

Exhibit D

Transcript of Arraignment and Change of Plea Hearing
U.S. v. Khaleel Ahmed, ECF No. 135, No. 1:07-cr-647 (N.D. Ohio Feb. 4, 2009)

United States v. Khaleel Ahmed (N.D. Ill.)
COMPLAINT TO REVOKE NATURALIZATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, -	Docket No. 1:07-cr-647
Plaintiff, -	Toledo, Ohio
v. -	January 15, 2009
ZUBAIR AHMED, and -	Arraignment and
KHALEEL AHMED, -	Change of Plea
Defendants. -	

TRANSCRIPT OF ARRAIGNMENT AND CHANGE OF PLEA HEARING
BEFORE THE HONORABLE JAMES G. CARR
UNITED STATES DISTRICT CHIEF JUDGE.

APPEARANCES:

For the Plaintiffs: United States Attorneys' Office
By: Thomas E. Getz
Justin E. Herdman
801 Superior Avenue, W
Cleveland, OH 44113
(216) 622-3840

U.S. Department of Justice
By: Gregg N. Sofer
816 Congress Avenue
Austin, TX 78701
(512) 916-5858

For the Defendant: Kirkland & Ellis
By: Alyssa A. Qualls
Michael Slade
Suite 5400
200 East Randolph Drive
Chicago, IL 60601
(312) 861-2000

1 For the Defendant: Friedman & Gilbert
Zubair A. Ahmed By: Terry H. Gilbert
2 Andrea L. Whitaker
600 Standard Building
3 1370 Ontario Street
Cleveland, OH 44113
4 (216) 241-1430

5 Court Reporter: Tracy L. Spore, RMR, CRR
6 1716 Spielbusch Avenue
Toledo, Ohio 43624
7 (419) 243-3607

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25 Proceedings recorded by mechanical stenography,
transcript produced by notereading.

1 (Commenced at 2:31 p.m.)

14:18:58 2 THE CLERK: United States of America versus
14:19:02 3 Zubair and Khaleel Ahmed. Matter called for
14:19:06 4 arraignment on the superseding information

14:19:08 5 THE COURT: THE record should show the
14:19:10 6 government is represented by Assistant United States
14:19:14 7 Attorney Thomas Getz, Greg Sofer, and Justin Herdman.
14:19:18 8 Anybody else for the government?

14:19:20 9 MR. HERDMAN: That's all, Your Honor

14:19:24 10 THE COURT: The record should also show the
14:19:54 11 defendants are also present represented by counsel. It's
14:20:02 12 my understanding that the parties have reached an
14:20:04 13 agreement with regard to a change of plea. It's my
14:20:10 14 understanding further that it is a binding plea
14:20:14 15 agreement and that the parties have also reached an
14:20:16 16 understanding as to the sentencing guideline range.
14:20:20 17 Part of that agreement, according to my understanding,
14:20:22 18 which I have reviewed, is that the government will file
14:20:26 19 a superseding information which would take the place of
14:20:30 20 the pending indictment.

14:20:36 21 And let me speak to Zubair Ahmed first. Mr.
14:20:46 22 Ahmed, I've just summarized my understanding of what
14:20:48 23 will be occurring this afternoon. Is that your
14:20:50 24 understanding as well?

14:20:52 25 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:20:52 1 THE COURT: Mr. Khaleel Ahmed, same
14:20:56 2 question: I just summarized my understanding of what
14:20:58 3 would be taking place this afternoon. Is that your
14:21:00 4 understanding as well?

14:21:02 5 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:21:04 6 THE COURT: You may be seated, and you can
14:21:06 7 remain seated during the colloquy. Before we begin,
14:21:14 8 let me ask Mr. -- I'll be asking you each generally the
14:21:20 9 same sets of questions. If you don't -- if either of
14:21:24 10 you don't understand, if you don't hear, or if you don't
14:21:28 11 understand what's going on, what I'm saying, what it
14:21:34 12 means, what any of the lawyers may be saying or what it
14:21:38 13 means, say so. And I'm in no rush this afternoon.
14:21:46 14 This is obviously an extremely important proceeding.
14:21:48 15 And you should be confident that you understand
14:21:52 16 everything that's occurring. Do you understand that,
14:21:56 17 Mr. Ahmed, Zubair Ahmed?

14:21:58 18 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:21:58 19 THE COURT: Do you understand that, Mr.
14:22:00 20 Khaleel Ahmed?

14:22:00 21 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:22:02 22 THE COURT: Don't hesitate. Let your
14:22:04 23 lawyer know, or simply say, I need talk to you, and
14:22:08 24 they'll let me know, and we'll take whatever time is
14:22:12 25 necessary.

14:22:14 1 Mr. Zubair Ahmed, are you currently
14:22:18 2 receiving any kind of medication of any sort, taking any
14:22:22 3 sort of medication?

14:22:24 4 DEFENDANT ZUBAIR AHMED: No, Your Honor.

14:22:24 5 THE COURT: I assume, and I don't mean to
14:22:26 6 insult you by the next question, but have you had any
14:22:30 7 alcoholic beverages within the last 48 hours?

14:22:34 8 DEFENDANT ZUBAIR AHMED: No, sir.

14:22:34 9 THE COURT: So far as you are able to tell
14:22:36 10 on your own, are you alert and able to follow and
14:22:40 11 understand what's going on?

14:22:42 12 DEFENDANT ZUBAIR AHMED: Yes, sir.

14:22:44 13 THE COURT: And also to express yourself and
14:22:46 14 to communicate with counsel and understand what they are
14:22:50 15 saying?

14:22:50 16 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:22:52 17 THE COURT: Mr. Khaleel Ahmed, likewise, are
14:22:54 18 you taking any medication of any type.

14:22:56 19 DEFENDANT KHALEEL AHMED: No, Your Honor?

14:22:56 20 THE COURT: Have you had any alcoholic
14:22:58 21 beverages within the last 48 hours?

14:23:02 22 DEFENDANT KHALEEL AHMED: No, Your Honor.

14:23:02 23 THE COURT: As best you can tell, as best
14:23:04 24 any of us can ever tell, are you alert and able to
14:23:10 25 follow what is going on and to express yourself and to

14:23:14 1 communicate with counsel and to understand what they
14:23:16 2 might be saying to you?

14:23:18 3 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:23:24 4 THE COURT: Each of you stand charged in a
14:23:26 5 superseding information. Let me ask you this: Counsel
14:23:32 6 for Khaleel Ahmed, have you received and reviewed the
14:23:34 7 superseding information with your client?

14:23:36 8 MR. SLADE: Yes, we have, Your Honor.

14:23:38 9 THE COURT: Counsel for Zubair Ahmed,
14:23:40 10 likewise?

14:23:40 11 MR. GILBERT: Yes, we have.

14:23:40 12 THE COURT: Do you waive any defects in
14:23:42 13 form, manner, time, or place of service of the
14:23:46 14 superseding information?

14:23:48 15 MR. SLADE: We do, Judge.

14:23:50 16 MR. GILBERT: We do, Judge.

14:23:50 17 THE COURT: That document reads as follows:

14:23:52 18 From a date unknown, but beginning no later
14:23:56 19 than on or about April 1, 2004, and continuing until on
14:24:00 20 or about February 21, 2007, the defendants, Zubair Ahmed
14:24:06 21 and Khaleel Ahmed, within, but not limited to, the
14:24:10 22 Northern District of Ohio, unlawfully and knowingly did
14:24:14 23 combine, conspire, confederate, and agree with other
14:24:20 24 persons, known and unknown, to provide material support
14:24:26 25 and resources, including but not limited to the

14:24:30 1 defendants themselves as personnel, knowing and
14:24:34 2 intending that they were to be used in preparation for
14:24:36 3 and in carrying out a violation of Title 18, United
14:24:42 4 States Code, Section 956, conspiracy to kill or maim
14:24:46 5 individuals outside the United States, including members
14:24:50 6 of the U.S. military serving in Iraq and Afghanistan, in
14:24:54 7 violation of Title 18, United States Code, Section
14:24:56 8 2339A. And I assume it's been signed by Mr. Edwards.

14:25:02 9 MR. HERDMAN: It was signed by David Bauer
14:25:06 10 but on behalf of Mr. William J. Edwards.

14:25:12 11 THE COURT: Mr. Herdman, the penalty upon
14:25:14 12 conviction of this offense?

14:25:16 13 MR. HERDMAN: Maximum of 15 years
14:25:18 14 incarceration, \$250,000 fine, and three years post
14:25:24 15 release.

14:25:24 16 THE COURT: And a special assessment of
14:25:26 17 \$100?

14:25:28 18 MR. HERDMAN: \$100, yes, sir.

14:25:30 19 THE COURT: Mr. Khaleel Ahmed, did you hear
14:25:32 20 what Mr. Herdman said about the penalty upon conviction?

14:25:36 21 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:25:36 22 THE COURT: Mr. Zubair Ahmed, did you hear
14:25:38 23 what Mr. Herdman said about potential penalty upon
14:25:42 24 conviction?

14:25:44 25 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:25:44 1 THE COURT: Okay. I'm going to go through a
14:25:56 2 series of subjects that I will be asking you about.
14:26:04 3 Generally I will be reminding you of the nature of the
14:26:06 4 charge to which you expect to plead guilty or anticipate
14:26:10 5 pleading guilty. There's no expectation until that
14:26:14 6 actually occurs, of course. But I will be restating in
14:26:20 7 summary form the charge and the penalty, and I will then
14:26:26 8 describe to you certain basic rights that anyone charged
14:26:30 9 with a federal crime has under the constitution and laws
14:26:34 10 of the United States. I will satisfy myself that you
14:26:42 11 understand what those rights are, and also you
14:26:44 12 understand that by giving up those rights -- by pleading
14:26:50 13 guilty, excuse me, that you understand that by pleading
14:26:52 14 guilty, you're giving up those rights; you are waiving
14:26:56 15 those rights, except the right to counsel; you keep the
14:26:58 16 right to have a lawyer and have a lawyer representing
14:27:02 17 you without cost to yourself throughout these entire
14:27:04 18 proceedings until and through the time of sentencing.
14:27:10 19 A plea of guilty has no effect at all on your right to
14:27:12 20 counsel.

14:27:14 21 I will then, assuming that I find that you
14:27:20 22 understand the nature and consequences of conviction and
14:27:24 23 your basic rights and the fact that you are giving up
14:27:26 24 those rights, I will ask you what your plea is. And
14:27:32 25 then I will ask you certain questions to satisfy myself

14:27:36 1 that your decision to plead truly is a voluntary
14:27:40 2 decision, that it is what you want to do because you
14:27:44 3 think that it's in your best interest to do that rather
14:27:48 4 than to exercise your right to stand trial and be found
14:27:50 5 guilty only upon the determination by a jury that you
14:27:56 6 are, in fact, guilty beyond a reasonable doubt.

14:27:58 7 I will undertake to satisfy myself that you
14:28:02 8 haven't been threatened in any way, neither you nor
14:28:06 9 anyone close to you has been threatened in any way, and
14:28:10 10 there are no promises of any kind whatsoever that have
14:28:12 11 been made to you by anybody except those that are in the
14:28:16 12 plea agreement.

14:28:16 13 I would expect then to go through the plea
14:28:20 14 agreement, ask you various questions about the various
14:28:24 15 provisions of that agreement. And if I'm satisfied that
14:28:28 16 you know what you are doing and it is what you want to
14:28:32 17 be doing, I will accept -- I will find that your are
14:28:38 18 offering the plea voluntarily, knowingly, intelligently,
14:28:44 19 voluntarily.

14:28:44 20 Then I will ask either you or your attorneys
14:28:46 21 or the government, or perhaps all three of you or all
14:28:50 22 four of you, to tell me just exactly what it is that you
14:28:56 23 did that constitutes a violation of the statute under
14:29:02 24 which you are charged. And if I'm satisfied that, in
14:29:06 25 fact, you did something to violate that statute, I will

14:29:10 1 then -- I would expect to accept your plea of guilty and
14:29:14 2 enter a finding of guilty following all of that.

14:29:22 3 I just laid out a summary. I may not have
14:29:24 4 touched all the bases. Along the way if I fail to touch
14:29:28 5 all the bases I will be calling on counsel to remind me
14:29:32 6 to do so.

14:29:34 7 I've already asked you about your mental
14:29:36 8 acuity and your ability to understand what's going on
14:29:42 9 and to think for yourselves. There will be a finding
14:29:48 10 that each defendant is competent to consult with
14:29:54 11 counsel, to understand the nature and substance and
14:29:58 12 consequences of these proceedings, and to communicate
14:30:02 13 with counsel and the Court and to do so in an
14:30:04 14 intelligent and knowing fashion.

14:30:16 15 I'm going to ask both of you to stand and
14:30:18 16 raise your right hands, please, and have you sworn.

14:30:24 17 (Whereupon the defendants are sworn by the
14:30:24 18 clerk.)

14:30:32 19 THE COURT: As I said, you can be seated.
14:30:34 20 Once again, I want to just remind you if you don't
14:30:36 21 understand something, because a lot of what I will be
14:30:38 22 saying will be somewhat legal language, I'll try make it
14:30:44 23 as simple and comprehensible as possible. But if you
14:30:48 24 don't hear or understand what I'm saying, say so.

14:31:00 25 Do you understand first that having sworn or

14:31:10 1 affirmed to tell the truth during these proceedings that
14:31:14 2 if it is determined that you did not do so, you can be
14:31:18 3 further prosecuted for committing perjury, which is
14:31:22 4 lying under oath or affirmation, or for making a false
14:31:26 5 statement. And any statements you made in this
14:31:30 6 proceeding that are false can be used against you in
14:31:34 7 that prosecution. Do you understand that, Mr. Zubair
14:31:36 8 Ahmed?

14:31:36 9 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:31:38 10 THE COURT: Mr. Khaleel Ahmed?

14:31:40 11 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:31:44 12 THE COURT: Do you understand that you have
14:31:46 13 the absolute right to plead not guilty and to persist in
14:31:48 14 that plea; in other words, to maintain that plea if you
14:31:52 15 desire to do so?

14:31:56 16 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:31:58 17 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:32:00 18 THE COURT: Do you understand you have the
14:32:02 19 absolute right to trial by jury?

14:32:04 20 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:32:04 21 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:32:06 22 THE COURT: And that you would be present
14:32:06 23 throughout the proceedings leading to the selection of
14:32:10 24 the jurors who would sit in judgment upon you? You
14:32:12 25 understand that you can participate in that proceeding

14:32:14 1 through counsel?

14:32:16 2 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:32:16 3 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:32:24 4 THE COURT: Do you understand that, as I've
14:32:26 5 already mentioned -- it's worth mentioning again -- that
14:32:30 6 each of you has the absolute right to be represented by
14:32:32 7 an attorney and to have that attorney provided to you
14:32:34 8 without cost to yourself if you cannot afford a lawyer?

14:32:38 9 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:32:40 10 DEFENDANT KHALEEL AHMED: Yes.

14:32:40 11 THE COURT: And that each of you has the
14:32:42 12 right to your own lawyer, that you don't have to share a
14:32:44 13 lawyer with anybody?

14:32:46 14 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:32:46 15 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:32:48 16 THE COURT: And are you satisfied that each
14:32:50 17 of your attorneys have worked separately and
14:32:54 18 independently on your own behalf and have looked out
14:32:58 19 solely and exclusively for your interests?

14:33:00 20 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:33:00 21 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:33:02 22 THE COURT: I mean, I assume that they
14:33:04 23 worked closely together, but nonetheless, you're content
14:33:06 24 that they have represented you and not the other person
14:33:08 25 in this case?

14:33:10 1 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:33:10 2 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:33:18 3 THE COURT: Do you understand that if there
14:33:20 4 were a trial, you would have the absolute right to be
14:33:22 5 present throughout the entire proceedings?

14:33:26 6 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:33:26 7 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:33:28 8 THE COURT: And that you would have the
14:33:28 9 right to be -- that would also obviously include the
14:33:32 10 right to be present during the time when the government
14:33:34 11 was presenting witnesses and evidence and -- when the
14:33:38 12 government was presenting evidence, including witnesses
14:33:40 13 and exhibits and any other evidence against you; that
14:33:44 14 you'd have the right to be present while all that was
14:33:46 15 happening?

14:33:46 16 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:33:48 17 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:33:48 18 THE COURT: You understand also through your
14:33:50 19 attorneys you have the absolute right to have those
14:33:52 20 witnesses questioned on your behalf? Any lawful
14:33:56 21 questions could be put to them?

14:33:58 22 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:34:00 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:34:04 24 THE COURT: Do you understand that you have
14:34:06 25 the absolute right to remain silent; and that in no way,

14:34:10 1 under no circumstance could you be compelled to either
14:34:14 2 testify or otherwise present evidence against yourself?
14:34:16 3 Do you understand that?

14:34:18 4 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:34:18 5 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:34:20 6 THE COURT: In other words, that the
14:34:24 7 government and the government alone bears the absolute
14:34:28 8 and complete burden of proving you guilty at trial?

14:34:32 9 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:34:32 10 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:34:34 11 THE COURT: And that you could not be found
14:34:36 12 guilty until they had produced evidence sufficient to
14:34:40 13 convince the jury that you are guilty beyond a
14:34:42 14 reasonable doubt? Do you understand that?

14:34:42 15 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:34:44 16 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:34:46 17 THE COURT: And you understand that you
14:34:48 18 would have the right if there were to be a trial to
14:34:52 19 testify if you chose to testify?

14:34:54 20 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:34:54 21 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:34:56 22 THE COURT: And that's a decision that only
14:34:58 23 you can make. In other words, your lawyers cannot make
14:35:00 24 that decision for you one way or the other. It's up to
14:35:04 25 you, if there were a trial, to decide whether you want

14:35:08 1 to take the stand or not. Do you understand that?

14:35:10 2 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:35:10 3 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:35:12 4 THE COURT: Do you understand also that if
14:35:14 5 there were a trial, in addition to being able to testify
14:35:18 6 on your own behalf if you wanted to, you could also have
14:35:22 7 witnesses summoned to appear in court to testify for you
14:35:24 8 without cost to yourself? Do you understand that?

14:35:28 9 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:35:30 10 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:35:30 11 THE COURT: Also you could cause subpoenas
14:35:32 12 to issue and otherwise cause evidence of any kind
14:35:36 13 whatsoever to be brought into court to be presented in
14:35:42 14 your defense. Do you understand that?

14:35:44 15 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:35:44 16 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:35:50 17 THE COURT: Do you understand that if I
14:35:52 18 accept your plea of guilty and enter a finding of
14:35:56 19 guilty, that that constitutes a complete and absolute
14:36:00 20 waiver of all the rights that I've enumerated except the
14:36:04 21 right to counsel? Do you understand that?

14:36:08 22 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:36:08 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:36:10 24 THE COURT: In other words if you offer and
14:36:14 25 if I accept a plea of guilty, there will be no trial of

14:36:16 1 any kind whatsoever. Do you understand that?

14:36:20 2 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:36:20 3 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:36:20 4 THE COURT: And that this basically is it.

14:36:24 5 Do you understand that?

14:36:26 6 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:36:26 7 DEFENDANT KHALEEL AHMED: Yes, sir.

14:36:26 8 THE COURT: Except for sentencing.

14:36:32 9 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:36:34 10 DEFENDANT KHALEEL AHMED: Yes, sir.

14:36:34 11 THE COURT: As I have just previously read,

14:36:36 12 you each stand charged with a violation of Title 18,

14:36:58 13 Section 2339A. The shorthand definition of what that

14:37:08 14 statute prohibits is providing material support to

14:37:12 15 terrorists. It does so in the language that I read to

14:37:20 16 you and as is reflected in the indictment, namely

14:37:22 17 specific charges that you conspired, that is, you worked

14:37:26 18 together, you agreed with each other and with others to

14:37:32 19 kill or maim individuals overseas, including United

14:37:36 20 States military personnel. Do you understand what it

14:37:40 21 is the government claims you did?

14:37:42 22 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:37:44 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:37:46 24 THE COURT: And that if you are convicted,

14:37:48 25 you can receive a term of up to 15 years imprisonment to

14:37:52 1 be followed -- whatever term of imprisonment you might
14:37:56 2 get to be followed by up to three years of supervised
14:38:00 3 release. Do you understand that?

14:38:02 4 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:38:02 5 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:38:02 6 THE COURT: Supervised release means you're
14:38:06 7 under the authority and supervision of the U.S. Pretrial
14:38:08 8 Service and Probation Department, that you will have
14:38:12 9 certain conditions, certain requirements that you'll
14:38:14 10 have to follow, that if you fail to comply with all the
14:38:18 11 conditions of supervised release, you can and in all
14:38:22 12 likelihood would be returning to prison. Do you
14:38:24 13 understand that?

14:38:26 14 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:38:28 15 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:38:28 16 THE COURT: And also you could be fined up
14:38:30 17 to \$250,000.

14:38:32 18 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:38:32 19 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:38:34 20 THE COURT: And there's what's called a
14:38:36 21 special assessment of \$100.

14:38:48 22 There's no mandatory minimum penalty?

14:38:50 23 MR. HERDMAN: No, Your Honor, there's not.

14:38:52 24 THE COURT: There's no forfeiture?

14:38:54 25 MR. HERDMAN: No, there's not.

14:38:54 1 THE COURT: There's no restitution?

14:38:56 2 MR. HERDMAN: No.

14:39:02 3 THE COURT: You understand and have your
14:39:04 4 attorneys explained to you that at time of sentencing, I
14:39:08 5 will look to the federal sentencing guidelines when I
14:39:12 6 determine your sentence. Do you understand that?

14:39:16 7 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:39:16 8 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:39:16 9 THE COURT: Do you also understand that
14:39:18 10 pursuant to the terms of the plea agreements as I
14:39:20 11 understand them, you and the government have agreed and
14:39:24 12 if I accept your pleas, I am bound to sentence you
14:39:28 13 within a particular range of months. Do you understand
14:39:32 14 that?

14:39:32 15 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:39:34 16 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:39:34 17 THE COURT: That the government cannot ask
14:39:38 18 that I go outside that range, and neither can you; do
14:39:42 19 you understand that?

14:39:42 20 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:39:44 21 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:39:44 22 THE COURT: You also understand if I accept
14:39:46 23 these agreements that I cannot go outside the range one
14:39:50 24 way or the other? Do you understand that?

14:39:52 25 DEFENDANT ZUBAIR AHMED: Yes, sir.

14:39:52 1 DEFENDANT KHALEEL AHMED: Yes, sir.

14:39:56 2 THE COURT: And that the determination of
14:39:58 3 that range in this case is in accordance with the
14:40:02 4 federal sentencing guidelines. Do you understand that?

14:40:06 5 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:40:06 6 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:40:06 7 THE COURT: Have you had a chance to talk
14:40:08 8 over with your attorneys the general nature of the
14:40:12 9 sentencing guidelines and how they will be operating in
14:40:16 10 your case?

14:40:18 11 DEFENDANT ZUBAIR AHMED: Yes, we did, Your
14:40:18 12 Honor.

14:40:18 13 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:40:28 14 THE COURT: And do you understand that among
14:40:32 15 other provisions in your plea agreement, you have agreed
14:40:36 16 that if -- you have agreed that you will not appeal, nor
14:40:42 17 will you otherwise challenge or attack either your
14:40:46 18 conviction or sentence?

14:40:46 19 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:40:48 20 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:40:48 21 THE COURT: That's provided the sentence
14:40:52 22 that you get is in accordance with what you agreed to in
14:40:58 23 your plea agreement. Do you understand that?

14:41:02 24 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:41:02 25 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:41:12 1 THE COURT: Okay. Is there anything,
14:41:12 2 counsel, that I should ask the defendants further before
14:41:16 3 I find that the defendants are competent to plead, that
14:41:20 4 they are aware of the nature of the charge against them
14:41:24 5 and the consequences of conviction, that they are aware
14:41:28 6 of and understand their fundamental rights and those
14:41:32 7 rights which they are giving up?

14:41:34 8 MR. HERDMAN: Can we approach on that; is it
14:41:38 9 possible?

14:41:52 10 (Discussion had off the record.)

14:44:08 11 THE COURT: Mr. Zubair Ahmed and Mr. Khaleel
14:44:10 12 Ahmed, Mr. Herdman's called my attention to the fact
14:44:16 13 that I did not receive or have filed or have in front of
14:44:22 14 me your waiver of indictment. So to back all the way
14:44:26 15 up, you have been charged by way of a superseding
14:44:32 16 information. An information is a charge made just by
14:44:36 17 the prosecutor's office. You have the absolute right to
14:44:40 18 be charged by way of a grand jury indictment, as you
14:44:46 19 have been previously in this case.

14:44:50 20 Mr. Zubair Ahmed, do you understand you have
14:44:52 21 the right to be charged only by a grand jury indictment
14:44:54 22 if you want?

14:44:56 23 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:44:56 24 THE COURT: And are you willing to proceed
14:45:00 25 on the basis of this superseding information, which is

14:45:02 1 simply a charge made by the prosecutor's office?

14:45:04 2 DEFENDANT ZUBAIR AHMED: Yes, I am, Your
14:45:06 3 Honor.

14:45:06 4 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:45:08 5 THE COURT: You understand your right to a
14:45:10 6 grand jury indictment, Mr. Khaleel Ahmed?

14:45:12 7 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:45:12 8 THE COURT: And you're willing to proceed
14:45:14 9 this afternoon on this superseding information?

14:45:16 10 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:45:18 11 THE COURT: And, Mr. Zubair Ahmed, before
14:45:22 12 deciding to do so, did you have enough opportunity to
14:45:28 13 talk to your counsel, whether to waive your right to
14:45:30 14 indictment?

14:45:30 15 DEFENDANT ZUBAIR AHMED: Yes, I did, Your
14:45:32 16 Honor.

14:45:32 17 THE COURT: Mr. Khaleel Ahmed?

14:45:34 18 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:45:36 19 THE COURT: And is your decision to proceed
14:45:38 20 by way of indictment voluntary? In other words, it's
14:45:40 21 what you want to do?

14:45:42 22 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:45:42 23 THE COURT: Mr. Khaleel Ahmed, it's what you
14:45:44 24 want to do too?

14:45:46 25 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:45:48 1 THE COURT: No threats or promises were made
14:45:48 2 to you except any promises in the plea agreement to
14:45:52 3 cause you to --

14:45:54 4 DEFENDANT ZUBAIR AHMED: None whatsoever,
14:45:56 5 Your Honor.

14:45:56 6 DEFENDANT KHALEEL AHMED: No.

14:45:56 7 THE COURT: Same question to you, Mr.
14:45:58 8 Khaleel Ahmed: Except for the promises made in the plea
14:46:00 9 agreement, were any threats or promises made to you to
14:46:04 10 cause you to waive your right to indictment?

14:46:06 11 DEFENDANT KHALEEL AHMED: No.

14:46:10 12 THE COURT: Do you have the signed copies of
14:46:12 13 the waivers? Just bring them up to be filed. Let me
14:46:18 14 take a look at them, please.

14:46:36 15 I have signed the waivers and dated them
14:46:42 16 today's date. Was there anything else before I proceed
14:46:56 17 to the issue of voluntariness and then determine the --
14:47:06 18 go through the plea agreement, determine the factual
14:47:10 19 basis?

14:47:10 20 MR. HERDMAN: No, Your Honor.

14:47:12 21 THE COURT: Did I miss anything so far?

14:47:16 22 MR. SLADE: I don't think so, Judge.

14:47:18 23 MR. GILBERT: No, Your Honor.

14:47:56 24 THE COURT: Okay. Let me talk first to Mr.
14:47:58 25 Zubair Ahmed. You are here to change your former plea

14:48:10 1 of not guilty and to plead guilty to the charge in the
14:48:14 2 superseding information; is that correct?

14:48:16 3 DEFENDANT ZUBAIR AHMED: Yes, sir.

14:48:18 4 THE COURT: And during the time leading up
14:48:24 5 to this afternoon, I don't want to know what your
14:48:30 6 lawyers said or what you said, but I'm going to ask you
14:48:34 7 generally about the nature of certain discussions.

14:48:36 8 And, counsel, if you think I'm touching upon
14:48:40 9 anything that should be covered by attorney/client
14:48:42 10 privilege, say so.

14:48:44 11 Have you talked over with your attorneys the
14:48:50 12 general issue of whether you should accept this
14:48:52 13 agreement or you should go to trial?

14:48:56 14 DEFENDANT ZUBAIR AHMED: Yes, I did, Your
14:48:56 15 Honor.

14:48:56 16 THE COURT: Are you satisfied that they've
14:48:58 17 given you enough time and attention during those
14:49:00 18 discussions to enable you to make the decision that you
14:49:04 19 want to make and is in your best interest?

14:49:08 20 DEFENDANT ZUBAIR AHMED: I am completely
14:49:10 21 satisfied with counsel, Your Honor.

14:49:12 22 THE COURT: But are you also completely
14:49:14 23 satisfied that this is the best thing for you to do?

14:49:16 24 DEFENDANT ZUBAIR AHMED: Yes, I am, Your
14:49:18 25 Honor.

14:49:18 1 THE COURT: Obviously you wish you weren't
14:49:20 2 here. We all understand that.

14:49:22 3 DEFENDANT ZUBAIR AHMED: Of course, Your
14:49:22 4 Honor.

14:49:22 5 THE COURT: But being here, being charged,
14:49:26 6 and taking into consideration the advice of counsel,
14:49:30 7 this is what you want to do?

14:49:32 8 DEFENDANT ZUBAIR AHMED: Yes, it is, Your
14:49:32 9 Honor.

14:49:32 10 THE COURT: Have you been threatened in any
14:49:34 11 way whatsoever with any kind of harm, physical or
14:49:36 12 otherwise, by the government or anybody else to cause
14:49:40 13 you to decide to plead guilty?

14:49:42 14 DEFENDANT ZUBAIR AHMED: I haven't, Your
14:49:44 15 Honor.

14:49:44 16 THE COURT: Has anybody close to you --
14:49:46 17 family members, relatives, friends -- to your knowledge
14:49:48 18 been threatened or told harm would come to them or to
14:49:52 19 you if you did not plead guilty to this charge?

14:49:54 20 DEFENDANT ZUBAIR AHMED: No, Your Honor.

14:49:56 21 THE COURT: I'll go through the many of the
14:50:00 22 provisions in the plea agreement shortly. Beyond the
14:50:06 23 promises and commitments the government makes in that
14:50:08 24 document, has it or has anybody else promised you
14:50:14 25 anything of any kind whatsoever to cause or to encourage

14:50:18 1 you to plead guilty this afternoon?

14:50:22 2 DEFENDANT ZUBAIR AHMED: No, Your Honor.

14:50:24 3 THE COURT: Is there any way in which your
14:50:26 4 decision to plead guilty is not entirely your decision?
14:50:32 5 Let me rephrase it. I mentioned a while ago that the
14:50:36 6 right to testify is up to you to make. That's your
14:50:40 7 choice. Also in the same way the decision whether to
14:50:46 8 go to trial or to plead guilty is your choice. Your
14:50:50 9 lawyers can't make that for you. Do you understand
14:50:52 10 that?

14:50:52 11 DEFENDANT ZUBAIR AHMED: Yes, I do.

14:50:54 12 THE COURT: They can talk to you. They can
14:50:56 13 encourage you. But at the end when you stand up and
14:50:58 14 when I say, "How do you plead?" and you say, "Guilty,
14:51:02 15 Your Honor," you are the only one who can decide to say
14:51:04 16 guilty. Do you understand that?

14:51:06 17 DEFENDANT ZUBAIR AHMED: I do understand
14:51:08 18 that.

14:51:08 19 THE COURT: So when I ask you, is this your
14:51:12 20 choice and your choice alone, guided by counsel's advice
14:51:18 21 to you --

14:51:18 22 DEFENDANT ZUBAIR AHMED: Yes it is.

14:51:22 23 THE COURT: In every respect possible it is
14:51:24 24 a free and voluntary decision on your part?

14:51:26 25 DEFENDANT ZUBAIR AHMED: It is a voluntary

14:51:28 1 decision.

14:51:28 2 THE COURT: Are you confident that you know
14:51:30 3 what's going on and you know what the options are and
14:51:34 4 possible outcomes might be?

14:51:38 5 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:51:38 6 THE COURT: And you understand that nobody
14:51:40 7 can predict what can happen at a trial if you were to
14:51:46 8 stand trial? You might be found not guilty; you might
14:51:48 9 be found guilty. Who knows? Do you understand that?

14:51:52 10 DEFENDANT ZUBAIR AHMED: I completely
14:51:52 11 understand that, Your Honor.

14:51:56 12 THE COURT: Anything further that I should
14:51:58 13 ask Mr. Zubair Ahmed before finding that the plea he
14:52:02 14 will be offering this afternoon is knowing, intelligent,
14:52:04 15 and voluntary?

14:52:08 16 MR. HERDMAN: No, Your Honor.

14:52:08 17 THE COURT: Counsel.

14:52:10 18 MR. GILBERT: No, Your Honor.

14:52:12 19 THE COURT: Mr. Khaleel Ahmed. You've
14:52:14 20 heard the questions I put to your cousin, Mr. Zubair
14:52:18 21 Ahmed.

14:52:20 22 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:52:20 23 THE COURT: I expect and want to put the
14:52:22 24 same questions to you. If I miss one or more, if I
14:52:26 25 were to ask you the same questions, would your answers

14:52:28 1 be the same as his?

14:52:30 2 DEFENDANT KHALEEL AHMED: They would be the
14:52:32 3 same, Your Honor.

14:52:32 4 THE COURT: In other words, you're doing
14:52:34 5 this because you want to do it, given the options that
14:52:38 6 seem to be before you?

14:52:40 7 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:52:40 8 THE COURT: Nobody ever really wants to
14:52:42 9 plead guilty, obviously, to a serious federal crime, but
14:52:46 10 for you this afternoon of all the options before you,
14:52:52 11 this is the one that you have chosen to take; is that
14:52:56 12 correct?

14:52:56 13 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:52:56 14 THE COURT: And likewise, are you confident
14:52:58 15 that your lawyers have given you both enough time and
14:53:02 16 attention for them to give you advice that is worthwhile
14:53:08 17 and for you to take into consideration?

14:53:10 18 DEFENDANT KHALEEL AHMED: Yes, Your Honor.
14:53:12 19 I'm satisfied.

14:53:12 20 THE COURT: But you also understand that
14:53:14 21 they can't make or cause you to plead guilty? You
14:53:18 22 understand that?

14:53:20 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:53:20 24 THE COURT: They can encourage you; they can
14:53:22 25 advise you. But it is your decision.

14:53:26 1 DEFENDANT KHALEEL AHMED: Yes.

14:53:26 2 THE COURT: You can change it until the time
14:53:28 3 comes to plead. Do you understand that?

14:53:32 4 DEFENDANT KHALEEL AHMED: Yes.

14:53:34 5 THE COURT: Have you been threatened with
14:53:38 6 any kind of harm or injury by anybody from the
14:53:40 7 government or anybody else if you did not plead guilty?

14:53:46 8 DEFENDANT KHALEEL AHMED: No.

14:53:46 9 THE COURT: Pardon?

14:53:48 10 DEFENDANT KHALEEL AHMED: Nobody has
14:53:48 11 threatened me.

14:53:50 12 THE COURT: Likewise, has anybody to your
14:53:52 13 knowledge threatened anybody close to you like a
14:53:54 14 relative or close friend or anybody else with either
14:53:58 15 harm to you or to them if you did not plead guilty?

14:54:02 16 DEFENDANT KHALEEL AHMED: No, sir.

14:54:08 17 THE COURT: Except for the promises made in
14:54:10 18 the plea agreement, has the government or anybody else
14:54:12 19 made you any promises or commitments of any kind
14:54:16 20 whatsoever to cause you to plead guilty?

14:54:20 21 DEFENDANT KHALEEL AHMED: No, Your Honor.

14:54:22 22 THE COURT: So once again, you are satisfied
14:54:24 23 that this is the best thing for you to do?

14:54:28 24 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:54:28 25 THE COURT: And it's what you want to do

14:54:30 1 considering all the options?

14:54:32 2 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:54:36 3 THE COURT: Any further questions of Mr.
14:54:40 4 Khaleel Ahmed before I find he will be offering his plea
14:54:44 5 knowingly, intelligently, and voluntarily?

14:54:46 6 MR. HERDMAN: No, Your Honor.

14:54:50 7 THE COURT: Are you sure?

14:54:54 8 MR. SOFER: Just one moment.

14:55:04 9 MR. HERDMAN: We're fine.

14:55:06 10 THE COURT: Okay.

14:55:10 11 Mr. Zubair Ahmed, have you at some point
14:55:14 12 authorized your attorneys to conduct negotiations with
14:55:18 13 the government to see whether or not the case could be
14:55:22 14 resolved without going to trial on the charges
14:55:24 15 originally brought?

14:55:26 16 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:55:28 17 THE COURT: Do you understand what I'm
14:55:28 18 saying? At some point you say, yeah, go ahead, talk to
14:55:32 19 the government; see how we can do that?

14:55:34 20 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:55:36 21 THE COURT: In other words, you authorized
14:55:36 22 your lawyers to talk with the government lawyers to see
14:55:40 23 if something could be worked out?

14:55:44 24 DEFENDANT ZUBAIR AHMED: Yes, sir.

14:55:44 25 THE COURT: Likewise, Mr. Khaleel Ahmed, did

14:55:46 1 you do the same thing at some point?

14:55:48 2 DEFENDANT KHALEEL AHMED: Yes, sir.

14:55:48 3 THE COURT: Have I at any time whatsoever or
14:55:52 4 in any way whatsoever engaged in any part of
14:55:58 5 negotiations between you and the government?

14:56:00 6 DEFENDANT ZUBAIR AHMED: No, Your Honor.

14:56:02 7 DEFENDANT KHALEEL AHMED: No, Your Honor.

14:56:02 8 THE COURT: Have you ever had the sense or
14:56:04 9 impression, do you now have the sense or impression that
14:56:08 10 I've engaged in any way whatsoever with any negotiations
14:56:12 11 on the part of the government -- between you and the
14:56:16 12 government?

14:56:16 13 DEFENDANT ZUBAIR AHMED: No, Your Honor.

14:56:16 14 DEFENDANT KHALEEL AHMED: No, Your Honor.

14:56:20 15 THE COURT: Do you understand that I truly
14:56:22 16 don't care whether you go to trial or not? That's up
14:56:26 17 to you. Do you understand that?

14:56:28 18 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:56:30 19 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:56:30 20 THE COURT: So you're satisfied I haven't
14:56:32 21 played any role whatsoever in the decision here today?

14:56:36 22 DEFENDANT ZUBAIR AHMED: Yes, I'm satisfied.

14:56:38 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:56:44 24 THE COURT: Counsel would concur, I assume,
14:56:44 25 that I played no role in the negotiations of any kind?

14:56:50 1 THE JUROR: The government concurs.

14:56:52 2 MR. GILBERT: We concur.

14:56:54 3 MR. SLADE: And we concur.

14:57:04 4 THE COURT: Mr. Zubair Ahmed, have you
14:57:06 5 signed the plea agreement?

14:57:08 6 DEFENDANT ZUBAIR AHMED: Yes, I have, Your
14:57:10 7 Honor.

14:57:10 8 THE COURT: Mr. Khaleel Ahmed, have you
14:57:10 9 signed it?

14:57:12 10 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

14:57:12 11 THE COURT: Has the government signed it?

14:57:14 12 MR. HERDMAN: Yes, Your Honor.

14:57:16 13 THE COURT: If you'll bring them up and have
14:57:18 14 them marked as Zubair Ahmed Exhibit 1 and Khaleel Ahmed
14:57:26 15 Exhibit 1.

14:57:26 16 MR. HERDMAN: They're marked A and B for the
14:57:28 17 record.

14:57:30 18 THE CLERK: Zubair Ahmed is A; Khaleel Ahmed
14:57:34 19 is B.

14:57:58 20 THE COURT: I'll ask each of you please to
14:58:00 21 review that document and/or read it as closely as you
14:58:04 22 want to. And then when you are done doing so, I'm
14:58:08 23 going to ask you whether you have done so, if you're
14:58:12 24 familiar with it, if you've been able to talk it over
14:58:14 25 with your attorneys, so forth and so on, and whether

14:58:18 1 that is your signature that appears at the end of the
14:58:24 2 document.

14:59:08 3 (Discussion had off the record.)

14:59:08 4 THE COURT: Mr. Zubair Ahmed, have you
14:59:10 5 looked at the document? What is it marked as?

14:59:14 6 MR. GILBERT: A, Your Honor.

14:59:16 7 THE COURT: Have you looked at what's been
14:59:18 8 marked Exhibit A?

14:59:20 9 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:59:20 10 THE COURT: What do you recognize it to be?

14:59:22 11 DEFENDANT ZUBAIR AHMED: It's a plea
14:59:24 12 agreement, Your Honor.

14:59:24 13 THE COURT: Have you read that agreement?

14:59:26 14 DEFENDANT ZUBAIR AHMED: Yes, I did, Your
14:59:28 15 Honor.

14:59:28 16 THE COURT: Have you talked it over with
14:59:28 17 your attorneys?

14:59:28 18 DEFENDANT ZUBAIR AHMED: Yes, I have.

14:59:30 19 THE COURT: Have they talked it over with
14:59:32 20 you enough to answer any and all questions that you
14:59:34 21 might have about the document?

14:59:36 22 DEFENDANT ZUBAIR AHMED: All questions were
14:59:38 23 answered, Your Honor.

14:59:38 24 THE COURT: About what the document says and
14:59:40 25 what it means?

14:59:42 1 DEFENDANT ZUBAIR AHMED: Yes.

14:59:42 2 THE COURT: Have you also had an opportunity
14:59:44 3 to talk over with them the consequences of your agreeing
14:59:48 4 to and signing that document?

14:59:52 5 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

14:59:52 6 THE COURT: Does that bear your signature?

14:59:54 7 DEFENDANT ZUBAIR AHMED: Yes, it does, Your
14:59:54 8 Honor.

14:59:54 9 THE COURT: When did you sign it?

14:59:56 10 DEFENDANT ZUBAIR AHMED: Today, Your Honor.

14:59:58 11 THE COURT: Okay. The same, Mr. Khaleel
15:00:00 12 Ahmed. Do you recognize what's been marked as Exhibit
15:00:04 13 B?

15:00:04 14 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:00:06 15 THE COURT: What is it?

15:00:06 16 DEFENDANT KHALEEL AHMED: It's the plea
15:00:06 17 agreement.

15:00:06 18 THE COURT: And is that the agreement that
15:00:08 19 you signed and entered into between yourself and the
15:00:12 20 government?

15:00:12 21 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:00:12 22 THE COURT: Does it have your signature on
15:00:14 23 it?

15:00:16 24 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:00:16 25 THE COURT: And have you read it?

15:00:18 1 DEFENDANT KHALEEL AHMED: Yes.

15:00:18 2 THE COURT: Have you gone over it with your
15:00:20 3 attorneys?

15:00:20 4 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:00:22 5 THE COURT: And have they answered each and
15:00:24 6 every question that you might have had about the
15:00:26 7 document?

15:00:28 8 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:00:30 9 THE COURT: About what it says?

15:00:30 10 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:00:30 11 THE COURT: About what it means?

15:00:32 12 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:00:34 13 THE COURT: And the consequences of signing
15:00:36 14 that agreement?

15:00:38 15 DEFENDANT KHALEEL AHMED: Yes.

15:00:46 16 THE COURT: I am going to ask you a couple
15:00:48 17 questions. Maybe if you can follow along.

15:01:38 18 Mr. Zubair Ahmed, I refer you to page 6, the
15:01:46 19 middle of the page. It reads at the end of the line
15:01:56 20 beginning with the word "decrease." At the far end of
15:02:00 21 the line beginning -- I'll begin reading as follows:
15:02:06 22 "The parties each agree to request and recommend a
15:02:08 23 specific sentence between 100 and 125 months, which is
15:02:14 24 within the range determined pursuant to the advisory
15:02:18 25 sentencing guidelines." Do you see that?

15:02:20 1 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:02:20 2 THE COURT: Do you understand that if I
15:02:22 3 accept your plea and the terms and conditions of this
15:02:28 4 agreement, you will be sentenced to somewhere within 100
15:02:32 5 months to 125 months? Do you understand that?

15:02:38 6 DEFENDANT ZUBAIR AHMED: Yes, I do, Your
15:02:38 7 Honor.

15:02:38 8 THE COURT: The sentence won't be greater
15:02:40 9 than 125 months; it won't be less than 100 months. Do
15:02:44 10 you understand that?

15:02:46 11 DEFENDANT ZUBAIR AHMED: I do, Your Honor.

15:02:46 12 THE COURT: You are willing to accept that
15:02:48 13 as the sentence in this case?

15:02:50 14 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:03:00 15 THE COURT: Then Mr. Zubair Ahmed -- excuse
15:03:02 16 me, Khaleel Ahmed, if you'll turn to page 6, about the
15:03:18 17 fourth or fifth line down -- I guess the third line.
15:03:28 18 I'll read following:

15:03:30 19 The parties each agree to request and
15:03:32 20 recommend a specific sentence between 92 and 115 months,
15:03:36 21 which is within the range determined pursuant to the
15:03:40 22 advisory sentencing guidelines.

15:03:44 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:03:44 24 THE COURT: You understand that your
15:03:46 25 sentence, if I accept your plea of guilty and concur in

15:03:50 1 it and in this agreement, your sentence, you'll serve at
15:03:56 2 least 92 months in prison, and perhaps as much as 115
15:03:58 3 months? Do you understand that?

15:04:02 4 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:04:02 5 THE COURT: Let me ask you, Mr. Zubair
15:04:04 6 Ahmed, do you understand that the decision of where
15:04:08 7 within that range your sentence will be is entirely up
15:04:12 8 to me? Do you understand that?

15:04:16 9 DEFENDANT ZUBAIR AHMED: Yes, I do, Your
15:04:16 10 Honor.

15:04:16 11 THE COURT: That before I make that
15:04:18 12 decision, a presentence report will be prepared. You
15:04:22 13 will see that, go over it with your lawyer. You can
15:04:28 14 make any objections, and you can speak on your own
15:04:30 15 behalf before I decide what sentence to impose. Do you
15:04:34 16 understand that?

15:04:34 17 DEFENDANT ZUBAIR AHMED: Yes, I do, Your
15:04:36 18 Honor.

15:04:36 19 THE COURT: Likewise, Mr. Khaleel Ahmed, do
15:04:38 20 you understand where within the range specified in the
15:04:42 21 agreement I impose the sentence is entirely up to me?
15:04:44 22 Do you understand that?

15:04:46 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:04:48 24 THE COURT: No promises have been made to
15:04:50 25 you about what I'm going to do?

15:04:52 1 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:04:52 2 THE COURT: Pardon?

15:04:54 3 DEFENDANT KHALEEL AHMED: No promises have
15:04:54 4 been made.

15:04:54 5 THE COURT: Likewise, Mr. Zubair Ahmed, no
15:04:56 6 one's promised you what I'm going to do or have you
15:05:00 7 tried to predict?

15:05:02 8 DEFENDANT ZUBAIR AHMED: Yes, Your Honor,
15:05:04 9 I'm confident in your decision.

15:05:06 10 THE COURT: Mr. Khaleel Ahmed, are you
15:05:10 11 willing to accept a sentence within that range?

15:05:14 12 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:05:26 13 THE COURT: The government will be
15:05:28 14 dismissing the indictment upon acceptance of the plea;
15:05:32 15 is that correct?

15:05:32 16 MR. HERDMAN: Upon sentencing, Your Honor.

15:05:34 17 THE COURT: You're right. And that's
15:05:36 18 typical, by the way. That's standard.

15:06:12 19 I am now going to -- I'm going to ask the
15:06:16 20 government, if this is agreeable to the parties, to
15:06:18 21 state in summary fashion what it believed the evidence
15:06:24 22 would have shown if this case were to come to trial and
15:06:32 23 that evidence upon which the government believes a
15:06:36 24 conviction could have been obtained. Then I will ask
15:06:40 25 the defendants to listen carefully to that.

15:06:44 1 I will ask them first if that's their
15:06:46 2 understanding of what the evidence might have been;
15:06:50 3 secondly, whether they did those things that the
15:06:54 4 government claims that they did.

15:06:56 5 The purpose of this, Mr. Zubair Ahmed and
15:07:00 6 Mr. Khaleel Ahmed, is to make sure that you did
15:07:02 7 something that violated the law. It's called a factual
15:07:06 8 basis. Even if you plead guilty, if I'm not satisfied
15:07:12 9 that what you did violated the law, I can't accept your
15:07:16 10 plea of guilty. That's how I propose to proceed. Is
15:07:18 11 that agreeable to the government?

15:07:20 12 MR. HERDMAN: Yes, Your Honor.

15:07:22 13 THE COURT: Counsel for Mr. Khaleel Ahmed,
15:07:24 14 is that agreeable?

15:07:24 15 MR. GILBERT: Yes, Judge.

15:07:26 16 MR. SLADE: Yes, Your Honor.

15:07:26 17 THE COURT: So, gentlemen, if you'll listen
15:07:28 18 very carefully.

15:07:32 19 Mr. Herdman, you may proceed.

15:07:34 20 MR. HERDMAN: I would ask to read these
15:07:36 21 separately. The facts are generally the same. This
15:07:40 22 will be directed to Mr. Zubair Ahmed first.

15:07:44 23 Were this case to proceed to trial, Your
15:07:46 24 Honor, the government could have proved beyond a
15:07:48 25 reasonable doubt --

15:07:48 1 THE COURT: A little more slowly.

15:07:50 2 MR. HERDMAN: Would this case have proceeded
15:07:52 3 to trial, the government could have proven beyond a
15:07:54 4 reasonable doubt that the defendant, Zubair Ahmed,
15:07:58 5 conspired along with others, including Khaleel Ahmed, to
15:08:02 6 provide material support and resources, including but
15:08:04 7 not limited to himself as personnel, knowing and
15:08:10 8 intending that the material support and resources were
15:08:12 9 to be used in preparation for and in carrying out a
15:08:16 10 violation of Title 18, United States Code, Section 956,
15:08:22 11 conspiracy to kill and maim individuals outside the
15:08:26 12 United States, including members of the U.S. military
15:08:30 13 serving in Iraq and Afghanistan.

15:08:32 14 As overt acts in furtherance of this
15:08:34 15 conspiracy, at a date unknown, but no later than April
15:08:38 16 1, 2004, defendant Zubair Ahmed and others, including
15:08:44 17 Khaleel Ahmed, made preparations to travel overseas in
15:08:48 18 order to engage in acts which would result in the murder
15:08:52 19 or maiming of U.S. military forces in either Iraq or
15:08:56 20 Afghanistan.

15:08:58 21 On or about May 21, 2004, the defendant,
15:09:02 22 Zubair Ahmed, and others, including Khaleel Ahmed, did,
15:09:06 23 in fact, travel to Cairo, Egypt with the intent of
15:09:10 24 engaging in acts which would result in the murder or
15:09:12 25 maiming of U.S. military forces in Iraq or Afghanistan.

15:09:18 1 On or about July 4, 2004, the defendant,
15:09:22 2 Zubair Ahmed, discussed, sought, and received
15:09:24 3 instruction from another individual in Cleveland, Ohio
15:09:28 4 on the topic of firearms. Specifically, the defendant
15:09:32 5 discussed his desire to learn how to use and move a .50
15:09:36 6 caliber machine gun. On the same date, defendant
15:09:40 7 Zubair Ahmed also sought and discussed instruction from
15:09:44 8 the same individual on the topics of
15:09:48 9 counter-surveillance techniques and sniper rifles.

15:09:52 10 From a date unknown but no later than
15:09:54 11 January 1, 2004, the defendant, Zubair Ahmed, and
15:09:58 12 others, including Khaleel Ahmed, communicated using code
15:10:02 13 words and spoke in a foreign language in order to
15:10:06 14 discuss the preparations and plans to engage in acts
15:10:08 15 outside the United States which would result in the
15:10:12 16 murder or maiming of U.S. military forces in Iraq or
15:10:18 17 Afghanistan.

15:10:18 18 From a date unknown but no later than July
15:10:20 19 4, 2004, the defendant, Zubair Ahmed, and others,
15:10:24 20 including Khaleel Ahmed, researched the purchase of
15:10:28 21 firearms, methods of obtaining firearms instruction,
15:10:32 22 including at least one visit to a firing range, and
15:10:36 23 methods of obtaining instruction in gunsmithing.

15:10:40 24 And from a date unknown, but no later than
15:10:42 25 July 4, 2004, the defendant, Zubair Ahmed, and others,

15:10:46 1 including Khaleel Ahmed, acquired, collected, and
15:10:50 2 distributed materials including videos of attacks on
15:10:54 3 U.S. military forces in Iraq and Afghanistan, manuals on
15:10:58 4 military tactics, and military manuals on weaponry.

15:11:02 5 That's with respect to Zubair Ahmed.

15:11:08 6 THE COURT: Okay. Did you hear what Mr.
15:11:12 7 Herdman just recited from the plea agreement --

15:11:16 8 DEFENDANT ZUBAIR AHMED: Yes, I did.

15:11:16 9 THE COURT: -- and the information? Is what
15:11:24 10 he said about what you did accurate?

15:11:28 11 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:11:30 12 THE COURT: And did you do it with the
15:11:32 13 intent to engage in hostile or violent activities
15:11:38 14 overseas?

15:11:40 15 DEFENDANT ZUBAIR AHMED: Yes, I did, Your
15:11:42 16 Honor.

15:11:42 17 THE COURT: With the intent to do so against
15:11:44 18 U.S. military personnel in either Iraq or Afghanistan?

15:11:48 19 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:11:50 20 THE COURT: Was it your intent to
15:11:52 21 participate in the insurgency in Iraq or in similar
15:11:56 22 activities in Afghanistan?

15:11:58 23 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:11:58 24 THE COURT: Was it your intent, if you had
15:12:00 25 the opportunity to do so, to engage in an armed conflict

15:12:04 1 with the U.S. military personnel in either Iraq or
15:12:08 2 Afghanistan?

15:12:10 3 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:12:12 4 THE COURT: And you took a trip to Egypt; is
15:12:16 5 that correct?

15:12:16 6 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:12:16 7 THE COURT: When was that again? Was that
15:12:18 8 May?

15:12:20 9 DEFENDANT ZUBAIR AHMED: 2004. May, 2004.

15:12:22 10 THE COURT: And your cousin Khaleel took
15:12:24 11 that trip with you?

15:12:26 12 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:12:26 13 THE COURT: Why did you take that trip?

15:12:34 14 DEFENDANT ZUBAIR AHMED: To join the
15:12:34 15 conspiracy in either Iraq or Afghanistan.

15:12:40 16 THE COURT: Did you make Khaleel aware of
15:12:42 17 that's why you were taking that trip?

15:12:44 18 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:12:44 19 THE COURT: Was it your understanding at the
15:12:46 20 time that that's why he was accompanying you?

15:12:50 21 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:12:50 22 THE COURT: Then you were intercepted by Mr.
15:12:52 23 El-Hindi; is that correct?

15:12:54 24 DEFENDANT ZUBAIR AHMED: And my father.

15:12:56 25 THE COURT: And your father. That's right.

15:12:58 1 And you returned home to Chicago?

15:13:00 2 DEFENDANT ZUBAIR AHMED: Yes.

15:13:00 3 THE COURT: And a few weeks later you went
15:13:02 4 to Cleveland; is that correct --

15:13:04 5 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:13:04 6 THE COURT: -- for that conference that
15:13:06 7 weekend? And did you go there because you'd been in
15:13:12 8 contact with Mr. El-Hindi or he with you? Is that how
15:13:18 9 you happened to wind up going over there? How did that
15:13:22 10 come about?

15:13:24 11 MS. WHITAKER: Your Honor, are you referring
15:13:26 12 to Egypt or --

15:13:26 13 THE COURT: Cleveland.

15:13:32 14 DEFENDANT ZUBAIR AHMED: I went to hang out
15:13:38 15 brochures for a medical school with Mr. El-Hindi.

15:13:44 16 THE COURT: But during the course of that
15:13:46 17 meeting you had conversations with him or others who
15:13:50 18 were there about the possibility of engaging, becoming
15:13:54 19 trained to prepare to engage in armed combat against
15:14:00 20 U.S. military personnel in Iraq or Afghanistan; is that
15:14:06 21 correct? And if I'm misstating it, that's fine;
15:14:08 22 correct me. Don't just agree with what I'm saying.

15:14:14 23 DEFENDANT ZUBAIR AHMED: I had conversations
15:14:16 24 about being trained to use firearms. I had conversation
15:14:28 25 with certain individuals regarding the use of firearms

15:14:30 1 and counter-surveillance measures.

15:14:36 2 THE COURT: Did you want to do that in whole
15:14:38 3 or part so that you could be prepared to travel to Iraq
15:14:42 4 or Afghanistan and engage in armed combat with U.S.
15:14:48 5 military personnel?

15:14:48 6 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:14:50 7 THE COURT: That's why you wanted to get
15:14:52 8 that training?

15:14:52 9 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:15:04 10 THE COURT: Were you aware at the time that
15:15:08 11 you travelled to Egypt it might have been a violation of
15:15:14 12 American law for you to take that trip with the purpose
15:15:18 13 with which you took it?

15:15:24 14 MR. GILBERT: You're asking him whether he
15:15:26 15 was aware then or now?

15:15:28 16 THE COURT: Then. Let me rephrase it. At
15:15:36 17 the time you took the trip to Egypt, did you know that
15:15:40 18 undertaking to kill or maim American soldiers was a
15:15:46 19 violation of U.S. law?

15:15:48 20 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:15:48 21 THE COURT: And you're aware of that today?

15:15:50 22 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:15:52 23 THE COURT: And likewise, when or after you
15:15:56 24 were talking about getting the firearms and other
15:16:00 25 training during or after the trip to Cleveland, were you

15:16:06 1 aware that getting that kind of training with the
15:16:10 2 purpose ultimately of going to Iraq or Afghanistan and
15:16:16 3 engaging in armed combat with U.S. military personnel
15:16:22 4 violated U.S. law?

15:16:24 5 DEFENDANT ZUBAIR AHMED: Yes, sir.

15:16:32 6 THE COURT: And was it your ultimate overall
15:16:34 7 purpose to provide support to those who were fighting
15:16:42 8 against American military personnel in either Iraq or
15:16:46 9 Afghanistan?

15:16:48 10 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:16:56 11 THE COURT: And in furtherance of that
15:16:58 12 purpose mainly to engage in armed combat against
15:17:02 13 American military personnel in either of those
15:17:06 14 countries, did you acquire and distribute videos and
15:17:10 15 other materials that might have been useful to you in
15:17:14 16 learning how to do those things?

15:17:36 17 Let me ask you this, if I may: At some
15:17:44 18 point before July 4 of 2004, did you watch videos that
15:17:54 19 you thought would be useful to you to help you prepare
15:17:58 20 for your trip to Iraq or Afghanistan?

15:18:04 21 DEFENDANT ZUBAIR AHMED: I thought it was
15:18:06 22 educational, Your Honor, but not useful.

15:18:10 23 THE COURT: Okay. What were some of the
15:18:10 24 videos, if you can remember? What did you show?

15:18:16 25 DEFENDANT ZUBAIR AHMED: They were videos of

15:18:18 1 mortar attacks, IED roadside -- detonated roadside
15:18:26 2 bombs, of that nature.

15:18:28 3 THE COURT: Were those attacks against
15:18:30 4 American military personnel so far as you could tell?

15:18:32 5 DEFENDANT ZUBAIR AHMED: Yes, Your Honor,
15:18:34 6 but not only military personnel.

15:18:38 7 THE COURT: Were they videos of what you
15:18:44 8 would understand would commonly be understood as
15:18:46 9 terroristic acts? Were they terroristic acts?

15:18:56 10 MR. GILBERT: Your Honor, that takes -- it
15:18:58 11 takes it to a level that it may get into semantics.

15:19:02 12 THE COURT: No problem. You can ignore
15:19:04 13 that question.

15:19:08 14 MS. WHITAKER: I think he can respond, Your
15:19:10 15 Honor.

15:19:10 16 THE COURT: There's been an objection.
15:19:12 17 That's fine. Let me ask government counsel that in
15:19:18 18 addition to my consideration of the matters set out in
15:19:22 19 the plea agreement, which generally the government
15:19:26 20 summarized, in view of my conversation with Mr. Zubair
15:19:34 21 Ahmed to further develop some of that information, is
15:19:36 22 there anything further that the government --

15:19:46 23 That's okay. The record should show that
15:19:48 24 Mr. Zubair Ahmed was consulting with counsel. I'll
15:19:52 25 start that over. Consult as much as you want.

15:19:54 1 DEFENDANT ZUBAIR AHMED: We're done now,
15:19:56 2 Your Honor.

15:19:58 3 THE COURT: I'm asking the government
15:20:00 4 whether there's an adequate factual basis for me to find
15:20:04 5 defendants did -- the defendant Zubair Ahmed committed
15:20:08 6 the crime with which he is charged and to which it's
15:20:10 7 anticipated he will plead guilty.

15:20:12 8 MR. HERDMAN: Yes, Your Honor, the
15:20:14 9 government believes so.

15:20:14 10 THE COURT: There will be that finding on
15:20:16 11 the basis of what is recited in the plea agreement with
15:20:20 12 regard to the defendant's activities, on the basis as
15:20:24 13 well as the presentation of Mr. Herdman, and the basis
15:20:28 14 as well of my colloquy with the defendant.

15:20:40 15 So, Mr. Zubair Ahmed -- first let me say
15:20:42 16 again, to repeat, I believe that the defendant's
15:20:44 17 competent to plead, to offer a plea of guilty, that he
15:20:48 18 understands his rights and consequences of his plea, and
15:20:52 19 I have no doubt that his plea is a voluntary decision on
15:20:56 20 his part being entered into knowingly and intelligently.
15:21:02 21 I believe the defendant is aware of the rights that
15:21:04 22 he'll be giving up by pleading guilty. I believe there
15:21:06 23 is an adequate factual basis for him to plead guilty and
15:21:10 24 upon which to base a finding of guilty if, in fact, he
15:21:12 25 is guilty.

15:21:14 1 So, Mr. Zubair Ahmed, I would ask you to
15:21:16 2 stand and tell me what your plea is.

15:21:20 3 DEFENDANT ZUBAIR AHMED: I plead guilty,
15:21:22 4 Your Honor.

15:21:22 5 THE COURT: Okay. Thank you.

15:21:24 6 In light of the plea of guilty, in light of
15:21:30 7 my previous findings, there will be a finding of guilty,
15:21:32 8 and the defendant will be referred for sentencing, which
15:21:36 9 I will discuss that process shortly.

15:21:38 10 Mr. Khaleel Ahmed, have you listened to what
15:21:44 11 Mr. Herdman had to say and -- well, first of all, you
15:21:48 12 have read the plea agreement with regard to what it says
15:21:54 13 about what you did; is that correct?

15:21:56 14 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:21:58 15 THE COURT: And you concur in the statement
15:22:00 16 in that agreement?

15:22:02 17 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:22:02 18 THE COURT: Do you agree with it? And did
15:22:06 19 you hear what Mr. Herdman said with regard to Zubair
15:22:08 20 Ahmed and what I said with regard to your cousin's
15:22:14 21 activities?

15:22:14 22 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:22:16 23 THE COURT: Mr. Herdman, if you can state
15:22:22 24 what the government, according to your understanding,
15:22:24 25 would prove had the case or were the case to go to

15:22:30 1 trial.

15:22:30 2 MR. HERDMAN: With respect to defendant
15:22:32 3 Khaleel Ahmed, Your Honor, were this case to have
15:22:36 4 proceeded to trial, the government could have proven
15:22:38 5 beyond a reasonable doubt that the defendant, Khaleel
15:22:42 6 Ahmed, conspired along with others, including Zubair
15:22:46 7 Ahmed, to provide material support and resources,
15:22:50 8 including but not limited to himself as personnel,
15:22:54 9 knowing and intending material support and resources
15:22:58 10 were to be used in preparation for and in carrying out a
15:23:02 11 violation of Title 18, United States Code, Section 956,
15:23:08 12 conspiracy to kill and maim individuals outside the
15:23:10 13 United States, including members of the U.S. military
15:23:14 14 serving in Iraq and Afghanistan.

15:23:16 15 As overt acts in furtherance of this
15:23:20 16 conspiracy, at a date unknown, but no later than April
15:23:24 17 1, 2004, Defendant Khaleel Ahmed and others, including
15:23:28 18 Zubair Ahmed, made preparations to travel overseas in
15:23:32 19 order to engage in acts which would result in the murder
15:23:36 20 or maiming of U.S. military forces in either Iraq or
15:23:38 21 Afghanistan.

15:23:40 22 On or about May 21, 2004, the defendant,
15:23:44 23 Khaleel Ahmed, and others, including Zubair Ahmed, did,
15:23:48 24 in fact, travel to Cairo, Egypt with the intent of
15:23:52 25 engaging in acts which would result in the murder or

15:23:54 1 maiming of U.S. military forces in Iraq or Afghanistan.

15:24:00 2 On or about July 4, 2004, the defendant,
15:24:04 3 Khaleel Ahmed, discussed, sought, and received
15:24:06 4 instruction from another individual in Cleveland, Ohio
15:24:10 5 on the topic of firearms. On the same date the
15:24:14 6 defendant, Khaleel Ahmed, also sought and discussed
15:24:16 7 instruction from the same individual on the topics of
15:24:20 8 counter-surveillance techniques and sniper rifles.

15:24:24 9 From a date unknown, but no later than
15:24:26 10 January 1, 2004, the defendant, Khaleel Ahmed, and
15:24:30 11 others, including Zubair Ahmed, communicated using code
15:24:34 12 words and spoke in a foreign language in order to
15:24:38 13 disguise their preparations and plans to engage in acts
15:24:42 14 outside the United States which would result in the
15:24:44 15 murder or maiming of U.S. military forces in Iraq and
15:24:48 16 Afghanistan.

15:24:50 17 From a date unknown but no later than July
15:24:52 18 4, 2004, the defendant, Khaleel Ahmed, and others,
15:24:56 19 including Zubair Ahmed, researched the purchase of
15:25:00 20 firearms, methods of obtaining firearms instruction,
15:25:04 21 including at least one visit to a firing range, and
15:25:08 22 methods of obtaining instructions in gunsmithing.

15:25:12 23 From a date unknown but no later than July
15:25:16 24 4, 2004, the defendant and others, including Zubair
15:25:18 25 Ahmed, acquired and collected materials, including

15:25:20 1 videos of attacks on U.S. military forces in Iraq and
15:25:24 2 Afghanistan, manuals on military tactics and military
15:25:28 3 manuals on weaponry.

15:25:30 4 That's with respect to Khaleel Ahmed, Your
15:25:34 5 Honor.

15:25:34 6 THE COURT: Mr. Khaleel Ahmed, did you hear
15:25:36 7 what Mr. Herdman just recited?

15:25:40 8 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:25:42 9 THE COURT: Is that accurate and correct?

15:25:44 10 DEFENDANT KHALEEL AHMED: Yes, it's correct.

15:25:44 11 THE COURT: Did you do those things?

15:25:46 12 DEFENDANT KHALEEL AHMED: Yes, I did, Your
15:25:48 13 Honor.

15:25:48 14 THE COURT: And did you do those things in
15:25:50 15 whole or in part with the intent of going to either Iraq
15:25:54 16 or Afghanistan and engaging in combat against American
15:25:58 17 military personnel?

15:26:00 18 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:26:04 19 THE COURT: Were you aware at the time that
15:26:06 20 if you were to take that trip or do those things in
15:26:12 21 preparation for that purpose that you'd be violating
15:26:14 22 American law?

15:26:16 23 DEFENDANT KHALEEL AHMED: Yes, I knew this.

15:26:18 24 THE COURT: Nonetheless, it was your intent
15:26:20 25 to prepare yourself to be able to engage in armed

15:26:26 1 conflict against American military personnel in Iraq or
15:26:30 2 Afghanistan?

15:26:32 3 DEFENDANT KHALEEL AHMED: That's correct.

15:26:32 4 THE COURT: And is that why you took the
15:26:36 5 trip to Egypt --

15:26:38 6 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:26:38 7 THE COURT: -- until you were intercepted by
15:26:40 8 your uncle and Mr. El-Hindi?

15:26:42 9 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:26:44 10 THE COURT: And did you express that intent
15:26:50 11 and purpose to your cousin Zubair before or during the
15:26:54 12 trip?

15:26:56 13 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:26:56 14 THE COURT: So far as you were aware, he
15:27:00 15 knew why you were taking that trip with him was
15:27:02 16 ultimately to find your way to either Iraq or
15:27:04 17 Afghanistan and, if possible, to engage in armed
15:27:08 18 conflict against American military personnel; is that
15:27:14 19 correct?

15:27:14 20 DEFENDANT KHALEEL AHMED: That's correct.

15:27:16 21 THE COURT: With the intent or consequence
15:27:18 22 of killing or maiming?

15:27:20 23 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:27:24 24 THE COURT: While you were in Cleveland a
15:27:26 25 few weeks later, did you have conversations with various

15:27:32 1 people, including perhaps Mr. El-Hindi or Darren Griffin
15:27:38 2 or others, with regard to doing things that would help
15:27:44 3 prepare you to return to the Middle East, either Iraq or
15:27:48 4 Afghanistan, and engage in the same sorts of activities?

15:27:54 5 DEFENDANT KHALEEL AHMED: Yes, we had those
15:27:54 6 discussions.

15:27:56 7 THE COURT: Did you know at the time you had
15:27:58 8 those discussions or were thinking about doing those
15:28:00 9 things that doing those things, in other words,
15:28:02 10 preparing yourself and putting yourself in a position
15:28:06 11 where you would be able, if you're able to get to Iraq
15:28:12 12 or Afghanistan, to engage in armed conflict with
15:28:16 13 American soldiers, that all of that would be in
15:28:18 14 violation of American law?

15:28:20 15 DEFENDANT KHALEEL AHMED: Yes, I was aware,
15:28:26 16 sir.

15:28:26 17 THE COURT: Did you purchase a firearm at
15:28:28 18 some point?

15:28:30 19 DEFENDANT KHALEEL AHMED: No, Your Honor.

15:28:30 20 THE COURT: You did not?

15:28:32 21 MR. HERDMAN: That's correct, Your Honor.

15:28:32 22 THE COURT: Okay. Did you go to the firing
15:28:40 23 range at some point?

15:28:40 24 DEFENDANT KHALEEL AHMED: I'm sorry?

15:28:42 25 THE COURT: Did you go to a firing range at

15:28:44 1 some point?

15:28:44 2 DEFENDANT KHALEEL AHMED: Yes, I did.

15:28:46 3 THE COURT: Why did you do that?

15:28:48 4 (Discussion had off the record.)

15:29:04 5 DEFENDANT KHALEEL AHMED: Your Honor, it was
15:29:04 6 for training purposes.

15:29:06 7 THE COURT: By "training" you mean to
15:29:08 8 prepare yourself to be able to engage in armed conflict
15:29:14 9 upon returning to -- upon going to either Iraq or
15:29:18 10 Afghanistan?

15:29:20 11 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:29:42 12 MR. SLADE: Your Honor, can you give us a
15:29:44 13 second?

15:29:44 14 THE COURT: Sure.

15:29:46 15 (Discussion had off the record.)

15:30:34 16 THE COURT: Okay. Let me ask the government
15:30:36 17 and Mr. Khaleel Ahmed's attorneys, is there anything
15:30:40 18 further that I should or need to ask before determining,
15:30:44 19 in light of the statements contained in the plea
15:30:50 20 agreement, the recitation by Mr. Herdman, and my
15:30:52 21 colloquy with Mr. Khaleel Ahmed, that there is an
15:30:56 22 adequate factual basis upon which to determine that he,
15:30:58 23 in fact, committed the offense to which he's pleading
15:31:02 24 guilty?

15:31:02 25 MR. HERDMAN: The government is satisfied

15:31:02 1 with the factual basis.

15:31:04 2 THE COURT: Counsel?

15:31:06 3 MR. SLADE: Nothing from us, Judge.

15:31:08 4 THE COURT: There will be a finding there is
15:31:10 5 an adequate factual basis for a plea of guilty and that
15:31:14 6 the plea will be offered knowingly, intelligently, and
15:31:16 7 voluntarily, and with the full understanding of the
15:31:20 8 nature of the offense to which the plea is being offered
15:31:24 9 and the consequences of conviction, and the defendant is
15:31:28 10 competent to offer a plea.

15:31:28 11 So now I ask Mr. Khaleel Ahmed, what is your
15:31:32 12 plea to the superseding information?

15:31:34 13 DEFENDANT KHALEEL AHMED: I plead guilty.

15:31:36 14 THE COURT: There will be a finding of
15:31:38 15 guilty based upon the findings just recited, and the
15:31:46 16 defendant's plea, which again I find to be knowing,
15:31:48 17 intelligent, and voluntary.

15:31:50 18 There were a couple of things that I just
15:31:54 19 want to confirm that you were aware of before you
15:31:56 20 entered your plea of guilty. I believe I alluded to
15:32:00 21 this earlier, but just to confirm.

15:32:02 22 Mr. Zubair Ahmed, do you understand that you
15:32:06 23 cannot appeal anything to do with these proceedings or
15:32:10 24 otherwise challenge them in this court or any other
15:32:14 25 court except if I gave you a sentence that was greater

15:32:20 1 than 15 years? Number one, do you understand that?

15:32:24 2 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:32:24 3 THE COURT: And that the only other basis on
15:32:26 4 which you can appeal is if I gave you a sentence that
15:32:30 5 was greater than the guideline range recited in your
15:32:34 6 agreement?

15:32:36 7 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:32:36 8 THE COURT: Otherwise you understand there
15:32:40 9 are -- you're giving up any and all rights that you
15:32:44 10 might otherwise have to challenge any aspect of these
15:32:46 11 proceedings? Do you understand that?

15:32:48 12 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:32:50 13 THE COURT: You understood that at the time
15:32:50 14 you entered your plea a few minutes ago?

15:32:54 15 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:33:00 16 THE COURT: Do you also understand that as
15:33:02 17 provided in paragraph 23 that the agreement you've
15:33:12 18 reached and the plea of guilty has no effect on other
15:33:18 19 jurisdictions that might want to bring charges against
15:33:22 20 you? Do you understand that?

15:33:26 21 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:33:34 22 THE COURT: Mr. Khaleel Ahmed, did you hear
15:33:36 23 what I just asked your cousin about waiving any and all
15:33:42 24 rights to appeal or otherwise to challenge in this or
15:33:46 25 any other court any aspect of these proceedings except

15:33:50 1 with regard to sentencing? Did you hear what I just
15:33:54 2 asked him?

15:33:54 3 DEFENDANT KHALEEL AHMED: Yes, sir.

15:33:54 4 THE COURT: Do you have that same
15:33:56 5 understanding?

15:33:56 6 DEFENDANT KHALEEL AHMED: Yes, I do.

15:33:58 7 THE COURT: In other words, the only
15:34:00 8 challenge or appeal that you can make or take here or
15:34:02 9 anywhere else is if I give you more than 15 years as a
15:34:06 10 sentence, or even if I go above the maximum end of the
15:34:14 11 guideline range recited in your agreement. Do you
15:34:16 12 understand that?

15:34:18 13 DEFENDANT KHALEEL AHMED: I understand.

15:34:18 14 THE COURT: Did you understand that when you
15:34:20 15 were offering your plea a couple minutes ago?

15:34:24 16 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:34:26 17 THE COURT: Likewise, did you -- do you
15:34:28 18 understand and did you understand then that the
15:34:36 19 government's agreement is limited to the United States
15:34:42 20 Attorney's Office in the Northern District of Ohio, and
15:34:48 21 is not binding on any other jurisdiction, state or
15:34:52 22 federal? Do you understand that?

15:34:54 23 MR. SLADE: Your Honor, it's also binding on
15:34:56 24 the counter-terrorism section of the Department of
15:35:02 25 Justice.

15:35:02 1 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:35:02 2 THE COURT: You understood that when you
15:35:04 3 were entering the plea?

15:35:04 4 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:35:04 5 THE COURT: Is there anything further?

15:35:08 6 I'll talk about the presentence report and so forth, but
15:35:12 7 with regard to the offering of a guilty plea and finding
15:35:20 8 of guilt?

15:35:20 9 Amy, if you'll give me the originals, I will
15:35:24 10 approve the agreements.

15:35:30 11 Anything else?

15:35:30 12 MR. HERDMAN: We did have one issue to
15:35:30 13 discuss at sidebar. I don't know if you want to do
15:35:34 14 that now.

15:35:38 15 THE COURT: Why don't you come on up now.

15:36:08 16 (Discussion had off the record.)

15:40:46 17 THE COURT: Counsel, I think it's
15:40:48 18 appropriate to indicate that the plea agreements are
15:40:50 19 under seal.

15:40:54 20 Let me speak with the defendants in terms of
15:40:56 21 what will happen next. I assume that your attorneys
15:41:00 22 have indicated to you the next step of the proceedings
15:41:04 23 is to prepare for sentencing. That begins with a
15:41:08 24 meeting with the United States Pretrial Service and
15:41:10 25 Probation Office, which will conduct one or more

15:41:16 1 interviews of you looking to determine as much as can be
15:41:22 2 learned that's pertinent about you and your background,
15:41:26 3 your education, employment record, your family
15:41:28 4 circumstances, and so forth, prior criminal record if
15:41:32 5 any, though it's my understanding that neither of you
15:41:36 6 has a prior criminal record; is that correct?

15:41:38 7 DEFENDANT ZUBAIR AHMED: Yes, Your Honor.

15:41:38 8 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:41:40 9 THE COURT: You have the absolute right to
15:41:42 10 have your lawyer with you during that interview, and I
15:41:44 11 would encourage you to have your lawyer in attendance
15:41:46 12 with you. Counsel, of course, will continue to be
15:41:50 13 compensated throughout the balance of these proceedings
15:41:52 14 without cost to yourself.

15:41:58 15 Thereafter a presentence report will be
15:42:00 16 prepared and submitted to you and the government
15:42:02 17 lawyers. Your lawyers can go over that report with
15:42:06 18 you. You'll have the right to call to their attention,
15:42:10 19 they in turn will call it to my attention, anything
15:42:12 20 that's erroneous or a misstate or wrong in that report.
15:42:18 21 If you and the government disagree about the accuracy of
15:42:20 22 something that's contained in the report, then at time
15:42:24 23 of sentencing we'll hold a hearing on that, and I'll
15:42:26 24 make my mind up as to which version to accepted or agree
15:42:32 25 with, or I will simply say, look, I'm not going to pay

15:42:36 1 any attention to that at time of sentencing.

15:42:42 2 Thereafter you'll be notified of when to
15:42:46 3 appear for sentencing.

15:42:46 4 Anything further from the government?

15:42:48 5 MR. HERDMAN: Your Honor, the government at
15:42:50 6 this time would move for remand of the defendants based
15:42:52 7 on arguments and representations we've made at prior
15:42:58 8 detention hearings and their convictions.

15:43:00 9 THE COURT: They've appeared for all
15:43:02 10 proceedings; they appeared today. I think there's
15:43:04 11 every indication they will appear at time of sentencing,
15:43:08 12 and I believe that the conditions previously imposed
15:43:10 13 have shown themselves to be sufficient to insure their
15:43:14 14 appearance, and the government's request will be
15:43:16 15 overruled. The same conditions of release will be
15:43:20 16 continued.

15:43:20 17 Do you understand that, Mr. Zubair Ahmed?

15:43:24 18 DEFENDANT ZUBAIR AHMED: Yes, I do.

15:43:24 19 THE COURT: All the conditions you've had
15:43:26 20 since you were released, unless they've been amended, I
15:43:30 21 just can't recall, but as they are today remain in
15:43:32 22 effect.

15:43:32 23 Mr. Khaleel Ahmed, you understand that?

15:43:36 24 DEFENDANT KHALEEL AHMED: Yes, Your Honor.

15:43:36 25 THE COURT: Anything further from the

15:43:36 1 government?

15:43:38 2 MR. HERDMAN: Your Honor, I apologize. If we
15:43:38 3 could just approach one more time briefly with counsel.

15:44:04 4 (Discussion had off the record.)

15:48:06 5 THE COURT: Anything further from the
15:48:06 6 government?

15:48:06 7 MR. HERDMAN: No, Your Honor.

15:48:10 8 THE COURT: Counsel for Zubair Ahmed,
15:48:12 9 anything further?

15:48:14 10 MR. SLADE: Nothing further, Your Honor.

15:48:14 11 THE COURT: For Khaleel Ahmed?

15:48:16 12 MR. GILBERT: Nothing further from us, Your
15:48:18 13 Honor.

15:48:18 14 THE COURT: If you want to come back while I
15:48:20 15 make that other call, you're welcome to do so. Okay.
15:48:26 16 That will conclude this proceeding.

17 - - -

18 C E R T I F I C A T E

19

20 I certify that the foregoing is a correct transcript
21 from the record of proceedings in the above-entitled
22 matter.

23

24 /s Tracy L. Spore_____

25 Tracy L. Spore, RMR, CRR

Date