and I have tried to do something  
22 which you haven't, which is to look at an individual and  
23 impose a sentence that I believe is fair not only under the  
24 eyes of the law, but in my personal faith system.

25 And this is a just and merciful sentence, something

1 which I'm not sure you are capable of doing. And it's for  
2 that reason that this sentence has been imposed.

3 Is there anything you would like to add?

4 MR. MARTIN: I don't quarrel with that, Your Honor.  
5 I know what my duty here is, to protect the defendant's  
6 rights, and that's the reason I raise that objection.

7 THE COURT: Well, I understand that. I'm not sure  
8 who represents whom right now, Mr. Martin. I mean, every  
9 time Mr. Ahmed gets up or Mr. Sadequee got up, there was  
10 somebody else representing them.

11 They wanted to exercise their constitutional right  
12 to represent themselves.

13 MR. MARTIN: I understand. And as standby counsel,  
14 it's always an awkward position. I just don't know what my  
15 role is.

16 But I do know what my role is with regards to  
17 protecting defendant's rights as best I can, and that's the  
18 reason I raise that issue. I have nothing further to say.

19 THE COURT: Well, I hereby impose the sentence  
20 I just announced.

21 And to you, Mr. Martin, you have done a remarkable  
22 job in representing this client. I'm just not sure it's  
23 appreciated --

24 MR. MARTIN: I think it is.

25 THE COURT: -- except by the Court.

1           You may be seated.

2           MR. MARTIN: Your Honor, did you advise him of his  
3 right to appeal?

4           THE COURT: I'm going to do that right now.

5           MR. MARTIN: Okay.

6           THE COURT: You have the right to appeal your  
7 conviction and your sentence. If you plan to appeal, you  
8 have to file what's called a notice of appeal, which is a  
9 short expression of your intention to appeal.

10           Mr. Martin has admirably and professionally  
11 represented you, and if you want his help, he will assist you  
12 in determining if you want to appeal, and will assist you in  
13 filing the notice of appeal.

14           But if you don't want his help and you want to  
15 appeal by filing your own notice of appeal, tell the Clerk of  
16 Court, and the Clerk of Court will assist you in filing that  
17 notice.

18           The time for filing the notice is short. It's ten  
19 days from the entry of the judgment and committal order, and  
20 the judgment and committal order will be either entered  
21 tomorrow or the following day. But it will be this week, and  
22 it's once officially entered on the docket that the ten days  
23 begins to run.

24           You will remain within the custody of the United  
25 States Marshal Service until you receive your prison

1 assignment.

2 And with that, I believe that's all I have to  
3 cover. Is there anything else at this time?

4 MR. McBURNEY: We do have a motion that the Court  
5 dismiss Counts Two through Four of the indictment. Those are  
6 still pending against Defendant Ahmed.

7 THE COURT: All right. And will you present that  
8 in writing? I will get that entered as soon as it's  
9 presented.

10 MR. McBURNEY: I will be happy to do that.

11 THE COURT: Mr. Martin, anything else from the  
12 defendant?

13 MR. MARTIN: No, Your Honor. I'm just going to  
14 pass up the exhibits that were admitted into evidence.

15 THE COURT: With that, we will be in recess.

16 (Proceedings adjourn at 4:29 p.m.)  
17  
18  
19  
20  
21  
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24  
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## C E R T I F I C A T E

UNITED STATES OF AMERICA :  
:  
NORTHERN DISTRICT OF GEORGIA :

I, Nicholas A. Marrone, RMR, CRR, Official Court Reporter of the United States District Court for the Northern District of Georgia, do hereby certify that the foregoing 74 pages constitute a true transcript of proceedings had before the said Court, held in the city of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 18th day of December, 2009.

*/s/ Nicholas A. Marrone*

---

NICHOLAS A. MARRONE, RMR, CRR  
Registered Merit Reporter  
Certified Realtime Reporter  
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Northern District of Georgia

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA

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## Beyond Guantánamo, a Web of Prisons for Terrorism Inmates



Chris McLean/Pueblo Chieftain, via Associated Press

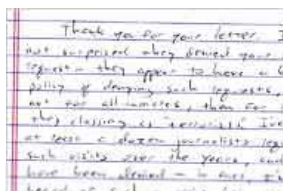
The federal prison in Florence, Colo., has long held terrorists. The justice system has absorbed a surge of terrorism cases since 2001 without the international criticism that Guantánamo Bay has attracted.

By SCOTT SHANE

Published: December 10, 2011

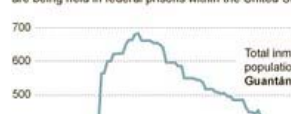
WASHINGTON — It is the other [Guantánamo](#), an archipelago of federal prisons that stretches across the country, hidden away on back roads. Today, it houses far more men convicted in terrorism cases than the shrunken population of the prison in Cuba that has generated so much debate.

### Multimedia



[Behind the Bars of Supermax, Contemplating Aristotle and Islamic Extremism](#)

**A Parallel System for Convicted Terrorists**  
While the prison population at Guantánamo Bay, Cu



An aggressive prosecution strategy, aimed at prevention as much as punishment, has sent away scores of people. They serve long sentences, often in restrictive, Muslim-majority units, under intensive monitoring by prison officers. Their world is spare.

Among them is Ismail Royer, serving 20 years for helping friends go to an extremist training camp in Pakistan. In a letter from the highest-security prison in the United States, Mr. Royer describes his remarkable neighbors at twice-a-week outdoor exercise sessions, each prisoner alone in his own wire cage under the Colorado sky. "That's really the only interaction I have with other inmates," he wrote from the federal Supermax, 100 miles south of Denver.

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### High-Profile Prisoners

Men convicted in some of the nation's most notorious terrorism cases are housed in the federal prison known as the Supermax, the highest-security prison in the United States. Click through to see five of them.

There is Richard Reid, the shoe bomber, Mr. Royer wrote. Terry Nichols, who conspired to blow up the Oklahoma City federal building. Ahmed Ressam, the would-be "millennium bomber," who plotted to attack Los Angeles International Airport. And Eric Rudolph, who bombed abortion clinics and the 1996 Summer Olympics in Atlanta.

In recent weeks, Congress has reignited an old debate, with some arguing that only military justice is appropriate for terrorist suspects. But military tribunals have proved excruciatingly slow and imprisonment at Guantánamo hugely costly — \$800,000 per inmate a year, compared with \$25,000 in federal prison.

The criminal justice system, meanwhile, has absorbed the surge of terrorism cases since 2001 without calamity, and without the international criticism that Guantánamo has attracted for holding prisoners without trial. A decade after the Sept. 11 attacks, an examination of how the prisons have handled the challenge of extremist violence reveals some striking facts:

¶ **Big numbers.** Today, 171 prisoners remain at Guantánamo. As of Oct. 1, the federal Bureau of Prisons reported that it was holding 362 people convicted in terrorism-related cases, 269 with what the bureau calls a connection to international terrorism — up from just 50 in 2000. An additional 93 inmates have a connection to domestic terrorism.

¶ **Lengthy sentences.** Terrorists who plotted to massacre Americans are likely to die in prison. Faisal Shahzad, who tried to set off a car bomb in Times Square in 2010, is serving a sentence of life without parole at the Supermax, as are Zacarias Moussaoui, a Qaeda operative arrested in 2001, and Mr. Reid, the shoe bomber, among others. But many inmates whose conduct fell far short of outright terrorism are serving sentences of a decade or more, the result of a calculated prevention strategy to sideline radicals well before they could initiate deadly plots.

¶ **Special units.** Since 2006, the Bureau of Prisons has moved many of those convicted in terrorism cases to two special units that severely restrict visits and phone calls. But in creating what are Muslim-dominated units, prison officials have inadvertently fostered a sense of solidarity and defiance, and set off a long-running legal dispute over limits on group prayer. Officials have warned in court filings about the danger of radicalization, but the

Randall Todd Royer, who goes by Ismail, with his parents, Ray and Nancy Royer, in prison in 2006.



Bureau of Prisons has nothing comparable to the deradicalization programs instituted in many countries.

¶ **Quiet releases.** More than 300 prisoners have completed their sentences and been freed since 2001. Their convictions involved not outright violence but "material support" for a terrorist group; financial or document fraud; weapons violations; and a range of other crimes. About half are foreign citizens and were deported; the Americans have blended into communities around the country, refusing news media interviews and avoiding attention.

¶ **Rare recidivism.** By contrast with the record at Guantánamo, where the Defense



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Department says that about 25 percent of those released are known or suspected of subsequently joining militant groups, it appears extraordinarily rare for the federal prison inmates with past terrorist ties to plot violence after their release. The government keeps a close eye on them: prison intelligence officers report regularly to the Justice Department on visitors, letters and phone calls of inmates linked to terrorism. Before the prisoners are freed, F.B.I. agents typically interview them, and probation officers track them for years.

Both the Obama administration and Republicans in Congress often cite the threat of homegrown terrorism. But the Bureau of Prisons has proven remarkably resistant to outside scrutiny of the inmates it houses, who might offer a unique window on the problem.

In 2009, a group of scholars proposed interviewing people imprisoned in terrorism cases about how they took that path. The [Department of Homeland Security](#) approved the proposal and offered financing. But the Bureau of Prisons refused to grant access, saying the project would require too much staff time.

"There's a huge national debate about how dangerous these people are," said Gary LaFree, director of a national terrorism study center at the University of Maryland, who was lead author of the proposal. "I just think, as a citizen, somebody ought to be studying this."

The Bureau of Prisons would not make any officials available for an interview with The New York Times, and wardens at three prisons refused to permit a reporter to visit inmates. But e-mails and letters from inmates give a rare, if narrow, look at their hidden world.

### **Paying the Price**

Consider the case of Randall Todd Royer, 38, a Missouri-born Muslim convert who goes by Ismail. Before 9/11, he was a young Islamic activist with the Council on American-Islamic Relations and the Muslim American Society, meeting with members of Congress and visiting the Clinton White House.

Today he is nearly eight years into a 20-year prison sentence. He pleaded guilty in 2004 to helping several American friends go to a training camp for Lashkar-e-Taiba, an extremist group fighting Indian rule in Kashmir. The organization was later designated a terrorist group by the United States — and is blamed for the Mumbai massacre in 2008 — but prosecutors maintained in 2004 that the friends intended to go on to Afghanistan and fight American troops alongside the Taliban.

Mr. Royer had fought briefly with the Bosnian Muslims against their Serbian neighbors in the mid-1990s, when NATO, too, backed the Bosnians. He trained at a Lashkar-e-Taiba camp himself. And in 2001, he was stopped by Virginia police with an AK-47 and ammunition in his car.

But he adamantly denies that he would ever scheme to kill Americans, and there is no evidence that he did so. Before sentencing, he wrote the judge a 30-page letter admitting, "I crossed the line and, in my ignorance and phenomenally poor judgment, broke the law." In grand jury testimony, he expressed regret about not objecting during a meeting, just after the Sept. 11 attacks, in which his friends discussed joining the Taliban.

"Unfortunately, I didn't come out and clearly say that's not what any of us should be about," he said.

Prosecutors call Mr. Royer "an inveterate liar" in court papers in another case, asserting that he has given contradictory accounts of the meeting after Sept. 11. Mr. Royer says he has been truthful.

Whatever the facts, he is paying the price. His 20-year sentence was the statutory

minimum under a 2004 plea deal he reluctantly took, fearing that a trial might end in a life term. His wife divorced him and remarried; he has seen his four young children only through glass since 2006, when the Bureau of Prisons moved him to a restrictive new unit in Indiana for inmates with the terrorism label. After an altercation with another inmate who he said was bullying others, he was moved in 2010 to the Supermax in Colorado.

He is barred from using e-mail and permitted only three 15-minute phone calls a month — recently increased from two, a move that Mr. Royer hopes may portend his being moved to a prison closer to his children. His letters are reflective, sometimes self-critical, frequently dropping allusions to his omnivorous reading. His flirtation with violent Islam and his incarceration, he says, have not poisoned him against his own country.

"You asked what I think of the U.S.; that is an extraordinarily complex question," Mr. Royer wrote in one letter consisting of 27 pages of neat handwriting. "I can say I was born in Missouri, I love that land and its people, I love the Mississippi, I love my family and my cousins, I love my Germanic ethnic heritage and people, I love the English language, I love the American people — my people.

He said he believed some American foreign policy positions had been "needlessly antagonistic" but added, "Nothing the U.S. did justified the 9/11 attacks."

Mr. Royer rejected the notion that the United States was at war with Islam. "Conflict between the U.S. and Muslims is neither inevitable nor beneficial or in anyone's interest," he wrote. "Actually, I suppose it is in the interest of fanatics on both sides, but their interests run counter to everyone else's." He added an erudite footnote: " 'Les extrémités se touchent' (the extremes meet) — Blaise Pascal."

He expressed frustration that the Bureau of Prisons appears to view him as an extremist, despite what he describes as his campaign against extremism in discussions with other inmates and prison sermons at Friday Prayer, "which they surely have recordings of."

"I have gotten into vehement debates, not to mention civil conversations, with other inmates from the day I was arrested until today, about the dangers and evils of extremism and terrorism," Mr. Royer wrote in a yearlong correspondence with a reporter. "Can they not figure out who I am?"

### **A Scorched-Earth Approach**

In 2004, prosecutors believed they knew who Mr. Royer was: one of a group of young Virginians under the influence of a radical cleric, Ali al-Timimi, whose members played paintball to practice for jihad and were on a path toward extremist violence. After Sept. 11, federal prosecutors took a scorched-earth approach to any crime with even a hint of a terrorism connection, and judges and juries went along.

In the Virginia jihad case, for instance, prosecutors used the Neutrality Act, a little-used law dating to 1794 that prohibits Americans from fighting against a nation at peace with the United States. Prosecutors combined that law with weapons statutes that impose a mandatory minimum sentence in a strategy to get the longest prison terms, with breaks for some defendants who cooperated, said Paul J. McNulty, then the United States attorney overseeing the case.

"We were doing all we could to prevent the next attack," Mr. McNulty said.

"It was a deterrence strategy and a show of strength," said Karen J. Greenberg, a law professor at Fordham University who has overseen the most thorough independent analysis of terrorism prosecutions. "The attitude of the government was: Every step you take toward terrorism, no matter how small, will be punished severely."

About 40 percent of terrorism cases since the Sept. 11 attacks have relied on informants,

by the count of the Center on Law and Security at New York University, which Ms. Greenberg headed until earlier this year. In such cases, the F.B.I. has trolled for radicals and then tested whether they were willing to plot mayhem — again, a pre-emptive strategy intended to ferret out potential terrorists. But in some cases prosecutors have been accused of overreaching.

Yassin M. Aref, for instance, was a Kurdish immigrant from Iraq and the imam of an Albany mosque when he agreed to serve as witness to a loan between an acquaintance and another man, actually an informant posing as a supporter of a Pakistani terrorist group, Jaish-e-Muhammad. The ostensible purpose of the loan was to buy a missile to kill the Pakistani ambassador to the United Nations. Mr. Aref's involvement was peripheral — but he was convicted of conspiring to aid a terrorist group and got a 15-year sentence.

That was a typical punishment, according to the Center on Law and Security, which has studied the issue. Of 204 people charged with what it calls serious jihadist crimes since the Sept. 11 attacks, 87 percent were convicted and got an average sentence of 14 years, according to a September report from the center.

Federal officials say the government's zero-tolerance approach to any conduct touching on terrorism is an important reason there has been no repeat of Sept. 11. Lengthy sentences for marginal offenders have been criticized by some rights advocates as deeply unfair — but they have sent an unmistakable message to young men drawn to the rhetoric of violent jihad.

The strategy has also sent scores of Muslim men to federal prisons.

### **Special Units**

After news reports in 2006 that three men imprisoned in the 1993 World Trade Center bombing had sent letters to a Spanish terrorist cell, the Bureau of Prisons created two special wards, called Communication Management Units, or C.M.U.'s. The units, which opened at federal prisons in Terre Haute, Ind., in 2006 and Marion, Ill., in 2008, have set off litigation and controversy, chiefly because critics say they impose especially restrictive rules on Muslim inmates, who are in the majority.

"The C.M.U.'s? You mean the Muslim Management Units?" said Ibrahim Hooper, a spokesman for the Council on American-Islamic Relations.

The units currently hold about 80 inmates. The rules for visitors — who are allowed no physical contact with inmates — and the strict monitoring of mail, e-mail and phone calls are intended both to prevent inmates from radicalizing others and to rule out plotting from behind bars.

A Bureau of Prisons spokeswoman, Traci L. Billingsley, said in an e-mail that the units were not created for any religious group but were "necessary to ensure the safety, security and orderly operation of correctional facilities, and protection of the public."

An unintended consequence of creating the C.M.U.'s is a continuing conflict between Muslim inmates and guards, mainly over the inmates' demand for collective prayer beyond the authorized hourlong group prayer on Fridays. The clash is described in hundreds of pages of court filings in a lawsuit. In one affidavit, a prison official in Terre Haute describes "signs of radicalization" in the unit, saying one inmate's language showed "defiance to authority, and a sense of being incarcerated because of Islam."

One 2010 written protest obtained by The New York Times, listing grievances ranging from the no-contact visiting rules to guards "mocking, disrespecting and disrupting" Friday Prayer, was signed by 17 Muslim prisoners in the Terre Haute Communication Management Unit. They included members of the so-called Virginia jihad case of which Mr. Royer was part; the Lackawanna Six, Buffalo-area Yemeni Americans who traveled to a Qaeda camp in Afghanistan; Kevin James, who formed a radical Muslim group in prison and plotted to attack military facilities in Los Angeles; and John Walker Lindh,

the so-called American Taliban.

An affidavit signed by Mr. Lindh, who is serving 20 years after admitting to fighting for the Taliban, complained that a correctional officer greeted male Muslim inmates with “Good morning, ladies.” (“No ladies were in the area,” Mr. Lindh writes.) Prison officials say in court papers that Mr. Lindh has repeatedly challenged guards and violated rules.

Unlike those at the Supermax, inmates in the segregated units have access to e-mail, and some were willing to answer questions. Mr. Lindh, whose father, Frank Lindh, said his son believed the news media falsely labeled him a terrorist, was not. In reply to a reporter’s letter requesting an interview, he sent only a photocopy of the sole of a tennis shoe. Since shoe bottoms are considered offensive in many cultures, his answer appeared to be an emphatic no.

There is some evidence that the Bureau of Prisons has assigned Muslims with no clear terrorist connection to the C.M.U.’s. Avon Twitty, a Muslim who spent 27 years in prison for a 1982 street murder, was sent to the Terre Haute unit in 2007. When he challenged the assignment, he was told in writing that he was a “member of an international terrorist organization,” though no organization was named and there appears to be no public evidence for the assertion.

Mr. Twitty, working for a home improvement company and teaching at a Washington mosque since his release in January, said he believed the real reason was to quash his complaints about what he believed were miscalculations of time off for good behavior for numerous inmates. “They had to shut me up,” he said.

Another former inmate at the Marion C.M.U., Andy Stepanian, an animal rights activist, said a guard once told him he was “a balancer” — a non-Muslim placed in the unit to rebut claims of religious bias. Mr. Stepanian said the creation of the predominantly Muslim units could backfire, adding to the feeling that Islam is under attack.

“I think it’s a fair assessment that these men will leave with a more intensified belief that the U.S. is at war with Islam,” said Mr. Stepanian, 33, who now works for a Princeton publisher. “The place reeked of it,” he said, describing clashes over restrictions on prayer and some guards’ hostility to Islam.

Yet Mr. Stepanian also said he found the “family atmosphere” and camaraderie of inmates at the unit a welcome change from the threatening tone of his previous medium-security prison, where he said prisoners without a gang to protect them were “food for the sharks.” When he arrived at the C.M.U., he said, he found on his bed a pair of shower slippers and a bag of non-animal-based food that Muslim inmates had collected after hearing a [vegan](#) was joining the unit.

He was wary. “I thought they were trying to indoctrinate me,” he said. “They never tried.” The consensus of the inmates, he said, “was that 9/11 was not Islam.” “These guys were not lunatics,” he said. “They wanted to be back with their families.”

## Reflection

It may be too early to judge recidivism for those imprisoned in terrorism cases after Sept. 11; those who are already out are mostly defendants whose crimes were less serious or who cooperated with the authorities. Justice Department officials and outside experts could identify only a handful of cases in which released inmates had been rearrested, a rate of relapse far below that for most federal inmates or for Guantánamo releases.

For example, Mohammed Mansour Jabarah, a Kuwaiti Canadian who plotted with [Al Qaeda](#) to attack American embassies in Singapore and Manila, pleaded guilty in 2002 and began to work as an F.B.I. informant. But F.B.I. agents soon discovered he was secretly plotting to kill them — and he was sentenced to life in prison.

Nearly all of these ex-convicts, however, lie low and steer clear of militancy, often under

the watchful eye of family, mosque and community, lawyers and advocates say. A dozen former inmates declined to be interviewed, saying that to be associated publicly with a terrorism case could derail new jobs and lives. As for Mr. Royer, he is approaching only the midpoint of his 20-year sentence.

Did he get what he deserved? Chris Heffelfinger, a terrorism analyst and author of “Radical Islam in America,” did a detailed study of the Virginia jihad case, and concluded that Mr. Royer’s sentence was perhaps double what his crime merited. But he said the prosecution was warranted and probably prevented at least some of the men Mr. Royer assisted from joining the Taliban.

“I think a strong law enforcement response to cases like this is appropriate nine times out of 10,” Mr. Heffelfinger said. Mr. Royer himself, in his long presentencing letter to Judge Leonie M. Brinkema, said he understood why he had been arrested. “I realize that the government has a legitimate interest in protecting the public from terrorism,” he wrote, “and that in this post-9/11 environment, it must take all reasonable precautions.”

Today, Mr. Royer’s only battle is to serve out his sentence in a less restrictive prison nearer his children. In what he called in a letter “a heroic sacrifice,” his parents, Ray and Nancy Royer, moved from Missouri to Virginia to be close to their son’s children, now aged 8 to 12.

“I found it necessary to be a surrogate father,” said Ray Royer, 70, a commercial photographer by trade, in an interview at the retirement community outside Washington where he and his wife now live. When his son, who still goes by Randy in the family, converted to Islam at the age of 18, his parents did not object. Later, when he headed to Bosnia, they chalked it up to his active social conscience. “Religion is a personal thing,” the elder Mr. Royer said. “He’d never been in trouble.”

Ray Royer was at his son’s Virginia apartment in 2003 when the F.B.I. knocked at 5 a.m., put him in handcuffs and took him away. Now, years later, he alternates between defending his son and expressing dismay at what Randy got himself into.

“He did help his buddies get to L.E.T.,” or Lashkar-e-Taiba, the Pakistani militant group later designated as a terrorist organization. “He admitted to it. He should pay the price.” Still, he added, “maybe he deserved five years or so. Not 20.”

Ray Royer sat at his home computer one recent evening, looking through a folder called “Randy Pics” — photographs tracing his son’s life from childhood, to fatherhood, to prison.

“He loved his family,” the father said of his son. “Why would he put this cause ahead of his family? I still don’t really know what happened. I’m still trying to figure it out.”

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## ANNALS OF HUMAN RIGHTS

### HELLHOLE

*The United States holds tens of thousands of inmates in long-term solitary confinement. Is this torture?*

by Atul Gawande

MARCH 30, 2009

Human beings are social creatures. We are social not just in the trivial sense that we like company, and not just in the obvious sense that we each depend on others. We are social in a more elemental way: simply to exist as a normal human being requires interaction with other people.

Children provide the clearest demonstration of this fact, although it was slow to be accepted. Well into the nineteen-fifties, psychologists were encouraging parents to give children *less* attention and affection, in order to encourage independence. Then Harry Harlow, a professor of





psychology at the University of Wisconsin at Madison, produced a series of influential studies involving baby rhesus monkeys.

He happened upon the findings in the mid-fifties, when he decided to save money for his primate-research laboratory by breeding his own lab monkeys instead of importing them from India. Because he didn't know how to raise infant monkeys, he cared for them the way hospitals of the era cared for human infants—in nurseries, with plenty of food, warm blankets, some toys, and in isolation from other infants to prevent the spread of infection. The monkeys grew up sturdy, disease-free, and larger than those from the wild. Yet they were also profoundly disturbed, given to staring blankly and rocking in place for long periods, circling their cages repetitively, and mutilating themselves.

At first, Harlow and his graduate students couldn't figure out what the problem was. They considered factors such as diet, patterns of light exposure, even the antibiotics they used. Then, as Deborah Blum recounts in a fascinating biography of Harlow, "Love at Goon Park," one of his researchers noticed how tightly the monkeys clung to their soft blankets. Harlow wondered whether what the monkeys were missing in their Isolettes was a mother. So, in an odd experiment, he gave them an artificial one.

In the studies, one artificial mother was a doll made of terry cloth; the other was made of wire. He placed a warming device inside the dolls to make them seem more comforting. The babies, Harlow discovered, largely ignored the wire mother. But they became deeply attached to the cloth mother. They caressed it. They slept curled up on it. They ran to it when frightened. They refused replacements: they wanted only "their" mother. If sharp spikes were made to randomly thrust out of the mother's body when the rhesus babies held it, they waited patiently for the spikes to recede and returned to clutching it. No matter how tightly they clung to the surrogate mothers, however, the monkeys remained psychologically abnormal.

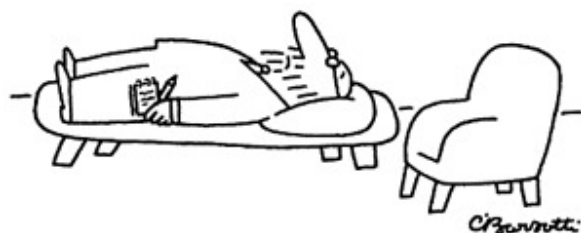
In a later study on the effect of total isolation from birth, the researchers found that the test monkeys, upon being released into a group of ordinary monkeys, "usually go into a state of emotional shock, characterized by . . . autistic self-clutching and rocking." Harlow noted, "One of six monkeys isolated for three months refused to eat after release and died five days later." After several weeks in the company of other monkeys, most of them adjusted—but not those who had been isolated for longer periods. "Twelve months of isolation almost obliterated the animals socially," Harlow wrote. They became permanently withdrawn, and they lived as outcasts—regularly set upon, as if inviting abuse.

The research made Harlow famous (and infamous, too—revulsion at his work helped spur the animal-rights movement). Other psychologists produced evidence of similarly deep and sustained damage in neglected and orphaned children. Hospitals were made to open up their nurseries to parents. And it became widely accepted that children require nurturing human beings not just for food and protection but also for the normal functioning of their brains.



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We have been hesitant to apply these lessons to adults. Adults, after all, are fully formed, independent beings, with internal strengths and knowledge to draw upon. We wouldn't have anything like a child's dependence on other people, right? Yet it seems that we do. We don't have a lot of monkey experiments to call upon here. But mankind has produced tens of thousands of human ones, including in our prison system. And the picture that has emerged is profoundly unsettling.

A mong our most benign experiments are those with people who voluntarily isolate themselves for extended periods. Long-distance solo sailors, for instance, commit themselves to months at sea. They face all manner of physical terrors: thrashing storms, fifty-foot waves, leaks, illness. Yet, for many, the single most overwhelming difficulty they report is the “soul-destroying loneliness,” as one sailor called it. Astronauts have to be screened for their ability to tolerate long stretches in tightly confined isolation, and they come to depend on radio and video communications for social contact.

The problem of isolation goes beyond ordinary loneliness, however. Consider what we've learned from hostages who have been held in solitary confinement—from the journalist Terry Anderson, for example, whose extraordinary memoir, “Den of Lions,” recounts his seven years as a hostage of Hezbollah in Lebanon.

Anderson was the chief Middle East correspondent for the Associated Press when, on March 16, 1985, three bearded men forced him from his car in Beirut at gunpoint. He was pushed into a Mercedes sedan, covered head to toe with a heavy blanket, and made to crouch head down in the footwell behind the front seat. His captors drove him to a garage, pulled him out of the car, put a hood over his head, and bound his wrists and ankles with tape. For half an hour, they grilled him for the names of other Americans in Beirut, but he gave no names and they did not beat him or press him further. They threw him in the trunk of the car, drove him to another building, and put him in what would be the first of a succession of cells across Lebanon. He was soon placed in what seemed to be a dusty closet, large enough for only a mattress. Blindfolded, he could make out the distant sounds of other hostages. (One was William Buckley, the C.I.A. station chief who was kidnapped and tortured repeatedly until he weakened and died.) Peering around his blindfold, Anderson could see a bare light bulb dangling from the ceiling. He received three unpalatable meals a day—usually a sandwich of bread and cheese, or cold rice with canned vegetables, or soup. He had a bottle to urinate in and was allotted one five- to ten-minute trip each day to a rotting bathroom to empty his bowels and wash with water at a dirty sink. Otherwise, the only reprieve from isolation came when the guards made short visits to bark at him for breaking a rule or to threaten him, sometimes with a gun at his temple.

He missed people terribly, especially his fiancée and his family. He was despondent and depressed. Then, with time, he began to feel something more. He felt himself disintegrating. It was as if his brain

were grinding down. A month into his confinement, he recalled in his memoir, “The mind is a blank. Jesus, I always thought I was smart. Where are all the things I learned, the books I read, the poems I memorized? There’s nothing there, just a formless, gray-black misery. My mind’s gone dead. God, help me.”

He was stiff from lying in bed day and night, yet tired all the time. He dozed off and on constantly, sleeping twelve hours a day. He craved activity of almost any kind. He would watch the daylight wax and wane on the ceiling, or roaches creep slowly up the wall. He had a Bible and tried to read, but he often found that he lacked the concentration to do so. He observed himself becoming neurotically possessive about his little space, at times putting his life in jeopardy by flying into a rage if a guard happened to step on his bed. He brooded incessantly, thinking back on all the mistakes he’d made in life, his regrets, his offenses against God and family.

His captors moved him every few months. For unpredictable stretches of time, he was granted the salvation of a companion—sometimes he shared a cell with as many as four other hostages—and he noticed that his thinking recovered rapidly when this occurred. He could read and concentrate longer, avoid hallucinations, and better control his emotions. “I would rather have had the worst companion than no companion at all,” he noted.

In September, 1986, after several months of sharing a cell with another hostage, Anderson was, for no apparent reason, returned to solitary confinement, this time in a six-by-six-foot cell, with no windows, and light from only a flickering fluorescent lamp in an outside corridor. The guards refused to say how long he would be there. After a few weeks, he felt his mind slipping away again.

“I find myself trembling sometimes for no reason,” he wrote. “I’m afraid I’m beginning to lose my mind, to lose control completely.”

One day, three years into his ordeal, he snapped. He walked over to a wall and began beating his forehead against it, dozens of times. His head was smashed and bleeding before the guards were able to stop him.

Some hostages fared worse. Anderson told the story of Frank Reed, a fifty-four-year-old American private-school director who was taken hostage and held in solitary confinement for four months before being put in with Anderson. By then, Reed had become severely withdrawn. He lay motionless for hours facing a wall, semi-catatonic. He could not follow the guards’ simplest instructions. This invited abuse from them, in much the same way that once isolated rhesus monkeys seemed to invite abuse from the colony. Released after three and a half years, Reed ultimately required admission to a psychiatric hospital.

“It’s an awful thing, solitary,” John McCain wrote of his five and a half years as a prisoner of war in Vietnam—more than two years of it spent in isolation in a fifteen-by-fifteen-foot cell, unable to communicate with other P.O.W.s except by tap code, secreted notes, or by speaking into an enamel cup pressed against the wall. “It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment.” And this comes from a man who was beaten regularly; denied adequate medical treatment for two broken arms, a broken leg, and chronic dysentery; and tortured to the point of having an arm broken again. A U.S. military study of almost a hundred and fifty naval aviators

returned from imprisonment in Vietnam, many of whom were treated even worse than McCain, reported that they found social isolation to be as torturous and agonizing as any physical abuse they suffered.

And what happened to them *was* physical. EEG studies going back to the nineteen-sixties have shown diffuse slowing of brain waves in prisoners after a week or more of solitary confinement. In 1992, fifty-seven prisoners of war, released after an average of six months in detention camps in the former Yugoslavia, were examined using EEG-like tests. The recordings revealed brain abnormalities months afterward; the most severe were found in prisoners who had endured either head trauma sufficient to render them unconscious or, yes, solitary confinement. Without sustained social interaction, the human brain may become as impaired as one that has incurred a traumatic injury.

On December 4, 1991, Terry Anderson was released from captivity. He had been the last and the longest-held American hostage in Lebanon. I spoke to Keron Fletcher, a former British military psychiatrist who had been on the receiving team for Anderson and many other hostages, and followed them for years afterward. Initially, Fletcher said, everyone experiences the pure elation of being able to see and talk to people again, especially family and friends. They can't get enough of other people, and talk almost non-stop for hours. They are optimistic and hopeful. But, afterward, normal sleeping and eating patterns prove difficult to reestablish. Some have lost their sense of time. For weeks, they have trouble managing the sensations and emotional complexities of their freedom.

For the first few months after his release, Anderson said when I reached him by phone recently, "it was just kind of a fog." He had done many television interviews at the time. "And if you look at me in the pictures? Look at my eyes. You can tell. I look drugged."

Most hostages survived their ordeal, Fletcher said, although relationships, marriages, and careers were often lost. Some found, as John McCain did, that the experience even strengthened them. Yet none saw solitary confinement as anything less than torture. This presents us with an awkward question: If prolonged isolation is—as research and experience have confirmed for decades—so objectively horrifying, so intrinsically cruel, how did we end up with a prison system that may subject more of our own citizens to it than any other country in history has?

Recently, I met a man who had spent more than five years in isolation at a prison in the Boston suburb of Walpole, Massachusetts, not far from my home. Bobby Dellelo was, to say the least, no Terry Anderson or John McCain. Brought up in the run-down neighborhoods of Boston's West End, in the nineteen-forties, he was caught burglarizing a shoe store at the age of ten. At thirteen, he recalls, he was nabbed while robbing a Jordan Marsh department store. (He and his friends learned to hide out in stores at closing time, steal their merchandise, and then break out during the night.) The remainder of his childhood was spent mostly in the state reform school. That was where he learned how to fight, how to hot-wire a car with a piece of foil, how to pick locks, and how to make a zip gun using a snapped-off automobile radio antenna, which, in those days, was just thick enough to barrel a .22-calibre bullet. Released upon turning eighteen, Dellelo returned to stealing. Usually, he stole from office buildings at night. But some of the people he hung out with did stickups, and, together with one of them, he held up a liquor store in Dorchester.

“What a disaster that thing was,” he recalls, laughing. They put the store’s owner and the customers in a walk-in refrigerator at gunpoint, took their wallets, and went to rob the register. But more customers came in. So they robbed them and put them in the refrigerator, too. Then still more customers arrived, the refrigerator got full, and the whole thing turned into a circus. Dellelo and his partner finally escaped. But one of the customers identified him to the police. By the time he was caught, Dellelo had been fingered for robbing the Commander Hotel in Cambridge as well. He served a year for the first conviction and two and a half years for the second.

Three months after his release, in 1963, at the age of twenty, he and a friend tried to rob the Kopelman jewelry store, in downtown Boston. But an alarm went off before they got their hands on anything. They separated and ran. The friend shot and killed an off-duty policeman while trying to escape, then killed himself. Dellelo was convicted of first-degree murder and sentenced to life in prison. He ended up serving forty years. Five years and one month were spent in isolation.

The criteria for the isolation of prisoners vary by state but typically include not only violent infractions but also violation of prison rules or association with gang members. The imposition of long-term isolation—which can be for months or years—is ultimately at the discretion of prison administrators. One former prisoner I spoke to, for example, recalled being put in solitary confinement for petty annoyances like refusing to get out of the shower quickly enough. Bobby Dellelo was put there for escaping.

It was an elaborate scheme. He had a partner, who picked the lock to a supervisor’s office and got hold of the information manual for the microwave-detection system that patrolled a grassy no man’s land between the prison and the road. They studied the manual long enough to learn how to circumvent the system and returned it. On Halloween Sunday, 1993, they had friends stage a fight in the prison yard. With all the guards in the towers looking at the fight through binoculars, the two men tipped a picnic table up against a twelve-foot wall and climbed it like a ladder. Beyond it, they scaled a sixteen-foot fence. To get over the razor wire on top, they used a Z-shaped tool they’d improvised from locker handles. They dropped down into the no man’s land and followed an invisible path that they’d calculated the microwave system would not detect. No alarm sounded. They went over one more fence, walked around a parking lot, picked their way through some woods, and emerged onto a four-lane road. After a short walk to a convenience store, they called a taxi from a telephone booth and rolled away before anyone knew they were gone.

They lasted twenty-four days on the outside. Eventually, somebody ratted them out, and the police captured them on the day before Thanksgiving, at the house of a friend in Cambridge. The prison administration gave Dellelo five years in the Departmental Disciplinary Unit of the Walpole prison, its hundred-and-twenty-four-cell super-maximum segregation unit.

Wearing ankle bracelets, handcuffs, and a belly chain, Dellelo was marched into a thirteen-by-eight-foot off-white cell. A four-inch-thick concrete bed slab jutted out from the wall opposite the door. A smaller slab protruding from a side wall provided a desk. A cylindrical concrete block in the floor served as a seat. On the remaining wall was a toilet and a metal sink. He was given four sheets, four towels, a blanket, a bedroll, a toothbrush, toilet paper, a tall clear plastic cup, a bar of soap, seven

white T-shirts, seven pairs of boxer shorts, seven pairs of socks, plastic slippers, a pad of paper, and a ballpoint pen. A speaker with a microphone was mounted on the door. Cells used for solitary confinement are often windowless, but this one had a ribbonlike window that was seven inches wide and five feet tall. The electrically controlled door was solid steel, with a seven-inch-by-twenty-eight-inch aperture and two wickets—little door slots, one at ankle height and one at waist height, for shackling him whenever he was let out and for passing him meal trays.

As in other supermaxes—facilities designed to isolate prisoners from social contact—Dellelo was confined to his cell for at least twenty-three hours a day and permitted out only for a shower or for recreation in an outdoor cage that he estimated to be fifty feet long and five feet wide, known as “the dog kennel.” He could talk to other prisoners through the steel door of his cell, and during recreation if a prisoner was in an adjacent cage. He made a kind of fishing line for passing notes to adjacent cells by unwinding the elastic from his boxer shorts, though it was contraband and would be confiscated. Prisoners could receive mail and as many as ten reading items. They were allowed one phone call the first month and could earn up to four calls and four visits per month if they followed the rules, but there could be no physical contact with anyone, except when guards forcibly restrained them. Some supermaxes even use food as punishment, serving the prisoners nutra-loaf, an unpalatable food brick that contains just enough nutrition for survival. Dellelo was spared this. The rules also permitted him to have a radio after thirty days, and, after sixty days, a thirteen-inch black-and-white television.

“This is going to be a piece of cake,” Dellelo recalls thinking when the door closed behind him. Whereas many American supermax prisoners—and most P.O.W.s and hostages—have no idea when they might get out, he knew exactly how long he was going to be there. He drew a calendar on his pad of paper to start counting down the days. He would get a radio and a TV. He could read. No one was going to bother him. And, as his elaborate escape plan showed, he could be patient. “This is their sophisticated security?” he said to himself. “They don’t know what they’re doing.”

After a few months without regular social contact, however, his experience proved no different from that of the P.O.W.s or hostages, or the majority of isolated prisoners whom researchers have studied: he started to lose his mind. He talked to himself. He paced back and forth compulsively, shuffling along the same six-foot path for hours on end. Soon, he was having panic attacks, screaming for help. He hallucinated that the colors on the walls were changing. He became enraged by routine noises—the sound of doors opening as the guards made their hourly checks, the sounds of inmates in nearby cells. After a year or so, he was hearing voices on the television talking directly to him. He put the television under his bed, and rarely took it out again.

One of the paradoxes of solitary confinement is that, as starved as people become for companionship, the experience typically leaves them unfit for social interaction. Once, Dellelo was allowed to have an in-person meeting with his lawyer, and he simply couldn’t handle it. After so many months in which his primary human contact had been an occasional phone call or brief conversations with an inmate down the tier, shouted through steel doors at the top of their lungs, he found himself unable to carry on a face-to-face conversation. He had trouble following both words and hand gestures and couldn’t generate them himself. When he realized this, he succumbed to a full-blown panic attack.

Craig Haney, a psychology professor at the University of California at Santa Cruz, received rare permission to study a hundred randomly selected inmates at California's Pelican Bay supermax, and noted a number of phenomena. First, after months or years of complete isolation, many prisoners "begin to lose the ability to initiate behavior of any kind—to organize their own lives around activity and purpose," he writes. "Chronic apathy, lethargy, depression, and despair often result. . . . In extreme cases, prisoners may literally stop behaving," becoming essentially catatonic.

Second, almost ninety per cent of these prisoners had difficulties with "irrational anger," compared with just three per cent of the general population.\* Haney attributed this to the extreme restriction, the totality of control, and the extended absence of any opportunity for happiness or joy. Many prisoners in solitary become consumed with revenge fantasies.

"There were some guards in D.D.U. who were decent guys," Dellelo told me. They didn't trash his room when he was let out for a shower, or try to trip him when escorting him in chains, or write him up for contraband if he kept food or a salt packet from a meal in his cell. "But some of them were evil, evil pricks." One correctional officer became a particular obsession. Dellelo spent hours imagining cutting his head off and rolling it down the tier. "I mean, I know this is insane thinking," he says now. Even at the time, he added, "I had a fear in the background—like how much of this am I going to be able to let go? How much is this going to affect who I am?"

He was right to worry. Everyone's identity is socially created: it's through your relationships that you understand yourself as a mother or a father, a teacher or an accountant, a hero or a villain. But, after years of isolation, many prisoners change in another way that Haney observed. They begin to see themselves primarily as combatants in the world, people whose identity is rooted in thwarting prison control.

As a matter of self-preservation, this may not be a bad thing. According to the Navy P.O.W. researchers, the instinct to fight back against the enemy constituted the most important coping mechanism for the prisoners they studied. Resistance was often their sole means of maintaining a sense of purpose, and so their sanity. Yet resistance is precisely what we wish to destroy in our supermax prisoners. As Haney observed in a review of research findings, prisoners in solitary confinement must be able to withstand the experience in order to be allowed to return to the highly social world of mainline prison or free society. Perversely, then, the prisoners who can't handle profound isolation are the ones who are forced to remain in it. "And those who have adapted," Haney writes, "are prime candidates for release to a social world to which they may be incapable of ever fully readjusting."

Dellelo eventually found a way to resist that would not prolong his ordeal. He fought his battle through the courts, filing motion after motion in an effort to get his conviction overturned. He became so good at submitting his claims that he obtained a paralegal certificate along the way. And, after forty years in prison, and more than five years in solitary, he got his first-degree-homicide conviction reduced to manslaughter. On November 19, 2003, he was freed.

Bobby Dellelo is sixty-seven years old now. He lives on Social Security in a Cambridge efficiency apartment that is about four times larger than his cell. He still seems to be adjusting to the world outside. He lives alone. To the extent that he is out in society, it is, in large measure, as a combatant. He works

for prisoners' rights at the American Friends Service Committee. He also does occasional work assisting prisoners with their legal cases. Sitting at his kitchen table, he showed me how to pick a padlock—you know, just in case I ever find myself in trouble.

But it was impossible to talk to him about his time in isolation without seeing that it was fundamentally no different from the isolation that Terry Anderson and John McCain had endured. Whether in Walpole or Beirut or Hanoi, all human beings experience isolation as torture.

The main argument for using long-term isolation in prisons is that it provides discipline and prevents violence. When inmates refuse to follow the rules—when they escape, deal drugs, or attack other inmates and corrections officers—wardens must be able to punish and contain the misconduct. Presumably, less stringent measures haven't worked, or the behavior would not have occurred. And it's legitimate to incapacitate violent aggressors for the safety of others. So, advocates say, isolation is a necessary evil, and those who don't recognize this are dangerously naïve.

The argument makes intuitive sense. If the worst of the worst are removed from the general prison population and put in isolation, you'd expect there to be markedly fewer inmate shankings and attacks on corrections officers. But the evidence doesn't bear this out. Perhaps the most careful inquiry into whether supermax prisons decrease violence and disorder was a 2003 analysis examining the experience in three states—Arizona, Illinois, and Minnesota—following the opening of their supermax prisons. The study found that levels of inmate-on-inmate violence were unchanged, and that levels of inmate-on-staff violence changed unpredictably, rising in Arizona, falling in Illinois, and holding steady in Minnesota.

Prison violence, it turns out, is not simply an issue of a few belligerents. In the past thirty years, the United States has quadrupled its incarceration rate but not its prison space. Work and education programs have been cancelled, out of a belief that the pursuit of rehabilitation is pointless. The result has been unprecedented overcrowding, along with unprecedented idleness—a nice formula for violence. Remove a few prisoners to solitary confinement, and the violence doesn't change. So you remove some more, and still nothing happens. Before long, you find yourself in the position we are in today. The United States now has five per cent of the world's population, twenty-five per cent of its prisoners, and probably the vast majority of prisoners who are in long-term solitary confinement.

It wasn't always like this. The wide-scale use of isolation is, almost exclusively, a phenomenon of the past twenty years. In 1890, the United States Supreme Court came close to declaring the punishment to be unconstitutional. Writing for the majority in the case of a Colorado murderer who had been held in isolation for a month, Justice Samuel Miller noted that experience had revealed “serious objections” to solitary confinement:

A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others, still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.

Prolonged isolation was used sparingly, if at all, by most American prisons for almost a century. Our first supermax—our first institution specifically designed for mass solitary confinement—was not established until 1983, in Marion, Illinois. In 1995, a federal court reviewing California's first supermax

admitted that the conditions “hover on the edge of what is humanly tolerable for those with normal resilience.” But it did not rule them to be unconstitutionally cruel or unusual, except in cases of mental illness. The prison’s supermax conditions, the court stated, did not pose “a sufficiently high risk to all inmates of incurring a serious mental illness.” In other words, there could be no legal objection to its routine use, given that the isolation didn’t make *everyone* crazy. The ruling seemed to fit the public mood. By the end of the nineteen-nineties, some sixty supermax institutions had opened across the country. And new solitary-confinement units were established within nearly all of our ordinary maximum-security prisons.

The number of prisoners in these facilities has since risen to extraordinary levels. America now holds at least twenty-five thousand inmates in isolation in supermax prisons. An additional fifty to eighty thousand are kept in restrictive segregation units, many of them in isolation, too, although the government does not release these figures. By 1999, the practice had grown to the point that Arizona, Colorado, Maine, Nebraska, Nevada, Rhode Island, and Virginia kept between five and eight per cent of their prison population in isolation, and, by 2003, New York had joined them as well. Mississippi alone held eighteen hundred prisoners in supermax—twelve per cent of its prisoners over all. At the same time, other states had just a tiny fraction of their inmates in solitary confinement. In 1999, for example, Indiana had eighty-five supermax beds; Georgia had only ten. Neither of these two states can be described as being soft on crime.

Advocates of solitary confinement are left with a single argument for subjecting thousands of people to years of isolation: What else are we supposed to do? How else are we to deal with the violent, the disruptive, the prisoners who are just too dangerous to be housed with others?

As it happens, only a subset of prisoners currently locked away for long periods of isolation would be considered truly dangerous. Many are escapees or suspected gang members; many others are in solitary for nonviolent breaches of prison rules. Still, there are some highly dangerous and violent prisoners who pose a serious challenge to prison discipline and safety. In August, I met a man named Robert Felton, who had spent fourteen and a half years in isolation in the Illinois state correctional system. He is now thirty-six years old. He grew up in the predominantly black housing projects of Danville, Illinois, and had been a force of mayhem from the time he was a child.

His crimes were mainly impulsive, rather than planned. The first time he was arrested was at the age of eleven, when he and a relative broke into a house to steal some Atari video games. A year later, he was sent to state reform school after he and a friend broke into an abandoned building and made off with paint cans, irons, and other property that they hardly knew what to do with. In reform school, he got into fights and screamed obscenities at the staff. When the staff tried to discipline him by taking away his recreation or his television privileges, his behavior worsened. He tore a pillar out of the ceiling, a sink and mirrors off the wall, doors off their hinges. He was put in a special cell, stripped of nearly everything. When he began attacking counsellors, the authorities transferred him to the maximum-security juvenile facility at Joliet, where he continued to misbehave.

Felton wasn’t a sociopath. He made friends easily. He was close to his family, and missed them deeply. He took no pleasure in hurting others. Psychiatric evaluations turned up little more than



attention-deficit disorder. But he had a terrible temper, a tendency to escalate rather than to defuse confrontations, and, by the time he was released, just before turning eighteen, he had achieved only a ninth-grade education.

Within months of returning home, he was arrested again. He had walked into a Danville sports bar and ordered a beer. The barman took his ten-dollar bill.

“Then he says, ‘Naw, man, you can’t get no beer. You’re underage,’ ” Felton recounts. “I says, ‘Well, give me my ten dollars back.’ He says, ‘You ain’t getting shit. Get the hell out of here.’ ”

Felton stood his ground. The bartender had a pocket knife on the counter. “And, when he went for it, I went for it,” Felton told me. “When I grabbed the knife first, I turned around and spinned on him. I said, ‘You think you’re gonna cut me, man? You gotta be fucked up.’ ”

The barman had put the ten-dollar bill in a Royal Crown bag behind the counter. Felton grabbed the bag and ran out the back door. He forgot his car keys on the counter, though. So he went back to get the keys—“the stupid keys,” he now says ruefully—and in the fight that ensued he left the barman severely injured and bleeding. The police caught Felton fleeing in his car. He was convicted of armed robbery, aggravated unlawful restraint, and aggravated battery, and served fifteen years in prison.

He was eventually sent to the Stateville Correctional Center, a maximum-security facility in Joliet. Inside the overflowing prison, he got into vicious fights over insults and the like. About three months into his term, during a shakedown following the murder of an inmate, prison officials turned up a makeshift knife in his cell. (He denies that it was his.) They gave him a year in isolation. He was a danger, and he had to be taught a lesson. But it was a lesson that he seemed incapable of learning.

Felton’s Stateville isolation cell had gray walls, a solid steel door, no window, no clock, and a light that was kept on twenty-four hours a day. As soon as he was shut in, he became claustrophobic and had a panic attack. Like Dellelo, Anderson, and McCain, he was soon pacing back and forth, talking to himself, studying the insects crawling around his cell, reliving past events from childhood, sleeping for as much as sixteen hours a day. But, unlike them, he lacked the inner resources to cope with his situation.

Many prisoners find survival in physical exercise, prayer, or plans for escape. Many carry out elaborate mental exercises, building entire houses in their heads, board by board, nail by nail, from the ground up, or memorizing team rosters for a baseball season. McCain recreated in his mind movies he’d seen. Anderson reconstructed complete novels from memory. Yuri Nosenko, a K.G.B. defector whom the C.I.A. wrongly accused of being a double agent and held for three years in total isolation (no reading material, no news, no human contact except with interrogators) in a closet-size concrete cell near Williamsburg, Virginia, made chess sets from threads and a calendar from lint (only to have them discovered and swept away).

But Felton would just yell, “Guard! Guard! Guard! Guard! Guard!,” or bang his cup on the toilet, for hours. He could spend whole days hallucinating that he was in another world, that he was a child at home in Danville, playing in the streets, having conversations with imaginary people. Small cruelties that others somehow bore in quiet fury—getting no meal tray, for example—sent him into a rage. Despite being restrained with handcuffs, ankle shackles, and a belly chain whenever he was taken out, he

managed to assault the staff at least three times. He threw his food through the door slot. He set his cell on fire by tearing his mattress apart, wrapping the stuffing in a sheet, popping his light bulb, and using the exposed wires to set the whole thing ablaze. He did this so many times that the walls of his cell were black with soot.

After each offense, prison officials extended his sentence in isolation. Still, he wouldn't stop. He began flooding his cell, by stuffing the door crack with socks, plugging the toilet, and flushing until the water was a couple of feet deep. Then he'd pull out the socks and the whole wing would flood with wastewater.

"Flooding the cell was the last option for me," Felton told me. "It was when I had nothing else I could do. You know, they took everything out of my cell, and all I had left was toilet water. I'd sit there and I'd say, 'Well, let me see what I can do with this toilet water.' "

Felton was not allowed out again for fourteen and a half years. He spent almost his entire prison term, from 1990 to 2005, in isolation. In March, 1998, he was among the first inmates to be moved to Tamms, a new, high-tech supermax facility in southern Illinois.

"At Tamms, man, it was like a lab," he says. Contact even with guards was tightly reduced. Cutoff valves meant that he couldn't flood his cell. He had little ability to force a response—negative or positive—from a human being. And, with that gone, he began to deteriorate further. He ceased showering, changing his clothes, brushing his teeth. His teeth rotted and ten had to be pulled. He began throwing his feces around his cell. He became psychotic.

It is unclear how many prisoners in solitary confinement become psychotic. Stuart Grassian, a Boston psychiatrist, has interviewed more than two hundred prisoners in solitary confinement. In one in-depth study, prepared for a legal challenge of prisoner-isolation practices, he concluded that about a third developed acute psychosis with hallucinations. The markers of vulnerability that he observed in his interviews were signs of cognitive dysfunction—a history of seizures, serious mental illness, mental retardation, illiteracy, or, as in Felton's case, a diagnosis such as attention-deficit hyperactivity disorder, signalling difficulty with impulse control. In the prisoners Grassian saw, about a third had these vulnerabilities, and these were the prisoners whom solitary confinement had made psychotic. They were simply not cognitively equipped to endure it without mental breakdowns.

A psychiatrist tried giving Felton anti-psychotic medication. Mostly, it made him sleep—sometimes twenty-four hours at a stretch, he said. Twice he attempted suicide. The first time, he hanged himself in a noose made from a sheet. The second time, he took a single staple from a legal newspaper and managed to slash the radial artery in his left wrist with it. In both instances, he was taken to a local emergency room for a few hours, patched up, and sent back to prison.

**I**s there an alternative? Consider what other countries do. Britain, for example, has had its share of serial killers, homicidal rapists, and prisoners who have taken hostages and repeatedly assaulted staff. The British also fought a seemingly unending war in Northern Ireland, which brought them hundreds of Irish Republican Army prisoners committed to violent resistance. The authorities resorted to a harshly punitive approach to control, including, in the mid-seventies, extensive use of solitary confinement. But the violence in prisons remained unchanged, the costs were phenomenal (in the United States, they

reach more than fifty thousand dollars a year per inmate), and the public outcry became intolerable. British authorities therefore looked for another approach.

Beginning in the nineteen-eighties, they gradually adopted a strategy that focussed on preventing prison violence rather than on delivering an ever more brutal series of punishments for it. The approach starts with the simple observation that prisoners who are unmanageable in one setting often behave perfectly reasonably in another. This suggested that violence might, to a critical extent, be a function of the conditions of incarceration. The British noticed that problem prisoners were usually people for whom avoiding humiliation and saving face were fundamental and instinctive. When conditions maximized humiliation and confrontation, every interaction escalated into a trial of strength. Violence became a predictable consequence.

So the British decided to give their most dangerous prisoners more control, rather than less. They reduced isolation and offered them opportunities for work, education, and special programming to increase social ties and skills. The prisoners were housed in small, stable units of fewer than ten people in individual cells, to avoid conditions of social chaos and unpredictability. In these reformed “Close Supervision Centres,” prisoners could receive mental-health treatment and earn rights for more exercise, more phone calls, “contact visits,” and even access to cooking facilities. They were allowed to air grievances. And the government set up an independent body of inspectors to track the results and enable adjustments based on the data.

The results have been impressive. The use of long-term isolation in England is now negligible. In all of England, there are now fewer prisoners in “extreme custody” than there are in the state of Maine. And the other countries of Europe have, with a similar focus on small units and violence prevention, achieved a similar outcome.

In this country, in June of 2006, a bipartisan national task force, the Commission on Safety and Abuse in America’s Prisons, released its recommendations after a yearlong investigation. It called for ending long-term isolation of prisoners. Beyond about ten days, the report noted, practically no benefits can be found and the harm is clear—not just for inmates but for the public as well. Most prisoners in long-term isolation are returned to society, after all. And evidence from a number of studies has shown that supermax conditions—in which prisoners have virtually no social interactions and are given no programmatic support—make it highly likely that they will commit more crimes when they are released. Instead, the report said, we should follow the preventive approaches used in European countries.

The recommendations went nowhere, of course. Whatever the evidence in its favor, people simply did not believe in the treatment.

I spoke to a state-prison commissioner who wished to remain unidentified. He was a veteran of the system, having been either a prison warden or a commissioner in several states across the country for more than twenty years. He has publicly defended the use of long-term isolation everywhere that he has worked. Nonetheless, he said, he would remove most prisoners from long-term isolation units if he could and provide programming for the mental illnesses that many of them have.

“Prolonged isolation is not going to serve anyone’s best interest,” he told me. He still thought that

prisons needed the option of isolation. “A bad violation should, I think, land you there for about ninety days, but it should not go beyond that.”

He is apparently not alone among prison officials. Over the years, he has come to know commissioners in nearly every state in the country. “I believe that today you’ll probably find that two-thirds or three-fourths of the heads of correctional agencies will largely share the position that I articulated with you,” he said.

Commissioners are not powerless. They could eliminate prolonged isolation with the stroke of a pen. So, I asked, why haven’t they? He told me what happened when he tried to move just one prisoner out of isolation. Legislators called for him to be fired and threatened to withhold basic funding. Corrections officers called members of the crime victim’s family and told them that he’d gone soft on crime. Hostile stories appeared in the tabloids. It is pointless for commissioners to act unilaterally, he said, without a change in public opinion.

This past year, both the Republican and the Democratic Presidential candidates came out firmly for banning torture and closing the facility in Guantánamo Bay, where hundreds of prisoners have been held in years-long isolation. Neither Barack Obama nor John McCain, however, addressed the question of whether prolonged solitary confinement is torture. For a Presidential candidate, no less than for the prison commissioner, this would have been political suicide. The simple truth is that public sentiment in America is the reason that solitary confinement has exploded in this country, even as other Western nations have taken steps to reduce it. This is the dark side of American exceptionalism. With little concern or demurral, we have consigned tens of thousands of our own citizens to conditions that horrified our highest court a century ago. Our willingness to discard these standards for American prisoners made it easy to discard the Geneva Conventions prohibiting similar treatment of foreign prisoners of war, to the detriment of America’s moral stature in the world. In much the same way that a previous generation of Americans countenanced legalized segregation, ours has countenanced legalized torture. And there is no clearer manifestation of this than our routine use of solitary confinement—on our own people, in our own communities, in a supermax prison, for example, that is a thirty-minute drive from my door.

Robert Felton drifted in and out of acute psychosis for much of his solitary confinement. Eventually, however, he found an unexpected resource. One day, while he was at Tamms, he was given a new defense lawyer, and, whatever expertise this lawyer provided, the more important thing was genuine human contact. He visited regularly, and sent Felton books. Although some were rejected by the authorities and Felton was restricted to a few at a time, he devoured those he was permitted. “I liked political books,” he says. “ ‘From Beirut to Jerusalem,’ Winston Churchill, Noam Chomsky.”

That small amount of contact was a lifeline. Felton corresponded with the lawyer about what he was reading. The lawyer helped him get his G.E.D. and a paralegal certificate through a correspondence course, and he taught Felton how to advocate for himself. Felton began writing letters to politicians and prison officials explaining the misery of his situation, opposing supermax isolation, and asking for a chance to return to the general prison population. (The Illinois Department of Corrections would not comment on Felton’s case, but a spokesman stated that “Tamms houses the most disruptive,

violent, and problematic inmates.”) Felton was persuasive enough that Senator Paul Simon, of Illinois, wrote him back and, one day, even visited him. Simon asked the director of the State Department of Corrections, Donald Snyder, Jr., to give consideration to Felton’s objections. But Snyder didn’t budge. If there was anyone whom Felton fantasized about taking revenge upon, it was Snyder. Felton continued to file request after request. But the answer was always no.

On July 12, 2005, at the age of thirty-three, Felton was finally released. He hadn’t socialized with another person since entering Tamms, at the age of twenty-five. Before his release, he was given one month in the general prison population to get used to people. It wasn’t enough. Upon returning to society, he found that he had trouble in crowds. At a party of well-wishers, the volume of social stimulation overwhelmed him and he panicked, headed for a bathroom, and locked himself in. He stayed at his mother’s house and kept mostly to himself.

For the first year, he had to wear an ankle bracelet and was allowed to leave home only for work. His first job was at a Papa John’s restaurant, delivering pizzas. He next found work at the Model Star Laundry Service, doing pressing. This was a steady job, and he began to settle down. He fell in love with a waitress named Brittany. They moved into a three-room house that her grandmother lent them, and got engaged. Brittany became pregnant.

This is not a story with a happy ending. Felton lost his job with the laundry service. He went to work for a tree-cutting business; a few months later, it went under. Meanwhile, he and Brittany had had a second child. She had found work as a certified nursing assistant, but her income wasn’t nearly enough. So he took a job forty miles away, at Plastipak, the plastics manufacturer, where he made seven-fifty an hour inspecting Gatorade bottles and Crisco containers as they came out of the stamping machines. Then his twenty-year-old Firebird died. The bus he had to take ran erratically, and he was fired for repeated tardiness.

When I visited Felton in Danville last August, he and Brittany were upbeat about their prospects. She was working extra shifts at a nursing home, and he was taking care of their children, ages one and two. He had also applied to a six-month training program for heating and air-conditioning technicians.

“I could make twenty dollars an hour after graduation,” he said.

“He’s a good man,” Brittany told me, taking his arm and giving him a kiss.

But he was out of work. They were chronically short of money. It was hard to be optimistic about Felton’s prospects. And, indeed, six weeks after we met, he was arrested for breaking into a car dealership and stealing a Dodge Charger. He pleaded guilty and, in January, began serving a seven-year sentence.

Before I left town—when there was still a glimmer of hope for him—we went out for lunch at his favorite place, a Mexican restaurant called La Potosina. Over enchiladas and Cokes, we talked about his family, Danville, the economy, and, of course, his time in prison. The strangest story had turned up in the news, he said. Donald Snyder, Jr., the state prison director who had refused to let him out of solitary confinement, had been arrested, convicted, and sentenced to two years in prison for taking fifty thousand dollars in payoffs from lobbyists.

“Two years in prison,” Felton marvelled. “He could end up right where I used to be.”

I asked him, “If he wrote to you, asking if you would release him from solitary, what would you do?”

Felton didn’t hesitate for a second. “If he wrote to me to let him out, I’d let him out,” he said.

This surprised me. I expected anger, vindictiveness, a desire for retribution. “You’d let him out?” I said.

“I’d let him out,” he said, and he put his fork down to make the point. “I wouldn’t wish solitary confinement on anybody. Not even him.” ♦

\*Correction, April 6, 2009: Three per cent of the general population had difficulties with “irrational anger,” not three per cent of prisoners in the general population, as originally stated.

ILLUSTRATION: BRAD HOLLAND

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