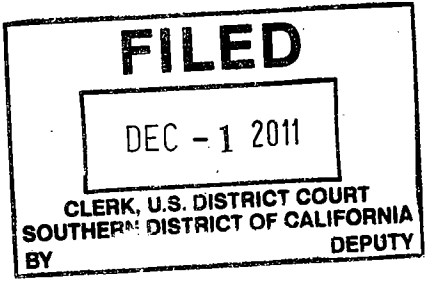


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6 Attorneys for Plaintiff
United States of America
7



8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Case No. 10CR4551-BTM
11)
11 Plaintiff,)
12)
12 v.) PLEA AGREEMENT
13)
13 NIMA YUSUF,)
14)
14 Defendant.)
15)

16 IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF
17 AMERICA, through its counsel, Laura E. Duffy, United States Attorney,
18 and Sabrina L. Fève and John N. Parmley, Assistant United States
19 Attorneys, and defendant, Nima Yusuf, with the advice and consent of
20 Charles Swift, Catherine McDonald, and Charles Rees, counsel for
21 defendant, as follows:

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I

THE PLEA

Defendant agrees to plead guilty to Count 2 of the Indictment in Criminal Case No. 10CR4551 charging defendant with:

Conspiracy to provide material support to a foreign terrorist organization, in violation of 18 U.S.C. § 2339B(a)(1).

The Government agrees further to (1) move to dismiss the remaining charges without prejudice when defendant is sentenced, and (2) not prosecute defendant thereafter on such dismissed charges, unless defendant breaches the plea agreement or the guilty plea entered pursuant to this plea agreement is set aside for any reason. Defendant expressly waives all constitutional and statutory defenses to the reinstatement of any charges dismissed pursuant to this agreement.

II

NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

Defendant understands that the offense to which defendant is pleading guilty has the following elements:

1. There was an agreement between two or more persons to provide material support or resources to al-Shabaab, a foreign terrorist organization;
2. The defendant became a member of the conspiracy knowing of at least one of its objects and intending to help accomplish it; and
3. The defendant knew that al-Shabaab was a designated foreign terrorist organization, or that it had engaged in terrorist activities or terrorism.

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1 B. ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS

2 Defendant has fully discussed the facts of this case with defense
3 counsel. Defendant has committed each of the elements of the crime,
4 and admits that there is a factual basis for this guilty plea. The
5 following facts are true and undisputed:

- 6 1. That before July 2009, defendant knew that the U.S.
7 government had designated al-Shabaab as a foreign
8 terrorist organization and that it was illegal to
9 provide money, funds, or other material support to al-
10 Shabaab.
- 11 2. That in or before July 2009, defendant learned that
12 Mohamed Abdullahi Hassan (a/k/a Miski), charged
13 elsewhere, and Abdisalan Hussein Ali (a/k/a
14 Bullethead, a/k/a Uhud), charged elsewhere, had left
15 the United States to join and fight for al-Shabaab in
16 Somalia.
- 17 3. That in or about November 2009, defendant learned that
18 Cabdulaahi Ahmed Faarax (a/k/a Adaki, a/k/a Mardadi,
19 a/k/a Smiley, a/k/a Hayakallah), charged elsewhere,
20 and Abdiweili Yassin Isse (a/k/a Farhan, a/k/a
21 Walaalo), charged elsewhere, had left the United
22 States to join and fight for al-Shabaab in Somalia.
- 23 4. That, despite knowing that al-Shabaab was a designated
24 foreign terrorist organization, defendant knowingly
25 entered an agreement with Hassan, Ali, Faarax, and
26 Isse to provide material support to al-Shabaab in the
27 form of money and personnel to work under the
28 direction and control of al-Shabaab.

Def. Initials

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1 5. That, in furtherance of this agreement, defendant
2 caused the following amounts of money to be wired from
3 San Diego to Ali, Faarax,^{and} Isse, ~~and an individual~~^{sup}
4 ~~known to the defendant as "Ansaari"~~^{self} who were then
5 fighting for al-Shabaab in Somalia:

<u>Date</u>	<u>Amount</u>
Feb. 1, 2010	\$100
Mar. 15, 2010	\$100
Apr. 2, 2010	\$50
May 6, 2010	\$50
May 17, 2010	\$150
May 31, 2010	\$50
July 7, 2010	\$200
July 26, 2010	\$100
Aug. 10, 2010	\$50
Aug. 10, 2010	\$100
Aug. 17, 2010	\$150
Sept. 4, 2010	\$50
Sept. 7, 2010	\$100

6. That, in furtherance of this agreement, between
approximately July 2009 and May 2010, defendant caused
\$200 to be wired from San Diego to Hassan in Somalia.

7. That, in furtherance of this agreement, on or about
September 22, 2010, and November 10, 2010, defendant
falsely stated to agents of the Federal Bureau of
Investigation and the Department of Homeland Security
that she had not sent money to Somalia in the past
year.

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1 III

2 PENALTIES

3 Defendant understands that the crime to which defendant is
4 pleading guilty carries the following penalties:

- 5 A. a maximum 15 years in prison;
- 6 B. a maximum \$250,000 fine;
- 7 C. a mandatory special assessment of \$100 per count; and
- 8 D. a term of supervised release of three years. Defendant
9 understands that failure to comply with any of the
10 conditions of supervised release may result in revocation
11 of supervised release, requiring defendant to serve in
12 prison all or part of the term of supervised release.

13 IV

14 DEFENDANT'S WAIVER OF TRIAL RIGHTS

15 Defendant understands that this guilty plea waives the right to:

- 16 A. Continue to plead not guilty and require the Government to
17 prove the elements of the crime beyond a reasonable doubt;
- 18 B. A speedy and public trial by jury;
- 19 C. The assistance of counsel at all stages of trial;
- 20 D. Confront and cross-examine adverse witnesses;
- 21 E. Present evidence and to have witnesses testify on behalf of
22 defendant; and,
- 23 F. Not testify or have any adverse inferences drawn from the
24 failure to testify.

25 V

26 DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE
27 PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

28 The Government represents that any information establishing the
factual innocence of defendant known to the undersigned prosecutor in
this case has been turned over to defendant. The Government will

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1 continue to provide such information establishing the factual
2 innocence of defendant.

3 Defendant understands that if this case proceeded to trial, the
4 Government would be required to provide impeachment information
5 relating to any informants or other witnesses. In addition, if
6 defendant raised an affirmative defense, the Government would be
7 required to provide information in its possession that supports such
8 a defense. Defendant acknowledges, however, that by pleading guilty
9 defendant will not be provided this information, if any, and defendant
10 also waives the right to this information. Finally, defendant agrees
11 not to attempt to withdraw the guilty plea or to file a collateral
12 attack based on the existence of this information.

13 VI

14 **DEFENDANT'S REPRESENTATION THAT GUILTY**
15 **PLEA IS KNOWING AND VOLUNTARY**

16 Defendant represents that:

- 17 A. Defendant has had a full opportunity to discuss all the
18 facts and circumstances of this case with defense counsel
19 and has a clear understanding of the charges and the
20 consequences of this plea. Defendant understands that, by
21 pleading guilty, defendant may be giving up and rendered
22 ineligible to receive valuable government benefits and
23 civic rights, such as the right to vote, the right to
24 possess a firearm, the right to hold office, and the right
25 to serve on a jury. Defendant further understands that the
26 conviction in this case may subject defendant to various
27 collateral consequences, including but not limited to
28 deportation, removal or other adverse immigration
consequences; revocation of probation, parole, or
supervised release in another case; and suspension or
revocation of a professional license, none of which will
serve as grounds to withdraw defendant's guilty plea.
- B. No one has made any promises or offered any rewards in
return for this guilty plea, other than those contained in
this agreement or otherwise disclosed to the Court;
- C. No one has threatened defendant or defendant's family to
induce this guilty plea; and,

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1 D. Defendant is pleading guilty because in truth and in fact
2 defendant is guilty and for no other reason.

3 VII

4 AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE
5 SOUTHERN DISTRICT OF CALIFORNIA

6 This plea agreement is limited to the United States Attorney's
7 Office for the Southern District of California, and cannot bind any
8 other federal, state or local prosecuting, administrative, or
9 regulatory authorities, although the Government will bring this plea
10 agreement to the attention of other authorities if requested by the
11 defendant.

12 VIII

13 APPLICABILITY OF SENTENCING GUIDELINES

14 Defendant understands the sentence imposed will be based on the
15 factors set forth in 18 U.S.C. § 3553(a). Defendant understands
16 further that in imposing the sentence, the sentencing judge must
17 consult the United States Sentencing Guidelines (Guidelines) and take
18 them into account. Defendant has discussed the Guidelines with
19 defense counsel and understands that the Guidelines are only advisory,
20 not mandatory, and the Court may impose a sentence more severe or less
21 severe than otherwise applicable under the Guidelines, up to the
22 maximum in the statute of conviction. Defendant understands further
23 that the sentence cannot be determined until a presentence report has
24 been prepared by the U.S. Probation Office and defense counsel and the
25 Government have had an opportunity to review and challenge the
26 presentence report. Nothing in this plea agreement shall be construed
27 as limiting the Government's duty to provide complete and accurate
28 facts to the district court and the U.S. Probation Office.

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IX

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). Defendant understands that the sentence is within the sole discretion of the sentencing judge. The Government has not made and will not make any representation as to what sentence defendant will receive. Defendant understands that the sentencing judge may impose the maximum sentence provided by statute, and is also aware that any estimate of the probable sentence by defense counsel is a prediction, not a promise, and is not binding on the Court. Likewise, the recommendation made by the Government is not binding on the Court, and it is uncertain at this time what defendant's sentence will be. Defendant also has been advised and understands that if the sentencing judge does not follow any of the parties' sentencing recommendations, defendant nevertheless has no right to withdraw the plea.

X

PARTIES' SENTENCING RECOMMENDATIONS

A. SENTENCING GUIDELINE CALCULATIONS

Although the parties understand that the Guidelines are only advisory and just one of the factors the Court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly recommend the following Base Offense Level, Specific Offense Characteristics, Adjustments and Departures:

- | | | |
|----|--|-----|
| 1. | Base Offense Level [e.g., § 2M5.3(a)] | 26 |
| 2. | Terrorism Enhancement [§3A1.4] | +12 |
| 3. | Acceptance of Responsibility [§ 3E1.1] | -3 |

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1 B. ACCEPTANCE OF RESPONSIBILITY

2 Notwithstanding paragraph A.3 above, the Government will not be
3 obligated to recommend any adjustment for Acceptance of Responsibility
4 if defendant engages in conduct inconsistent with acceptance of
5 responsibility including, but not limited to, the following:

- 6 1. Fails to truthfully admit a complete factual basis as
7 stated in the plea at the time the plea is entered, or
8 falsely denies, or makes a statement inconsistent
9 with, the factual basis set forth in this agreement,
10 2. Falsely denies prior criminal conduct or convictions,
11 3. Is untruthful with the Government, the Court or
12 probation officer, or
13 4. Materially breaches this plea agreement in any way.

14 C. CRIMINAL HISTORY CATEGORY

15 The parties agree that, under USSG §3A1.4, defendant's Criminal
16 History Category will be Category VI.

17 D. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

18 The parties agree that the facts in the "factual basis" paragraph
19 of this agreement are true, and may be considered as "relevant
20 conduct" under USSG § 1B1.3 and as the nature and circumstances of the
21 offense under 18 U.S.C. § 3553(a)(1).

22 E. RECOMMENDATION REGARDING CUSTODY

23 The Government will recommend that, pursuant to consideration of
24 the factors under 18 U.S.C. § 3553(a), defendant be sentenced to 120
25 months' custody.

26 Defendant may request or recommend any downward adjustments,
27 departures or sentencing reductions, and any sentence, but the United
28 States may oppose any such downward adjustments or departures not set

Def. Initials

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1 forth in Section X, paragraph A, above, and any sentencing reduction
2 or recommendation below 120 months' custody.

3 F. SPECIAL ASSESSMENT

4 The parties will jointly recommend that defendant pay a special
5 assessment in the amount of \$100 to be paid forthwith at time of
6 sentencing. The special assessment shall be paid through the office
7 of the Clerk of the District Court by bank or cashier's check or money
8 order made payable to the "Clerk, United States District Court."

9 G. SUPERVISED RELEASE

10 If the Court imposes a term of supervised release, defendant
11 agrees that she will not later seek to reduce or terminate early the
12 term of supervised release until she has served at least 2/3 of her
13 term of supervised release.

14 XI

15 DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

16 In exchange for the Government's concessions in this plea
17 agreement, defendant waives, to the full extent of the law, any right
18 to appeal or to collaterally attack the conviction and any lawful
19 restitution order, except a post-conviction collateral attack based
20 on a claim of ineffective assistance of counsel. The defendant also
21 waives, to the full extent of the law, any right to appeal or to
22 collaterally attack her sentence, except a post-conviction collateral
23 attack based on a claim of ineffective assistance of counsel, unless
24 the Court imposes a custodial sentence above 120 months' custody.
25 If the custodial sentence is greater than 120 months' custody,
26 defendant may appeal, but the Government will be free to support on
27 appeal the sentence actually imposed. If defendant believes the
28 Government's recommendation is not in accord with this plea agreement,

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1 defendant will object at the time of sentencing; otherwise the
2 objection will be deemed waived.

3 If at any time defendant files a notice of appeal, appeals, or
4 collaterally attacks the conviction or sentence in violation of this
5 plea agreement, said violation shall be a material breach of this
6 agreement as further defined below.

7 XII

8 BREACH OF THE PLEA AGREEMENT

9 Defendant acknowledges, understands and agrees that if defendant
10 violates or fails to perform any of defendant's obligations under this
11 agreement, such violation or failure to perform may constitute a
12 material breach of this agreement.

13 Defendant acknowledges, understands and agrees further that the
14 following non-exhaustive list of conduct by defendant unquestionably
15 constitutes a material breach of this plea agreement:

- 16 1. Failing to plead guilty pursuant to this agreement,
- 17 2. Failing to fully accept responsibility as established
18 in Section X, paragraph B, above,
- 19 3. Failing to appear in court,
- 20 4. Attempting to withdraw the plea,
- 21 5. Failing to abide by any lawful court order related to
22 this case,
- 23 6. Appealing or collaterally attacking the sentence or
24 conviction in violation of Section XI of this plea
25 agreement, or
- 26 7. Engaging in additional criminal conduct from the time
27 of arrest until the time of sentencing.

28 Def. Initials NAY
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1 In the event of defendant's material breach of this plea
2 agreement, defendant will not be able to enforce any of its
3 provisions, and the Government will be relieved of all its obligations
4 under this plea agreement. For example, the Government may pursue any
5 charges including those that were dismissed, promised to be dismissed,
6 or not filed as a result of this agreement (defendant agrees that any
7 statute of limitations relating to such charges is tolled as of the
8 date of this agreement; defendant also waives any double jeopardy
9 defense to such charges). In addition, the Government may move to set
10 aside defendant's guilty plea. Defendant may not withdraw the guilty
11 plea based on the Government's pursuit of remedies for defendant's
12 breach.

13 Additionally, defendant agrees that in the event of defendant's
14 material breach of this plea agreement: (i) any statements made by
15 defendant, under oath, at the guilty plea hearing (before either a
16 Magistrate Judge or a District Judge); (ii) the stipulated factual
17 basis statement in this agreement; and (iii) any evidence derived from
18 such statements, are admissible against defendant in any prosecution
19 of, or action against, defendant. This includes the prosecution of
20 the charge(s) that is the subject of this plea agreement or any
21 charge(s) that the prosecution agreed to dismiss or not file as part
22 of this agreement, but later pursues because of a material breach by
23 the defendant. Additionally, defendant knowingly, voluntarily, and
24 intelligently waives any argument under the United States
25 Constitution, any statute, Rule 410 of the Federal Rules of Evidence,
26 Rule 11(f) of the Federal Rules of Criminal Procedure, and/or any
27 other federal rule, that the statements or any evidence derived from
28 any statements should be suppressed or are inadmissible.

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XIII

ENTIRE AGREEMENT

This plea agreement embodies the entire agreement between the parties and supersedes any other agreement, written or oral.

XIV

MODIFICATION OF AGREEMENT MUST BE IN WRITING

No modification of this plea agreement shall be effective unless in writing signed by all parties.

XV

DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

By signing this agreement, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant has discussed the terms of this agreement with defense counsel and fully understands its meaning and effect.

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DEFENDANT SATISFIED WITH COUNSEL

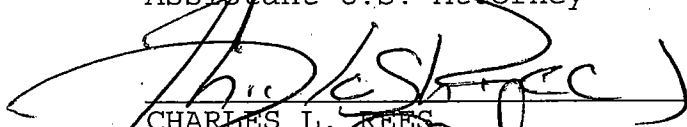
Defendant has consulted with counsel and is satisfied with counsel's representation, although her attorney could not, and did not, advise her in that regard.

LAURA E. DUFFY
United States Attorney


11/21/11
DATED


SABRINA L. FEVE
Assistant U.S. Attorney

11.21.11
DATED

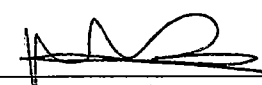

CHARLES L. REES
Defense Counsel

11-21-11
DATED


CHARLES SWIFT
Defense Counsel

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" SECTION ABOVE ARE TRUE.

11-21-11
DATED


NIMA YUSUF
Defendant