

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
. Docket No. CR-91-504

vs.

ZAYAD AL SAFARINI,
. Washington, D.C.
Defendant. . Thursday, May 13, 2004
. 10:15 a.m.

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TRANSCRIPT OF A SENTENCING
BEFORE THE HONORABLE EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by machine shorthand, transcript produced
by computer-aided transcription.

1 PROCEEDINGS

2 THE CLERK: Criminal Case 91-504, United States

3 versus Zayad Al Safarini.

4 Would Counsel please identify yourselves for the

5 record.

6 MR. MAISEL: Good morning, Your Honor. Gregg Maisel

7 on behalf of the United States Attorney's Office. With me at

8 counsel table is Jennifer Levy from the Department of Justice.

9 Also joining us are special agent Gregory Naples and paralegal

10 Eugene Lee.

11 THE COURT: Good morning.

12 MR. TUCKER: Good morning, Your Honor, and good

13 morning to everyone.

14 Bob Tucker joined by Mr. Bruck on behalf of

15 Mr. Safarini.

16 MR. BRUCK: Good morning, Your Honor.

17 THE COURT: I want to recognize the probation officer

18 who I forgot to recognize yesterday, Ms. Sharon McCoy.

19 Good morning.

20 All right. Let's proceed.

21 MR. MAISEL: Thank you, Your Honor. We're continuing

22 this morning with statements from the victims. Our first

23 speaker this morning is Preeti Bhuvra, who was a child passenger

24 traveling on the plane unaccompanied by any adult.

1 MS. PREETI BHUVA: Good morning.

2 THE COURT: How are you?

3 MS. PREETI BHUVA: Good. How are you?

4 THE COURT: Fine.

5 MS. PREETI BHUVA: I, Preeti Bhuva, was 11 years old
6 when I boarded Pan American World Flight 73 as an unaccompanied
7 minor. I was returning to go back home to spend the sixth
8 grade after spending the summer in Bombay, India. After the
9 plane landed in Karachi, Pakistan, I was talking to an off duty
10 flight attendant, Massey Casper. While we were talking,
11 another flight attendant informed me of the hijacking. Then
12 hijackers came storming down the aisle demanding passengers to
13 put their hands up.

14 Soon after, when passports were being collected,
15 Massey told the flight attendant not to collect mine. I didn't
16 realize at the time that the flight attendants were saving my
17 life, as I had a U.S. passport.

18 During the hijacking, I remember my family and
19 wondered if I would ever see them again. The thought of this
20 made me break down and cry. As the lights went out at night,
21 the hijackers were planning for attack. I knew I had to be
22 brave and face whatever the outcome.

23 One of the hijackers was right behind me winding a

24 key to a grenade. As the hijacker got ready to throw the

25 grenade, I looked at the floor ready to die. When the hijacker

1 threw the grenade, I expected the plane, along with myself, to
2 explode. I was surprised to still be alive after I saw the
3 grenade thrown. Then shooting from machine guns started and I
4 could see and smell the gunfire. I remember passengers
5 screaming. Passengers sitting in the aisles were trying to get
6 behind the seat so that they can shield themselves from the
7 flying bullets.

8 As soon as the doors to the plane opened, passengers
9 jammed the doorways trying to get out. I was not too far from
10 the door and managed myself to get out, landing on the slide.
11 Then I just kept running with the other passengers as fast as I
12 could towards the nearest building. Then all of a sudden they
13 made everyone duck on the tarmac because of a possible bomb on
14 the plane. Then a few seconds later people continued to run
15 toward the building again.

16 Once inside the building, we had to duck again, as
17 they thought there was a possible bomb in the building. Then I
18 noticed one of the hijackers in the building. As passengers
19 noticed him, many began kicking him until the police got hold
20 of him. As passengers crowded the airport building, I'll never
21 forget the people with blood from their injuries, or blood from
22 other people that they had on them.

23 Within a few hours, all the seven unaccompanied

24 minors went with the flight attendants to the Karachi Sheraton

25 where we stayed two nights. On our way to the hotel we had

1 stopped at the hospital to check on one of the flight
2 attendants, Neerja. I remember Neerja as beautiful, kind and
3 very calm. She was wearing her hair in a french braid with a
4 yellow ribbon. When the hijackers had allowed the passengers
5 to use the restrooms for a brief time during the hijacking,
6 they put Neerja in charge. When it was my turn to use the
7 restroom, I remember Neerja pointing to me with a big smile on
8 her face. It was her smile that brought me comfort during the
9 hijacking.

10 As we got to the hospital, we learned that Neerja did
11 not make it. I was deeply saddened by this news. In the next
12 few days, I heard many stories of people who had been injured,
13 escaped death or died. It was really hard to believe all this
14 was happening.

15 Initially after the hijacking, there was so much
16 media and others wanted to know what happened. I really didn't
17 feel like talking about it. I actually felt guilty that so
18 many people had died or were physically injured. I remember
19 just feeling lonely and isolated.

20 Students and teachers did not know how to react to
21 the situation. My family and I did not receive any type of
22 counseling to deal with this. The hijacking has affected me
23 emotionally. I can't really watch any violent movies. I'm

24 also very reluctant to fly.

25 Safarini is an inhumane individual. It seems unfair

1 that someone who has no value for life is living a life where
2 he is well fed and well taken care of. He is not suffering.
3 I'm glad to see justice is being served to sentence him for
4 life, though I feel there is no sentence severe enough to
5 punish him for the pain and suffering he has caused all of us.

6 THE COURT: Thank you.

7 MS. PREETI BHUVA: Thank you.

8 THE COURT: Thank you. Good luck.

9 MS. LEVY: Your Honor, our next speaker is Sumayah
10 Hussain. Her mother, who we will hear from in a little bit,
11 her sister and her brother were on the plane, three members of
12 that family. Sumayah was not on the plane. She was ten years
13 old, but the impact of her mother and her two and three year
14 old siblings was definitely felt by her.

15 THE COURT: Good morning.

16 MS. SUMAYAH HUSSAIN: Good morning. As she
17 mentioned, I wasn't on the plane. My mother and my three year
18 old sister and my two year old brother were on the plane. I'll
19 just read my statement.

20 I was recently made aware that one of the hijackers
21 at the Pan American World Flight 73 in Karachi in 1986 had been
22 caught and put on trial. Upon hearing this, different emotions
23 overcame me. One was a relief that there is one less lunatic

24 on the streets and another shock that it took over 17 years to

25 bring him to justice.

1 I was ten years old when the plane my mother, three
2 year old sister, Nabihah, and two year old brother, Hameed,
3 were coming home on was hijacked. My father, Mohammed, and two
4 other sisters and I had just returned from a three month trip
5 to Pakistan. And my mother was due to arrive a couple of days
6 later home. I started school upon coming back and my sisters
7 and I would wake up early to get ready, eat breakfast and watch
8 some cartoons before catching the school bus.

9 However, one morning as I was about to turn on the
10 television my father strangely jumped and would not let us turn
11 it on. I found that very odd, but let it go. I went through
12 the rest of the school day unaware of anything.

13 As the bus dropped my sisters and I home after
14 school, there were a lot of cars and vans parked outside.
15 Again, I thought it was odd, but I kept on walking. I got to
16 the front door, opened it and was almost knocked over by a
17 video cameraman who was standing outside.

18 Major confusion hit me as I looked around the room to
19 see many unfamiliar faces with video cameras and microphones.
20 I remember someone trying to say something to me, but I tuned
21 them out as I saw my dad's face in shock. My shock turned into
22 fear. As soon as I saw my dad's face, I knew something was
23 very wrong.

24 The next couple of days were spent in utter fear that
25 half of our family may not ever come home. The support of

1 family and friends, the community and even the media was
2 overwhelming, yet all we could do was sit and pray that
3 everything would be okay. I just distinctly remember my father
4 desperately trying to find out more information in vain. The
5 airline kept everyone in the dark and would not release any
6 information. Whenever I hear the saying that not knowing is
7 worse than knowing, I always remember those couple of days.

8 Someone from the media helped us get in touch with my
9 mom and to hear her voice was a precious moment in itself. My
10 mother told us that they were all fine and would be coming home
11 soon.

12 After that, the next couple of days were not any
13 easier as we passed them with the restlessness to see our
14 family again. We even made a sign saying, "Welcome home. God
15 is merciful," and hung it outside our front door.

16 The day finally came to pick up my mom and siblings.
17 At the airport we were escorted to a private room where they
18 would meet us so that we could avoid the media. We were all
19 very happy to see them. My mom, as always, was strong and
20 calm, yet there was something different about them, even though
21 I had just seen them a week before. It was as if I was meeting
22 complete strangers. They would not come near us or talk to us
23 and they stayed glued to my mom holding her tight.

24 Even though we were all back together, I realized
25 that life would never be the same again. I remember hearing

1 the details from my mother and it was as if it was
2 unbelievable. The detail I remember the most is how she
3 described gunshots whizzing right over her head into the seat
4 she had been sitting on only a short time before. It was
5 unbelievable how my mom remained calm enough to think
6 rationally to do whatever she could to save her children and
7 herself. My mom even showed us the dress that Nabihah had been
8 wearing when the hijacking took place. It was covered with
9 blood. I took one look at it and wanted to throw up. I could
10 not believe that humans would be capable of such an atrocity.

11 We all tried to return to our normal lives, but it
12 was very difficult. It took a while for Nabihah and Hameed to
13 be comfortable with us again. If there was any sort of
14 violence on TV, we would change the channel and water guns were
15 out of the question. We had to watch everything we did and
16 said to make sure that we wouldn't scare them in any way.

17 School kids would often come up to me and say things
18 like, oh, I heard you were in the newspaper and TV and that's
19 really cool. And all I remember thinking was that they had no
20 idea what we went through and I would have traded in all that
21 coolness to erase what had happened. I came to the realization
22 that people who have never been in that situation can never
23 understand what it was like.

24 As I got older, my resentment toward society in

25 general grew. If a terrorist act occurred Muslims were always

1 the number one suspects. We are made out to be violent
2 malicious people that are out to kill. What they fail to
3 realize is Muslims are also murdered in senseless acts of
4 violence such as bombings, hijackings, et cetera.

5 I went back to Pakistan three years ago and when
6 coming back I was singled out and harassed by the airport
7 personnel since I was a girl traveling alone. I found this
8 situation very frustrating because I just wanted to get home.
9 And they kept taking me aside and checking every bit of my
10 luggage and questioning me more. Nabihah was actually there
11 dropping me off and when I told her what happened she said,
12 "Where were these guys fifteen years ago when you let four guys
13 board a plane with guns? Where was all your so-called security
14 then?" I think that was the first time I ever heard her say
15 anything about the hijacking.

16 As far as the hijacker is concerned, the acts of
17 violence he committed against innocent people of all ages and
18 races is appalling. The numerous people he tortured and killed
19 for his own selfish reasons should not go unpunished. I doubt
20 that any punishment given to him would make up for the pain and
21 suffering hundreds of people went through. At least we can all
22 have the satisfaction of knowing that he will never be able to
23 hurt anyone again. In the end justice will always be served.

24 THE COURT: Thank you.

25 MR. MAISEL: Your Honor, our last speaker referred to

1 her sister Nabihah, who wore the dress that was shown in our
2 presentation. Nabihah Hussain is our next speaker.

3 THE INTERPRETER: Your Honor, could you ask the
4 witness to slow down a little bit?

5 THE COURT: Sure.

6 THE INTERPRETER: Thank you.

7 THE COURT: Good morning.

8 MS. NABIHAH HUSSAIN: Good morning.

9 THE COURT: The interpreter has asked me to ask you
10 to speak slowly so he can interpret.

11 MS. NABIHAH HUSSAIN: Okay.

12 THE COURT: Thank you.

13 MS. NABIHAH HUSSAIN: At the time of the hijacking I
14 was merely three years old, unable to express my feelings
15 properly. I was only able to question why things were not
16 going as planned, such as why the plane had not been flying and
17 why all of a sudden the lights in the cabin had gone out.

18 As the hijackers came on board, I was frightened and
19 horrified because I had not experienced anything like this
20 before. As the hijackers began to fire, my mother put both my
21 brother and I under the seat in front of her using her own body
22 as a shield to cover us.

23 All I remember after that were the hijackers firing

24 aimlessly into the cabin. After some time the hijackers began
25 to reload their guns and my mother made the choice of trying to

1 escape the plane. We began to run to the wing of the plane and
2 realized the danger associated with jumping. I can remember a
3 man screaming with pain after jumping and breaking his leg as
4 he hit the ground. Seeing this man's pain, my mother grabbed
5 my brother and I and ran toward an open chute. After sliding
6 down the chute, we quickly ran to a building where we found a
7 table and hid under it.

8 Having seen so many bodies and bloodshed, I was
9 horrified and did not want to be with anybody besides my
10 mother. Having made it safely into the building we were taken
11 to a nearby hotel where we were washed and clothed. Having
12 been so traumatized from the hijacking I am unable to recall
13 the events of the days following the hijacking. Being only
14 three years old I was unable and unwilling to distinguish who I
15 was able to trust, forcing myself to exclude myself from
16 society.

17 I would cling to my mother because she knew what I
18 had been through. And I felt that she was the only one that
19 would understand what I was feeling. This unwillingness to
20 trust made the flight more difficult in many ways, both for
21 myself and my family.

22 Because of the events of the hijacking, I was
23 horrified of getting on planes, but, on the other hand, I was

24 longing to be with the rest of my family. Merely talking to my

25 family over the phone was not sufficient. I needed to see my

1 family in person to believe that they were okay.

2 Since the hijacking happened to me, I was under the
3 impression that this trauma was experienced by everyone who
4 took the flight. When I finally did arrive home, I was
5 satisfied to see my family, but still hesitant in trusting
6 anybody that did not experience the hijacking with me. Because
7 my mother and brother were the only two people out of my family
8 that were with me during the hijacking, I felt a stronger bond
9 with them than I did with the rest of my family.

10 Everything that involved dealing with strangers or
11 even friends was horrifying because of my unwillingness to
12 trust others. At first, going to school was a chore. I was
13 extremely shy and often excluded myself from others. Slowly I
14 began to warm up to my fellow classmates and teachers, but
15 still reluctant to trust anybody other than my family. It took
16 many years before I was able to talk openly with others. Even
17 today I feel that it is hard for me to trust others or to talk
18 to people that I am not close to.

19 Since the hijacking I have learned to open myself up
20 to others, but I'm still hesitant to trust others that I do not
21 know very well. Overall, I believe that the hijacking has made
22 me a more understanding person. I believe that having lived
23 through the hijacking I have been given a second chance at

24 life, a second chance I'm not willing to let slip by without

25 making something of it. The events of the hijacking have not

1 only affected my life, but have affected the lives of everyone
2 around me.

3 Thank you.

4 THE COURT: Thank you.

5 MS. LEVY: Your Honor, the next speaker is Juwayriyah
6 Hussain, who is another daughter in the Hussain family. She
7 was six years old at the time of the hijacking. She was home
8 with her father. She was not on the plane.

9 THE COURT: Good morning. How are you?

10 MS. JUWAYRIYAH HUSSAIN: Okay. I was going to read
11 my statement, but really everything that I would have said has
12 already been said. This has been really hard on all of us
13 because it's kind of been ignored throughout our family. It's
14 not something we spoke of normally. It's not something we ever
15 were able to get out of our system until now. I know it's
16 changed every one of us.

17 I found myself in a unique position because I was so
18 young and I never was on the plane. So I knew that the plane
19 had been hijacked, but I never really understood what it meant.
20 I knew it was a bad thing. I knew it didn't happen to
21 everyone, but I had no understanding of what had really
22 happened. I've got a better feel for that now.

23 I didn't see myself change, but everyone in my family

24 changed drastically. Visually I look at pictures of our family

25 from months before the hijacking and within months after the

1 hijacking and both my brother and sister were happy, chubby
2 babies with round faces and big smiles. All of the pictures of
3 them after that they're very thin, their eyes are huge and
4 their smiles are very forced. And I think those pictures
5 themselves speak volumes.

6 I really think there's no way for me to figure out
7 all of the impact this has had on my family because I simply
8 have grown up with this. This is all I remember. I don't
9 remember what it was like before, so I have no basis for
10 comparison.

11 The first thing I started doing when we were asked to
12 write these statements was to try to figure out how this has
13 impacted my life. And the possibilities were simply endless,
14 so I wasn't able to write anything out. There's no way that
15 you can ever describe what we went through.

16 Thank you.

17 THE COURT: Thank you.

18 MR. MAISEL: Our next speaker is Farhat Hussain.

19 THE COURT: Good morning.

20 MS. FARHAT HUSSAIN: First of all, I would like to
21 thank everyone for being here because I may not have the
22 courage to thank you after I finish my statement.

23 First of all, I would like to thank the United States

24 District Court Judge, the Honorable Emmet G. Sullivan, the U.S.

25 Department of Justice, Gregg Maisel and Jennifer Levy, the

1 Federal Bureau of Investigation and the victim witness
2 assistance unit staff for the numerous efforts to bring this
3 case to justice.

4 I myself, my daughter Nabihah and my son Hameed were
5 in the Pan American World Flight 73 when it was hijacked in
6 Karachi, Pakistan. The following pages summarize part of the
7 impact the horrible incident made on our lives.

8 We were a very happy family and God had blessed us
9 with so much. Our children, our home, each other, good health,
10 everything a person would want in life. We had just finished
11 building our new dream home. We decided to go for a trip to
12 Saudi Arabia to thank the God who had sent us to this world and
13 gave us everything that we had.

14 I went to drop off the children in Pakistan with
15 family members because they were so young. After 40 hours of
16 travel, the children were so happy they went themselves to the
17 bathrooms in the plane, they played with their toys, coloring
18 books, talked to the passengers all over in the plane, and they
19 had a great time.

20 When we were returning from Pakistan, everything
21 changed. Soon after I boarded the plane, before I could even
22 be seated, I saw people entering the plane with guns dressed in
23 security uniforms. They took over the plane and started

24 shouting, fighting outside the doors. I knew right then that

25 we were being hijacked. I felt disbelief, hope, fear, anger

1 and prayed that I was wrong, that all of this would be ended
2 peacefully.

3 It was night in the U.S. My hope and prayer was that
4 my family would be sleeping right now and they will be spared
5 the pain of knowing that we were being hijacked. My husband is
6 asthmatic for the last twenty-seven years. He had nearly died
7 a few times before when he heard bad news. And I was hoping he
8 would be spared from this pain. And if he's not, he would end
9 up in the hospital and end up dying and I have three children
10 between the ages of five and twelve who would have no parents,
11 none whatsoever. I felt helpless, fearful, but there was
12 nothing I could do.

13 The night fell and I heard a hijacker, Mr. Safarini,
14 saying, "Allahu akhbar." To me, in Arabic, that was said when
15 something was about to happen, somebody about to do either
16 something good or bad. In this case, it was nothing good to be
17 happened.

18 I was asked by the passengers across the aisle later
19 on what made you push the children under the seats. Those were
20 the words that gave me an instant reaction to pull my children
21 off the seats and push them under the seats in front of me.
22 And I was sitting in the aisle before that.

23 As I pulled them off the seats, they were both

24 sleeping and they screamed. And my next word to my children at

25 the moment was, "Please don't make any noise, they will kill

1 us." At two years old and three years old they understood
2 those words very well. After that I could not even hear them
3 breathing. Our son was the first on the floor and our daughter
4 was on top of him. And my hand was over them and just sitting,
5 leaning on them.

6 As I spoke barely there was firing going over my head
7 and thinking one of them is going to hit me right now and who's
8 going to take care of these children? I have no family member
9 in Karachi. All my family was back in the north.

10 A few moments later, I felt they were wet and I
11 thought I was too late pulling them off the seats and they are
12 already shot and they are dead. Very slowly, I tried to call
13 their names. They did not respond since I had previously told
14 them to be quiet, otherwise we would be killed.

15 My fear turned into reality and I thought in my mind
16 they are dead. But with a mother's instinct and God's help, he
17 made me go through -- I went with my hand touching their
18 hearts, their heads, their faces just to see if they're alive
19 or dead. At the moment, for me, if they were injured, it was
20 not a problem. It was acceptable to me 100 percent if they
21 lost their leg, arm or hand. As long as they were alive, that
22 was good enough for me.

23 Examining at the moment I felt that my children are

24 fine, they are alive. The very same moment I felt blood

25 pouring from the seats over my hands and that confirmed that my

1 children are alive, they are not hurt at the moment, but still
2 not sure.

3 I looked up because for the moment Mr. Safarini has
4 stopped firing the shots. And I looked through the two seats
5 and he was refilling the magazines to his machine gun. Again
6 God helped me to take that opportunity, grab my children and
7 try to run for safety since I had seen people passing me
8 running towards the exit prior to that. I couldn't do it
9 because bullets were going over my head.

10 I grabbed the children, both of them. I had no
11 shoes, no scarf, nothing. The children had no shoes because
12 they had taken them off. 17 hours was the flight. I grabbed
13 them, went to the exit, jumped and ended up on the wing. Not
14 very lucky at the moment. When I was at the wing, by then
15 Mr. Safarini has finished refilling his gun and he was aiming
16 towards the door to shoot the people, who were about 40 to 50
17 of us over on the wing, to my estimate.

18 And, at that moment, I sat down on the wing looking
19 at the other slide hoping I could throw my children on the
20 slide and somebody could take them to save them, or jump with
21 them myself which I could not do with two of them. A gentleman
22 in front of me jumped with his briefcase and landed on the
23 tarmac. While I was sitting, I had both of my children in

24 front of me and I was leaning over them because the bullets

25 were coming towards us. And I knew that moment the three of us

1 will be dead very shortly, there is no way we'll survive. If I
2 jump with them, we'll be gone, if he shoots us, we'll be gone.

3 I said my prayers to God, I made my peace and I also
4 prayed at that moment that if the three of us are dead here,
5 please God, this is my last wish to you to kill the four that's
6 in the United States right now because there is no life living
7 without a mother and there is no life living without a wife.
8 Half of the family cannot live the life of a full family. I
9 requested to God either save all of us here or kill all of us.
10 Regardless how you do it, it's up to him.

11 There was a lady who was wearing a Sari with six and
12 a half yards or approximately six yards. I offered that lady
13 to take that off because she does have a skirt at the bottom
14 and I'll take my scarf off and we'll tie it together somehow to
15 go down to the wing. Well, we didn't get that chance to do it.

16 After that, I was looking up to the second slide and
17 I realized two of the hijackers, one after another, one of them
18 with a handgun had jumped on the slide. That gave me the
19 indication that this is the time that we can go back inside the
20 plane, that they're running for their life and we can run for
21 ours.

22 It was very difficult to get back onto the plane
23 because the wing is pretty low, about four feet or so. Somehow

24 we managed to get back in the plane while I was trying to reach

25 to the second door. This is very difficult for me to say and

1 it sounds very ugly. It was pitch black, I had two children
2 three years old and two years old under each arm. And as I was
3 walking, I stepped on someone who had already passed away.

4 Numerous people ask me how did you know that he was
5 passed, he or she was passed away, how would you know? When
6 you touch a piece of meat, it has no stiffness in it. When you
7 touch it, it's just wobbling. When my foot went on that body,
8 I felt I disgraced a human being's life stepping on him and I
9 lost my balance at the moment. And I thought I'm going to be
10 dead here too because people are pushing from behind and
11 they're going to step all over me and I'll be gone.

12 But again, somehow I come in contact with the back of
13 the seat, I got a grip on that and I continued to the door.
14 When I got to the door, the kids the second time they screamed,
15 "no," and cried. And I said, "no, it's okay, I'm going to jump
16 and we'll be fine." And I said, "I am going to jump now, don't
17 worry about it." And we jumped. And I did injure my back when
18 I did make that attempt.

19 When I got down, I couldn't get out with the two
20 children, out of the slide, but somehow I managed to do so.
21 When I stepped out, I found the same person who had jumped in
22 front of me lying on the tarmac and I could still see him. His
23 arms are like this, white shirt, black pants, screaming for

24 help. "Please help me, my leg is injured." Those words I will

25 never ever forget. I took a few steps towards him and soon

1 realized I could not help him, I have both arms, they are
2 already occupied with my two children. I told a few people who
3 are passing by please help that person. I later found out
4 there was a boy, young person who helped him.

5 We ran on the tarmac to get to the terminal and saw
6 so many people bleeding from their heads, faces, et cetera. I
7 got to the terminal. A few minutes later the lights went out
8 and I realized the hijackers that jumped in front of me are in
9 the terminal. I went under the podium table, grabbed my
10 children and screamed to the other people who were in the room,
11 "Please hide."

12 The lights came back on. They tried to assure us
13 everything is fine, but I was not going to listen to them. One
14 of the Pakistani governors came to me afterward and they asked
15 me if I could come in and identify the hijackers they had
16 captured. And I went and did identify two of them. Not just
17 identify them, but I asked him, I said, "Did you see what
18 you've done? Can you see these children loaded with the blood
19 and you're sitting there and just smiling at us." He was
20 five feet away from me.

21 After that they were trying to keep everybody at the
22 airport and get everybody's name, et cetera, but I did not want
23 to take a chance anymore with my children and stick around at

24 the airport. I did not wait for the buses. I went on myself,

25 gave my name and number, and I went to the Sheraton Hotel on my

1 own.

2 Sometimes God sends angels for you. The same
3 morning, 3:00, a bus picked me up from the hotel. And when I
4 got on that night to go back somewhere in some hotel, the same
5 bus, the same driver, the same conductor, pulled up in front of
6 me. Strangers, totally strangers. The conductor jumped off
7 the bus, grabbed my daughter from my arms and he cried. He
8 said, "I dropped you off this morning and everybody was fine.
9 And I knew you were on this flight because you told me so." He
10 turned the bus around and took me to the nearest hotel.

11 Again, there was some angels waiting for me over
12 there. I had stayed at that hotel the night before and prior
13 on my trip. I came in contact, because I have two wonderful
14 children, with lots of air hostesses that were staying at the
15 hotel airport inn. Unbelievably, eight, nine of those air
16 hostesses were waiting in their rooms to find out whether I was
17 alive or dead and this is way after 10:00 at night.

18 When I got to the hotel I had no clothes, nothing,
19 nowhere to go. I asked the attendant to call one of the rooms
20 and tell those girls that I am here. All of them came running
21 to me, offered food, clothes. They lent me the clothes because
22 I didn't have any. They lent me the shoes because I didn't
23 have any. They lent me their T-shirts for my children so they

24 can wear. From there I called the Sheraton. The reason was it

25 would be much easier for my husband and my family to locate me

1 if I am in some big chain hotel.

2 I went there, went to the hotel, turned right to the
3 bathroom and took the children to wash up. When I washed them
4 up, the water turned almost like the color of blood. After
5 giving them showers, I realized I have no diapers, no clothing,
6 no bottles.

7 They both stayed in the bathroom and they refused to
8 take just towels as their clothings. I told them, "Just wait,
9 let me take a shower and after that I'll find some clothes for
10 you to wear." They would not go in the room, they will stay in
11 the shower, in the bathroom with me. I asked them to just sit
12 on the toilet as I take a shower.

13 As soon as I closed the curtain, they screamed. As
14 hard as it is for me to tell you, it was much worse when I was
15 doing it, I had to leave the curtain halfway open to take a
16 shower. As I was washing myself, the water was chocolate color
17 and it never came out clear. All that tarmac on my feet was
18 just keep making the water brown.

19 Every time I had to go to the restroom, I had to take
20 them with me, whether I'm taking a shower or anything else. I
21 tried to feed them afterward. They will not eat the hamburger,
22 their favorite food. They will not touch the Pepsi. Nothing
23 whatsoever. All they wanted was, where is our father and where

24 is our siblings. They were calling everybody's name.

25 For them to not understand that it doesn't happen to

1 everybody. For them it was when we go to Pakistan to visit the
2 family everything is fine, but when you take a return flight
3 this is what happens. They did not sleep all night. I was
4 awake for the last three days, three nights straight.

5 I soon realized I need help with my children. This
6 is not right. I contacted the Pan Am desk. I did not get any
7 help. So I took it again upon myself and called the U.S.
8 Embassy where I was informed that they had a team of doctors in
9 the same hotel on a separate floor. I was given the contact
10 information. I right away contacted them. And they advised me
11 not to stay in Pakistan and leave as soon as I can.

12 My family was traveling, even though against my
13 wishes, from north to come to visit me and to help me with the
14 children. With the situation under consideration of my
15 children, I left Karachi. They arrived after I left. I had no
16 contact with my family for hours. The arrangement was made for
17 us to go to Islamabad and then from there on to continue the
18 journey to the San Francisco area.

19 When I left the hotel to go to the airport, our son
20 being two years old could not express anything. All he was
21 doing was crying and pulling me out of the airport to go
22 outside. He does not want to have anything to do with the
23 airport.

24 On the other hand, Nabihah, she's just four, was

25 constantly saying, "I want to go home, but I want to go home on

1 a bus", which was impossible for me to do. She was constantly
2 asking where is her father. First I didn't realize why she was
3 asking for days and why she's not understanding that he's at
4 home. When we got to the airport, my son is pulling me out of
5 the airport and my daughter is crying and telling me I don't
6 want to go on the plane, I want to go on a bus, but I want to
7 go home to my father.

8 They had all our belongings at the airport lined up.
9 When they looked at their shoes, their handbags, their toys,
10 they ran towards them. As soon as they tried to grab them,
11 they couldn't do it because they were all loaded with the
12 blood. We got to the airplane. They put their feet up on the
13 seats. They will not let me close my eyes, they would not let
14 me take my shoes off, they would not let me speak. They were
15 looking in the whole section to see what is going on.

16 We were soon, after that, moved to the first class
17 area with the trauma team who was boarded the plane. They
18 thought moving us to the first class will give them a little
19 satisfaction that they are not in the same area. It did not
20 help. They would not let me reach to my handbag and open it
21 up. They would zip it. They said, "zip it up, don't touch."
22 For them was the fear that it is going to happen again, so
23 let's keep everything intact, ready to run for our lives.

24 We got to Germany. I was tranquilized along with my
25 children and were kept overnight for observation. My husband

1 was traveling to Germany to meet us. I think that would
2 probably be the very first time I yelled and screamed at my
3 husband and said to him, "No, you are not traveling anywhere.
4 I want everyone to stay where they are and I will get home. I
5 do not want to worry about each and every one of you, where you
6 are and what's happening to you."

7 The first time my daughter got in contact with my
8 husband was over the phone when we got to Los Angeles. That
9 was the first time her eyes lit up when she heard the voice of
10 her father on the other end of the telephone conversation.

11 From there on, we continued the journey to San
12 Francisco where it has been previously said there was lots of
13 media. And I had previously agreed to the media that I will
14 give an interview when I get to San Francisco. But right
15 through after all that, I decided at the moment I will not let
16 my family go through another horrific moment. For them it will
17 be something horrifying happening again if the media stormed
18 them with the questions and answers and lights and flashes.

19 Airport security came to me before any passengers got
20 off the plane and asked for me that if I want to interview or
21 do I want to have my privacy. And I requested, even though my
22 family in San Francisco was ready to speak to the media, I took
23 it upon myself and I refused to talk to them at the airport.

24 We went through the back doors. All our family and relatives

25 who was at the airport was directed by the security to meet

1 them at a different location to continue with us traveling to
2 our home town.

3 I think that was the best move I made at the moment,
4 to spare my family from the pain and suffering, especially
5 Hameed and Nabihah. But as you all know, the media gets you.
6 Before we got home they were on our doorstep waiting for us.
7 This is where it all begins. Up until that moment I was strong
8 and I knew I can handle it because for my family, my children
9 and to get where I want to get.

10 It is a long statement, excuse me, but please bear
11 with me. I wanted to share with you all this. When we got
12 home we went through the media and all that. I had family
13 members and friends at the house. They left around 2:00. Time
14 to go to sleep. I could not go to my room to go to sleep. We
15 all decided to sleep in our family room, in the TV room. We
16 got the sleeping bags and we just laid on the floor.

17 Half an hour, 45 minutes later, the alarm clock went
18 off. Apparently when I went to change, the children went with
19 me and moved something. My husband was sleeping, the children
20 were sleeping, I woke up by the sound of it, but I could not
21 walk up in my own home in my own bedroom and turn that clock
22 off. I just could not. I waited ten, fifteen minutes for my
23 husband or someone to wake up on their own to go and turn that

24 off. Or to do it myself, but I just could not go in my own

25 bedroom to do that.

1 Finally I woke him up and asked him to go please turn
2 that off. Just the fear of walking in my own home, they could
3 be watching me through the windows, they could be coming right
4 here after me because I identified them at the airport, was the
5 fear that I lived for years. We could not travel a long
6 distance for years. I felt very unsafe at my own home.

7 I lived with my back injuries for nine years. Nine
8 years of back injuries where you were told that you cannot hold
9 more than 10 pounds of weight at a time. You could not reach
10 the limit of your arms and you have two years old and three
11 years old, how are you going to take care of them. You cannot
12 bend to give them a bath, you cannot bend down to pick up
13 anything. And there was days when I was on bedrest for three
14 or four days at a time at least once a month. It was a lot of
15 hardship.

16 My daughter, the eldest one who spoke yesterday in
17 front of you, went through a lot and I really praise her for
18 being here and doing so. My husband who was very supportive
19 all through the years to take this pain with me.

20 I underwent finally a major back surgery in 1994. I
21 was six months paralyzed on my left side, bedridden and my
22 family took care of me. I refused to have the operation
23 because my fear was if I die, who's going to take care of my

24 children. If I am paralyzed on one side, at least I'm here to

25 guide them, be here for them, raise them the way I wanted them

1 to be and be there for them.

2 I had four different opinions after I decided.

3 Actually, I did not decide it. Everyone else decided for me
4 that you are going for surgery. I underwent surgery. Again,
5 God was so nice to me. I recovered 80 percent with my family's
6 help, my own courage, effort, and God's blessing.

7 But I'm still not the same person. I could not bear
8 any more children if I wanted to. That was a choice
9 Mr. Safarini made for me when he decided to act. It was not my
10 choice not to have any more children.

11 I still cannot travel a long distance and sit more
12 than two, three hours at a time. When I get on a plane, I know
13 exactly -- I have memorized all those sheets, what I have to do
14 to get out. I try to get my seat next to the exits. I might
15 have to run for my life again. You never know.

16 My brothers got married a year after that and I could
17 not go because when I said I want to go attend the weddings,
18 both of my children refused to let me go.

19 Our children slept with us for five years on the same
20 bed, both of them. Our son just about three years ago started
21 sleeping without the lights on. When Nabihah was young, my
22 husband had to make some business trips. She would find out
23 that daddy is leaving, we'll take him to the airport. She will

24 not get out of the car or say goodbye to him. No matter how

25 long he's gone, she will not eat, sleep properly, talk to

1 anyone. Glued to the TV news to see what's going on. She will
2 always ask me what time dad is leaving from his destination.
3 The time I will tell her, from that moment on that girl will
4 just stare at the TV and not talk to anyone, just to make sure
5 that he's on the plane right now and see if anything has
6 happened to him or not.

7 The same girl who, when we go to the airport to pick
8 him up, she will be the first one to go and give him a big hug
9 to see him alive. The fear to her was always once they get on
10 the plane they may not come back.

11 She did not concentrate on her school work well.
12 She's very intelligent. She had asked me numerous questions
13 during the 17 hours and continuously asking after about two
14 hours. She said, "Mom, how come the plane is not flying?" She
15 was very intelligent even at the three years old. And I tried
16 to tell her, "It is flying, it is very slow today." She did
17 not buy it. Continuously asked me throughout the time, "Mom,
18 how come the plane is not flying?" "It is flying, you're just
19 not feeling it, the pilot is very good today, just read the
20 magazine." She did not buy it throughout the time. She gives
21 me this look at the end that you are lying to me.

22 All that intelligence, Nabihah is graduating six
23 months early. If she wouldn't have gone through this, she

24 probably would have graduated a year early. Congratulations to

25 you, Nabihah.

1 The home that I built that was designed by me and my
2 family, each room was designed to their specifications. That
3 was the home that we wanted to live forever and until we die.
4 As soon as we finished, I went to that trip. I ended up
5 selling the home and I never decorated it the way I wanted to.
6 We never lived in that home the way we wanted to and that was
7 all because of the act of these people.

8 Not just that, the difficult part was when I start
9 taking my children back to school, as my daughter has
10 previously mentioned, I was driving her 7:00 a.m. to school and
11 went in the oncoming traffic lane. A person walking on the
12 sidewalk with his dog and I am looking at him, what's wrong
13 with you, why is he looking at me like this. Not realizing
14 that I'm the one who's making the biggest mistake of my life
15 driving in oncoming traffic. Lucky again there was no car
16 coming ahead. So when my daughter made me realize what I'm
17 doing, I panicked and took her to the school.

18 I used to give a ride to the other children. I
19 informed the school from now this day on I will not be taking
20 anyone else's children to any field trips or any rides because
21 it's not safe. I can take responsibility of my own children,
22 but I will not do that to the others.

23 But I couldn't even do it for my own children. I had

24 my neighbor here. She did it for me a few times. I had other

25 neighbors who did help drive my children. I would go out, I

1 could not park my car sometimes because then when I would look
2 on the side to reverse my car, I see people with the machine
3 guns, handguns, and I could not reverse it.

4 One time I went in front of the store I had to
5 parallel park for just a few minutes just to pick up something.
6 Eight to nine times I tried to reverse my car and park it.
7 There was plenty of room there, but I couldn't do it. Each
8 time I looked back, I saw flashes of people with the guns. A
9 gentleman from the store came out and offered to park the car
10 for me. He thought I didn't know how to do it. But that was
11 not the reason.

12 Numerous times I was driving at the freeway and I
13 will look on my left and I will feel that there is people with
14 the guns in the car right next to me driving and they're going
15 to shoot me. And I will duck in my car while I'm driving like
16 this so if they shoot me I will not get hurt. Next exit I
17 would pull off, go to the store, take my 20 minutes break, take
18 a deep breath and get back on track. That was my life for
19 years.

20 I did not drive my children for years to school. Our
21 children, when we used to in the beginning take them out, they
22 would say we want to go to the park. We would go four blocks
23 from our house and they'd say let's go back home because they

24 don't want to go. They were afraid something is going to

25 happen.

1 Somebody will ring a doorbell, they'll cling to me
2 and scream. Fear of my own I had advised my children from
3 thereon if anyone, even our friends come to the front door,
4 please do not open the door if I am not home or your father is
5 not home. My fear was hijackers or their friends will come
6 after us and use anybody to get access to us, so that means
7 trust nobody. If I'm not home, my dear friend comes at the
8 door, it happened, my children did not open the door.

9 We were lucky enough again. We had a very wonderful
10 psychologist in the San Francisco area who worked with the U.S.
11 Army. On Fridays Muslims have Friday prayers in the afternoon,
12 which is after 12:30, 1:00. For two years straight for us that
13 prayer was not there. Every afternoon my husband took off from
14 work at 12:00 and we took our children to San Francisco an hour
15 and a half drive to be with him so we could get them some help.
16 That was our Friday vacation.

17 But in two years of time, with a professional like
18 him, they never said a single word to him. He tried his video
19 cameras, he tried all his tricks, nothing worked.

20 This is my first time speaking in front of all of you
21 in these details. Not even my family knows all of this. It is
22 very painful for me to go on, but I will continue to do so.

23 THE COURT: Excuse me, before you continue, we need

24 to switch interpreters.

25 THE INTERPRETER: Okay.

1 THE WITNESS: All these years, for 17 years, 17
2 hours, 17 years one hour seems to be like it was one year when
3 we were sitting in that plane. When I found out, actually it
4 was like a joke when my family picked me up to take me out in
5 2000. They said, "Mom, the FBI is looking for you." And I
6 said, "okay." I thought they were joking.

7 I called them up and I found out we have one of them.
8 And I was ready to do anything I can to bring this person to
9 justice. When I was contacted, I was willing to do anything I
10 can and I am doing so. And I still continue to do so as long
11 as I have to or as long as I live.

12 It is very difficult for me to sit here because
13 Mr. Safarini represented himself as a Muslim and so am I and so
14 is my family and so is a million others. But Mr. Safarini used
15 the religion to his own agenda to whatever he wanted to
16 accomplish. I have not read in any religion whatsoever that
17 you can go and kill innocent people. And I think to me
18 Mr. Safarini is a disgrace to my religion, my belief, to my
19 family, to my community, and the world at large that he sits
20 here and represents us as a Muslim. He is not representing
21 Muslims.

22 Also, for me to sit here, Mr. Safarini, I am a U.S.
23 citizen for over 30 years, my husband has been in this country

24 for over 37 years, and we are part of this country. We

25 contribute to this country. For me to sit here, and that's why

1 I was for death penalty, it's very difficult to receive my
2 paycheck every month and knowing out of that paycheck we are
3 supporting Mr. Safarini and others like him to live off of our
4 hard work after what they have done to us. It is difficult and
5 it's going to be difficult the rest of our lives, but we have
6 to live with it.

7 There's always positives and negatives of everything.
8 The positive is that we understand humans. After the tragedy
9 happened, we came close to each other. And the negatives have
10 all been expressed since yesterday morning. We all have
11 expressed our negatives. But there is a lot of good that came
12 out of this. That we are more helpful to others feelings. We
13 are more helpful to people. We see their suffering, we can
14 understand their suffering.

15 We had to live in our communities when we came back
16 where we had to hear in the parties, hey, what's wrong with
17 you? Why are you so quiet? You should be happy because you're
18 alive. You are lucky because you are alive. They did not
19 understand what we went through. Sometimes you feel like
20 answering them, I would rather be dead than be alive because
21 this is not the life that you think it is.

22 You cannot make them understand because you have no
23 physical disabilities for them to realize that you are

24 affected. This is the human nature to understand only the

25 physical disabilities and feel compassionate towards you or be

1 helpful to you. But we have scars on our hearts and minds and
2 our brains. They are engraved. Each and every word in our
3 statements and the words that we heard from yesterday morning
4 are engraved in our brains and they will never be taken out.

5 I spent the last 17 years to learn how to live with
6 this pain. And that's the only thing we can do, is to learn to
7 live with it. But we cannot forget it, we'll never forget it,
8 it's there and it will remain there.

9 This is probably the sixth time for me to relive this
10 whole thing. Unlike all of you who thought Judge Sullivan has
11 asked too much when he wanted these impact statements, for me
12 it was an opportunity to come forward and express the feelings
13 that I had for 17 years. My family did not want to do it. And
14 I am proud to say they're all here today and they all did it.

15 My daughter and my son who lives with us, along with
16 our third daughter, they gave me their statement at the very
17 last moment. And guess what, we all live in the same house.
18 They E-mailed me their statements. That was the first time for
19 me to find out what was inside their brains for 17 years. And
20 for me to think back and having them living in the same house,
21 how would it feel to you parents when your children are walking
22 off to school and you ask whether your statement is ready, I
23 have to mail it today, and they tell you I E-mailed it. I

24 don't know how you would feel, but I felt they could not come

25 forward and even tell me, mom, here is my statement. It was

1 too difficult for them to even do that. That brought tears in
2 my eyes. I went on my computer, pulled it out, started reading
3 and could not stop crying.

4 It took me myself six weeks to write my statement.
5 Those six weeks for me I had no idea what went on around me.
6 When I had somebody invite me for dinner, I forgot to go
7 because my mind was not there. I called the next day, you
8 didn't come to the party. I forgot it. Six weeks, each night,
9 I was up until 4:00 trying to figure it out. What am I going
10 to say, how am I going to say it. I just couldn't do it. I
11 don't know how I'm doing it today, but I'm doing it somehow.
12 Judge Sullivan has a message that I can sit in this courtroom
13 and tell all this.

14 There is one incident that happened in my life with
15 my children which I will never forget and I have repeated it to
16 numerous people. We were a family, we were always having
17 breakfast on the weekends together regardless what happens.
18 I'll wake them up at 9:00 for 10:00 breakfast. One week this
19 morning, four of us, Nabihah, Hameed, myself, my husband we
20 were having breakfast. I had made some eggs and toast, et
21 cetera. Hamina was sitting on my left, my husband was on my
22 right, my daughter was on his right. We were talking while we
23 were eating breakfast.

24 My son pats on my arm so I look towards him. He had

25 a piece of toast that he was eating. To my shock that piece of

1 toast, I wish I would have saved it for you, it was turned into
2 a handgun, the shape of a handgun. When he took a bite of the
3 toast he turned it into a handgun and he was showing it to me.
4 That was his way of expressing the things that had happened to
5 him in the past. And I had to sit there and give him a smile
6 and not let him realize that it's hurting me. It was not easy.

7 He will go to school. If it was a red marker and it
8 got on his hand or somebody's hand, anything red, anything red,
9 he would cry, he would shake. We had a Sunday school in the
10 church in our mosque and he was shaking, literally shaking and
11 they had no idea what happened, why he was shaking. It was
12 because he saw somebody with a little blood. I had to inform
13 all teachers in the schools for years to be aware of it. If
14 something like that happens, please let me know or how to
15 handle him in a situation like that.

16 They refused to go on any field trips alone because
17 for them going with somebody else is not safe. They isolated
18 themselves from the communities. Our son decided to go to med
19 school, pre-med two years ago, and all of us basically in a
20 different way asked him, how are you going to do it if you're
21 afraid of blood. He tried. He said I will deal with it when
22 the time comes. But guess what, he couldn't do it. He dropped
23 it. He went to engineering.

24 He was not planning to speak in front of you, but he

25 came directly from his class and took a 10:20 flight from

1 California to get here at 8:02 a.m. at International and came
2 directly to your court yesterday and he left this morning. He
3 has his final at 6:00 in California. He's not here right now,
4 but I really do appreciate him for his effort, his courage to
5 come and be supportive to make sure this person is put to
6 justice.

7 My husband would panic when he'd call home and I
8 wouldn't pick up the phone. A few times he got a ticket,
9 pulled over by the police, because he was not paying attention
10 to where he was going. One time he called home and I didn't
11 pick it up and he thought something has happened to us. He was
12 driving, he was too close to the police car. They tried to
13 inform him to step back. He couldn't hear because his
14 concentration was only and only to his family. We never
15 discussed anything among our family, but I was in a deep
16 depression for a period of time.

17 When I was being paralyzed, I was not just paralyzed,
18 I was heavily sedated. Valium, 800 milligrams, Naprosyn, all
19 combined would not relieve my pain. I would have so much pain.
20 If somebody walks in my room, I would feel the pain. No one
21 can touch my bed, I would feel the pain. When people came to
22 visit me, every time I heard this story, your four year old was
23 cleaning the stairs, your house looks the same until we come in

24 your bedroom and look at you.

25 I was a very active person. I would have people over

1 150 at a time in my home. I loved to entertain people, which I
2 could not do any longer. I was deprived of that. It was taken
3 away from me. I have two wonderful grandchildren I cannot
4 hold, lift, or play with them the way other parents do. I
5 could not do it for my own two children.

6 My first born daughter who took care of me for six
7 months, she did not just take care of me, she took care of her
8 younger siblings which was not her responsibility, it was my
9 responsibility to take care of them. She did it all, a 4.0
10 student since graduated in the past year, but I was not there
11 for her and I'll never forget that day. She was the only one I
12 was not there for her graduation, for her accomplishment. I
13 could not give her the party that I wanted to give her because
14 of what the defendant did. He took that away from me.

15 I always regret it, it will stay with me. I'm doing
16 it for my other children. Every time I do it for them, I
17 remember that I did not do it for her and she is the one who
18 did it all for me. When I was bedridden, our lifestyle had
19 totally changed. Instead of living in the whole house, we were
20 living in my bedroom. My children will bring the food up in my
21 room, watch TV in my room and stay with me and take care of me.

22 Have any of you gone through where you cannot hold
23 this glass half full, half full? I could not. I could not

24 hold this glass half full with my hand because the pain went

25 through my spine all the way to my feet. I could not change my

1 own clothes. I could not take my own showers. I could not go
2 to the bathroom myself. I could not comb my own hair. After
3 showering my children had to wipe my legs and my body in order
4 for me to dress up. And they were not adults who had to take
5 care of me.

6 There is so much that I have to say, but I think it's
7 enough for me at this point. I had given my best. I have no
8 doubt, Judge Sullivan, I was in his court at the prehearing, he
9 will decide the appropriate punishment and I am not going to
10 say what I want or what I expect of him because I already know,
11 I've been here.

12 As far as forgiveness, you only forgive the people
13 who are human. If the person is not human, if you're a dog or
14 a cat or somebody comes up to you, what are you going to
15 forgive them, they don't understand the forgiveness, there's
16 nothing to forgive.

17 Under the Islamic law, Mr. Safarini should have died
18 a long time ago, but he escaped that for whatever reason.
19 We're going to take whatever we get and I'm going to be ready
20 to do this. We're getting pretty good punishment for him.

21 As far as the rest of us, all of you who are here and
22 all of them who are not here, my heart goes out to all of you.
23 And if any of you cannot come, I reassure you if anything comes

24 again and if I am alive, I will represent all of you. I'll

25 make sure that justice is done to the rest of them.

1 And as far as my family will never be the same, we
2 never will be the same. And again I thank you, the Court. I
3 thank you, all of the people who have done a tremendous amount
4 of work to bring this to justice.

5 Most of all, again, I would like to thank my family
6 for being there for me. I couldn't have done it without them.
7 Most of all my husband. He's very supportive and he went
8 through -- if there was a hell on earth, we all went through
9 that. And that's the best way for me to put it. And I thank
10 my family and thank everyone who is here and thank you.

11 THE COURT: Okay. May I just share a couple of
12 thoughts with you? First, I would like to just say that's one
13 of the most powerful, moving, survivor statements I've ever
14 heard, period. You're a very strong person. Your family is
15 most fortunate to have you as its matriarch. You're very
16 strong and your family truly has benefitted from everything
17 that you have to offer.

18 If there are views, though, about the penalty that
19 you would like to express, please do so. This is your
20 opportunity. You won't offend me at all. Please do that.

21 MS. FARHAT HUSSAIN: Actually, in that regard, my
22 husband and I, when this case started in Pakistan, we wrote a
23 letter to the President that we want these peoples to be put to

24 death. I don't know if any of you are aware, under Islamic law

25 Pakistan is an Islamic country and when you kill innocent

1 people, there is no if and buts. If it's proven and the
2 witnesses are there, the death penalty is enforced.

3 Numerous radio stations, when they contacted us or we
4 hear they are talking about this in the beginning, my husband
5 called the ABC radio station when there was a discussion going
6 on and he said the people were asking the question and my
7 husband said "Don't worry about it, they will be put to death
8 because that's the law." Guess what, a few years later we find
9 out they're not. It was like -- what? We were furious.

10 We were upset at the Pakistan government. We wrote
11 them letters. Then politics, whatever, happened. That's
12 beyond my understanding.

13 Yes, I was for the death penalty. I still believe he
14 deserves the death penalty, not just because of the crime, but
15 the person if he's saying he's a Muslim, he committed the crime
16 in an Islamic country, that penalty is the penalty for him and
17 his colleagues.

18 As far as I understand where your decision came from,
19 Your Honor, and I fully respect that. That's why I feel that
20 whatever is appropriate for you to give him, I know that you
21 will. The next best thing to the death penalty. But it will
22 hurt me. Like I said in my statement, that we are paying for
23 him to live and we are feeding him and we are clothing him,

24 whatever, whether it's a little or more it's going to hurt us

25 day after day to find out that we're doing that for him.

1 THE COURT: It is really truly ironic that
2 notwithstanding the atrocities that were committed by him, that
3 he's been the beneficiary of the application of the rule of law
4 in two countries.

5 And the death penalty issue is a very complicated
6 issue, very complicated. I made a decision that in my view, it
7 wasn't appropriate in this case. The government made decisions
8 not to challenge that on appeal. And I'm sure that, although I
9 was not privy to discussions with government counsel about why
10 they chose to enter into a plea agreement, I'm sure that one of
11 the compelling reasons, it's just a guess on my part, was
12 because so much time had passed already. And had that issue
13 been litigated, it could have been litigated for years to come.

14 My assumption is that there was significant feelings
15 about attempting to bring closure because so much time had
16 passed without bringing Mr. Safarini to justice. We can all
17 debate whether three consecutive life terms plus 25 years is
18 adequate. It's probably better than he deserves.

19 MS. FARHAT HUSSAIN: Yes.

20 THE COURT: But it's the maximum that our rule of law
21 will allow.

22 MS. FARHAT HUSSAIN: That's why I left it up to you,
23 because I was in your court before. Like I said, I understand

24 fully. Because most of the people who questioned that were not

25 in the courtroom before prior to this. I was here, I

1 understood the law and I would like each country to follow
2 their law, which is fine. Therefore, I do understand that you
3 will do your best to fully under the law penalize him for what
4 he had done.

5 THE COURT: I respect your views and I understand
6 your views and I know that everyone doesn't agree with that
7 opinion.

8 MS. FARHAT HUSSAIN: I know I heard a lot of
9 statements and I can understand why they were coming, because
10 they were not in touch and I was probably one of the few who
11 were more up to date on the case and I will continue to do so.
12 Any of you -- I will offer if any of you need to talk to me or
13 get anything, get information, you can contact me. I'll be
14 here for a long time or plan to be at least. If any of the
15 other hijackers doesn't come aboard and try to take us again,
16 I'll be here.

17 And like I said, I have a good spirit. I'm a strong
18 person. I'm a different person though, but my life is not the
19 same and it never will be. And I appreciate your comments and
20 I really, really appreciate your understanding it. And I
21 really do appreciate all those people who helped my family to
22 get here.

23 I think, one more thing, I think when I was pushing

24 my family to come forward, I told Jennifer and Gregg the

25 reasons behind it. And I feel very proud of doing so today, of

1 sitting in front of you, that it did work. They did come
2 forward and they did read their statement and they felt they're
3 not alone and they spoke up the very first time.

4 All the statements, Judge Sullivan, Your Honor, we
5 read it the first time. We got this information after 17 years
6 from our own children which is unbelievable because we had just
7 shielded ourselves from this and never wanted to discuss it.
8 It was past, we don't bring it up because it hurts. And I'm
9 glad that from now on maybe we'll have a little bit more open
10 relationship with our friends and families and the people that
11 are here. And it will help all of us to talk about it and put
12 it behind us and move on.

13 But events that happened in our lives,
14 September 11th, all of those which my daughter brought it up,
15 the Muslims are first to label. We really get abused. Our
16 name doesn't help us, Hussain. Every time Saddam does
17 something, we are a victim. We are asked, are you related to
18 him. One time I answered, I said, if I was related, I wouldn't
19 be buying \$20 of items from you, I would be ordering on the
20 phone from Sax Fifth Avenue. And the lady just looked at me
21 and laughed.

22 My husband was asked at the gas station when he
23 handed his credit card out, "Are you related to Saddam

24 Hussain?" My children were asked. And one of our daughters I

25 remember answering, yes, he's my uncle, and she walked away.

1 So we get pretty abused because our name doesn't help and we're
2 Muslims. But we, like I said, we keep our spirit up and we
3 just deal with it as it comes.

4 And it's going to continue when some of these handful
5 of Muslims who call themselves Muslims will continue to do
6 these things. We will continue to suffer from it, but we're
7 learning to deal with it the best way we can and that's all I
8 can say. Thank you very much.

9 THE COURT: You are truly an extraordinary person.
10 Sorry to meet you under these circumstances.

11 MS. FARHAT HUSSAIN: Thank you.

12 THE COURT: It's great to hear from you. We're going
13 to take a ten minute recess and we'll resume at 12:00.

14 (Recess taken.)

15 MS. LEVY: Good afternoon. Your Honor, the next
16 speaker will be Mohammed Hussain, Mrs. Hussain's husband.

17 MR. MOHAMMED HUSSAIN: Good afternoon.

18 THE COURT: Good afternoon, sir.

19 MR. MOHAMMED HUSSAIN: Your Honor, you have heard
20 from my daughters, you have heard from my son and you have
21 heard from my wife. You can imagine how much pain it has
22 caused me. It's going to be very difficult for me to finish,
23 but I have to finish. I have to say what's on my mind.

24 THE COURT: Take whatever time you need.

25 MR. MOHAMMED HUSSAIN: Thank you, sir.

1 My wife, daughter and son were on Flight 73 when it
2 was hijacked in Karachi. I was in my home, I don't want to say
3 the city or the state, with our three daughters when the
4 hijacking took place. We had gone to sleep. A friend of mine
5 saw it in the evening news and called me up. He knew that my
6 wife and children were in Pakistan and they were coming back in
7 days. I turned the TV on and found out the Pan Am flight which
8 my wife and two children were taking had been hijacked in
9 Karachi, Pakistan. I was totally shocked.

10 I did not know that my daughter had already seen it
11 on the TV. She never told me until about two months ago. I am
12 asthmatic and started wheezing. I had to take an inhaler many
13 times to control my wheezing.

14 I called Pan American many times to find out what was
15 going on. They would not give me any information about the
16 hijacking. I called the State Department, but they were of no
17 help either. I sat on the sofa and tried to keep myself calm.
18 I did not want to get a severe asthma attack. I had the TV on
19 all the time. I did not wake our daughters up.

20 In the morning, I woke our daughters up. I would not
21 let them turn the TV on because I did not want them to know
22 about the hijacking. After dropping them at school, I came
23 back home and turned the TV on. In the afternoon, I picked our

24 daughters up. By that time, there were vans and cameramen and

25 the news media and they were near our home. I had to tell our

1 daughters what had happened last night.

2 I called Pan Am and the State Department again, but
3 did not get any information. The next morning I found out that
4 there was shooting in the plane and the hijackers had killed a
5 lot of passengers and crew members. I tried to get in touch
6 with my wife, but could not. Somebody got me in touch with my
7 wife in Karachi. I talked to her. She tried to tell me that
8 she and the children were fine, but our daughter was very
9 scared. I talked to my wife and they were in Karachi, when
10 they were in a hotel in Karachi. She told me the children were
11 very scared and our daughter did not want to take a plane to
12 come home.

13 I called Pan Am and told them that I wanted to go to
14 Karachi to bring the children and wife home. First they made a
15 lot of excuses that they could not make any arrangements for me
16 to go to Karachi. I told them that our daughter was very
17 scared and they would be responsible if anything happened to
18 her. Finally they agreed that they could make arrangements for
19 me to go to Karachi the next day.

20 Then I talked to my wife. She told me not to come to
21 Karachi because they were taking a flight to come home the next
22 day. They came back through Germany after two days. I was
23 very scared. I was afraid that our daughter was hurt and my

24 wife was not telling me. All I did was cry and pray for their

25 safe return.

1 When they came back to San Francisco, my wife made
2 special arrangements with the flight crew to come out of the
3 airport through a special exit. She did not want to expose the
4 children to so many people and the news media.

5 Two or three days after my children were home,
6 Dr. Christian Hatcher, a trauma specialist with UCSF, came to
7 our house to visit our children. He had called me after the
8 hijacking and told me that he was a trauma specialist. And he
9 worked with the children after they came back.

10 Our children were very scared and they would cling to
11 their mother every minute of the day. They would scream if
12 someone rang our bell. They would have bad dreams at night and
13 wake up terrified. They would not sleep in their beds.

14 I used to take my wife and children to Dr. Hatcher's
15 office at UCSF every week for five, six months. Then every
16 other week for another six months. Dr. Hatcher told me that
17 this horrible experience would stay with us forever, which is
18 not very comforting.

19 The hijacking has adversely affected our family life.
20 My wife hurt her back when she jumped on the shoot with both
21 the children in her arms to exit the plane. She took a lot of
22 medicine for pain relief. She got to the point that her leg
23 started to get numb. She was getting a lot of cramps. She was

24 bedridden for six months, then she had back surgery. It took

25 her more than a year to recover. She still cannot sit in one

1 place for too long.

2 Before the hijacking she used to take care of the
3 whole family. Now she cannot do even 20 percent of what she
4 used to do. The hijacking has affected my family. My wife
5 psychologically too. She does not trust men any more. She
6 stopped trusting me also after the hijacking. No matter what I
7 do or say it is going to be wrong. I get very frustrated. I
8 do not blame her. She is a strong person. But the hijacking
9 has put a fear down deep in her mind. Any news about a
10 hijacking or big accident, she is glued to the TV.

11 The hijacking has affected me very definitely. After
12 the horrible incident, I tend to get very, very edgy. Whenever
13 I think about the incident, I get very upset. I would have to
14 pull over and stop for 10, 15 minutes if I'm driving on the
15 freeway. If I am home, I will sit in the corner and cry for a
16 while.

17 Writing this statement has brought all the memories
18 back. It has taken me three days to write this statement. I
19 got so emotional many times and had to stop. After more than
20 17 years it's very, very painful. It's still very painful. I
21 would preferably like to talk to Dr. Hatcher in Washington,
22 D.C. I mean, that is my request. If I can get a hold of him,
23 I would like to talk to him and take my family to him for

24 psychological treatment.

25 Your Honor, I can forgive a human being. I can

1 forgive someone who has remorse. I can forgive someone who is
2 sorry for his mistake. But I cannot forgive an animal. Your
3 Honor, the defendant is an animal and he should be treated like
4 one. He should get the severest punishment under the law.

5 I would like to thank you very much. Listening to
6 you has assured me that justice will be served. I would like
7 to thank the DA's office and all of their staff. They have
8 been wonderful and very helpful. Thank you, sir.

9 THE COURT: Thank you, sir.

10 MR. MAISEL: Your Honor, our next speaker is
11 Mr. Clarence Maloney. He was a passenger on the plane.

12 THE COURT: Good afternoon, sir.

13 MR. CLARENCE MALONEY: Thank you. My name is
14 Clarence Maloney from Rockville, Maryland. I'm a long time
15 consultant in development projects in India. I was fortunate
16 to escape from the besieged airplane without any injuries. As
17 I had been in clipper class, I was made to crouch in the aisle
18 for the duration, but it was near the left rear door so I was
19 the first -- one of the first ones out.

20 I would also like to represent one of my colleagues
21 here, Pradeep Mehendiratta, director of the American Institute
22 of Indian Studies in Delhi. He was in the airplane and broke
23 his leg while trying to exit and was incapacitated and unable

24 to work for several months thereafter.

25 Sir, it is clear that the defendant was actually

1 prepared to sacrifice the lives of nearly 400 people who had no
2 connection with his Palestinian cause. He was wearing a belt
3 with explosives. Furthermore, his accomplices in the rear of
4 the aircraft had hand grenades which they were holding up with
5 a pin in their mouth stepping among us holding this hand
6 grenade in their hand with the pin removed while we were
7 crouching in the aisles in order to frighten us, though we had
8 no capacity to do anything to meet their demands. When the
9 shooting started, they did actually throw those hand grenades
10 among the passengers causing terrible devastation.

11 When the shooting started I thought at first that
12 these were warning shots fired above. I could not believe that
13 they were actually shooting at the people. But soon I heard a
14 terrible moaning and crying and realized that they were
15 actually spraying bullets from side-to-side at the heads of the
16 passengers. I put my head under a seat. Soon I smelled smoke
17 and I feared that the airplane would become a blazing inferno.

18 Just a month earlier, there was a hijacked airplane
19 in Colombo, Sri Lanka which was set on fire and it was a
20 blazing inferno and I felt that that would happen with this
21 airplane. Sir, with those hand grenades, that airplane could
22 have become a blazing inferno and everyone inside could have
23 perished. When there was a break in the shooting, everyone ran

24 for the door.

25 THE INTERPRETER: Excuse me, Your Honor, could you

1 ask the witness speak a bit slower?

2 THE COURT: Excuse me one second, sir. I'm sorry?

3 THE INTERPRETER: Would you kindly have the witness
4 speak a little bit slower? Thank you.

5 MR. CLARENCE MALONEY: Yes, I'll speak slower.

6 I will not recount more of what went on, but I would
7 like to make -- I would like to appreciate and commend this
8 Honorable Court in making this case a showcase of what American
9 people will do to hunt and bring to justice any perpetrator of
10 such a crime against humanity.

11 I appreciate that the Honorable Court has allowed the
12 victims to speak in detail so that this might be widely
13 diffused in the media. The world will know that the people of
14 this country will hunt down and bring to justice every person
15 who tries to use symbols, civilian symbols of the United
16 States, such as Pan Am to take people hostage who have no
17 connection with the cause of the hostage taker.

18 I would like to express appreciation to the Pan Am
19 staff. We all know the bravery of the hostesses. And I wish
20 to express to Mr. Daroga who spoke yesterday, our thanks for
21 the tremendous efforts of the Pan Am staff in Karachi to assist
22 the passengers in every way, to sort out the luggage, to
23 provide hotels, to bring a special plane from Germany to

24 Karachi for the flight to Frankfurt in spite of severe

25 financial constraints of the airline.

1 Sir, besides the death of 22 victims and 100 injured,
2 there was another casualty of this incident. This was one of
3 the incidents forcing the closure of Pan Am three years later,
4 the end of one of the most venerable American commercial
5 institutions.

6 I wish also here to express appreciation for the role
7 of the U.S. Embassy in Karachi. When I went into the airport
8 after escaping from the airplane, the first person I met was
9 the consular officer who informed my relatives in the U.S.A.,
10 Germany and India within two hours that I was safe. The U.S.
11 Government had arranged a commando force to fly in a special
12 plane from Germany to Karachi. Although it was unable to land
13 and take control of the situation, they were prepared to do
14 what they could in the situation.

15 I commend the hospitals and medical facilities in
16 Karachi which provided exemplary emergency treatment. And I am
17 appreciative of the justice of the Pakistan Government for
18 actually keeping these five prisoners in jail in Rawalpindi and
19 sentencing them according to Pakistan law, even though this
20 would have been a difficult decision because of the support for
21 the Palestinian cause in that country.

22 Mr. Safarini is here for sentencing. I personally do
23 not believe that the taking of life is mitigated by the taking

24 of one more life yet. But he will be incarcerated. And if

25 anybody suggests that his incarceration will be a waste of the

1 remaining years of his life, my response would be that the
2 action of this Honorable Court will be recognized around the
3 world for the resolve of the American people in such a case, in
4 a case of taking civilians hostage and killing them for a cause
5 in which they have no connection. So that the remainder of his
6 life will be a testimony for the resolve of the American people
7 in such a situation. Thank you.

8 THE COURT: Thank you, sir.

9 MS. LEVY: The next speaker is Mary Anne Nigli. She
10 was a flight attendant on board Pan Am Flight 73.

11 MS. MARY ANNE NIGLI: Good afternoon.

12 THE COURT: Good afternoon. How are you?

13 MS. MARY ANNE NIGLI: Fine, thanks. Up until
14 yesterday I was not at all inclined to share my experiences
15 with you because I wasn't convinced enough that it would help
16 influence the sentence already agreed upon. But as the day
17 progressed, I was deeply pained and saddened to see and hear
18 the grief, the suffering, the anger, the hurt, and the
19 bitterness in so many of us here present and this prompted me
20 to speak today.

21 The horror and the nightmare of the events of
22 September 5, 1986 still live on. It is an experience not
23 easily forgotten. The pain, trauma, fear, panic, loss of

24 freedom, and above all, the thought of my life coming to an end

25 without saying good-bye to my loved ones cannot be put into

1 words.

2 During those 18 hours of captivity, I felt despair, I
3 felt abandoned when I found out that the flight crew had
4 escaped, I felt helpless. How could a young inexperienced crew
5 only six months into our flying careers handle the situation
6 and shoulder the responsibility and safety of over 300 people.
7 And I felt anger that we were left to manage it all.

8 I was not scheduled to operate the flight that
9 fateful day. I was on standby and called out at the last
10 minute. Was it my destiny to be on this hijacked plane and
11 why?

12 I was situated in the back of aircraft when the
13 hijackers came on board. While they walked through the cabin
14 screaming orders for all to sit down with their hands up, I was
15 singled out and asked to come to the front. I was numb,
16 shocked and trembling with fear following the commands. I
17 prayed to God for courage and strength and he gave it to me.
18 Although frightened to death, I managed to maintain a calm
19 demeanor throughout the ordeal. I would not let them see that
20 fear in my face.

21 I followed the defendant's orders whenever asked to
22 do so. I used the megaphone to communicate with Viraf pleading
23 to bring the flight crew back, knowing fully well that it would

24 never happen and we were to await our fate, whatever that may

25 be. I endured, like many of you here, 18 hours of torture and

1 captivity, 18 hours in the hands of men who didn't care if I
2 lived or died, who did not value life, even their own.

3 The only other time I gave into my feelings and broke
4 into tears was when the young man, Rajesh Kumar was shot right
5 in front of me. His body dumped to my feet and then being
6 asked to open the aircraft door so his body could be kicked
7 out. Would it be my turn next was all that was going through
8 my mind.

9 When the final assault started, I made my peace with
10 God, said my prayers and my good-byes to my loved ones in my
11 heart. I was one of the fortunate ones not to be caught in the
12 line of fire.

13 When we were asked to move to the back of the plane,
14 the only spot I could find was between the mid cabin washrooms.
15 These washrooms were my shield from the shooting and the
16 grenades. And before I realized what was happening, found
17 myself on the wing of the plane with no choice but to jump.
18 And in doing so, fractured my pelvis and tore ligaments in my
19 ankle. I will always carry these physical scars. With a
20 fractured pelvis, I am prone to injuries and have difficulty
21 engaging in any physical activity. I had three painful
22 pregnancies, constantly monitored by my doctor to keep the baby
23 small to avoid putting too much pressure on my pelvis. But

24 thank the Lord I'm blessed with three beautiful children today.

25 I did take a six month leave of absence and visited

1 my sister and her family in New Jersey. I feared going back to
2 my job, had trouble sleeping, would easily get upset and cry.
3 But I believe that with the support and encouragement of my
4 family and friends, I made it through. I was determined not to
5 let the eight hours of captivity and pain hinder me from living
6 the rest of my life to the fullest.

7 The defendant and his crew robbed my freedom that
8 day, but they would not make me live in fear for the rest of my
9 life. I believe that God has a plan for each one of us. For
10 me it was to go through his horrific act of terrorism and come
11 through the darkness into a new light. As a flight attendant
12 that day, I hoped I did the best I could and hoped that all of
13 us flight attendants were able to give you, the passengers, the
14 support, the comfort, the hope, and the courage to endure this
15 ordeal.

16 Needless to say, no amount of training could have
17 prepared us for such an experience. The hurt, the anger, the
18 suffering, the fear, the resentment, the hatred, that some of
19 us are still experiencing today, is exactly what the defendant
20 would like us to continue to experience. We will just then be
21 succumbing to his plan for all of us. I understand that we
22 each have our own way of dealing with pain and grief and loss
23 of a dear one.

24 After September 5, we all went our separate ways to
25 continue living our lives. But this sentence hearing has given

1 us the opportunity to meet with one another for the first time
2 after almost 18 years. I think the hijacking, to me, made me a
3 stronger person and deeper in my faith in God. When you come
4 so close to death, you realize and believe how precious life is
5 and you want to live each day to its fullest and make each day
6 matter, focusing always on the positive. And my sincere hope
7 and prayer is that we will continue to support each other
8 through the healing process and have closure. I know that in
9 the end justice will prevail and we will all have to pay for
10 the wrongs we did.

11 I would like to thank you, Judge, and also Gregg and
12 Jennifer, for the opportunity to be here today and for your
13 understanding and sensitivity that you have shown all of us.
14 Thank you.

15 THE COURT: Thank you.

16 MR. MAISEL: Your Honor, we have one more person who
17 has said they wanted to speak. He has requested that he go
18 last, so I would ask to open up the floor if there are any
19 others who have not yet gone, other than Mr. Melhart, who would
20 like to speak, to please identify themselves.

21 THE COURT: Let me inquire whether or not anyone
22 would like to come forward and speak, be my guest if you would
23 like to.

24 MR. MAISEL: Okay. Seeing no one, Richard Melhart is

25 our last witness. He has also asked permission if he could

1 speak from the well of the courtroom. I've talked to the
2 marshals and there are certain physical parameters of which he
3 is aware.

4 THE COURT: All right. That's fine.

5 MR. RICHARD MELHART: Your Honor, I've changed my
6 mind. I'll go ahead and do it from here.

7 THE COURT: Sure. That's fine. Good afternoon.

8 MR. RICHARD MELHART: Good afternoon.

9 THE COURT: How are you?

10 MR. RICHARD MELHART: Just fine, thank you. My name
11 is Richard Melhart. I was a passenger hostage on Pan Am 73. I
12 had been in Pakistan for a month teaching sports medicine and
13 was simply on my way home when the hijacking occurred. My
14 original seat assignment was 15-J. Later I was moved to the
15 rear of the aircraft and ended up on the floor near the exit
16 over the wing on the right.

17 I would first like to directly talk to Judge
18 Sullivan.

19 THE COURT: Sure.

20 MR. RICHARD MELHART: Your Honor, when I first heard
21 that the death penalty had been denied, I wondered what kind of
22 a person you must be. And I wondered if you really, really
23 understood what it was like inside that aircraft.

24 When I arrived here in Washington two days ago, I was

25 told by our prosecutors that, in fact, you had very little

1 choice. It was a quirk of the law and that really your hands
2 were tied. I was relieved to hear that, but I still wanted to
3 see you in action to see just exactly what kind of a person you
4 were. I can't say that I was elected by the group to represent
5 them, but I think I'm probably speaking for most of them and
6 that is to say I have found over the last couple of days that
7 you do understand. And we very much appreciate that. Your
8 compassion, your patience, your understanding has been most
9 appreciated by those of us who are survivors. Thank you very
10 much.

11 THE COURT: Thank you.

12 MR. RICHARD MELHART: And I hope to shake your hand
13 when this is all said and done. I had two very personal and up
14 close episodes with our defendant. I probably made a mistake
15 boarding that type of an aircraft in that place with a red
16 white and blue jacket on. It didn't say U.S.A. across it, but
17 it probably didn't need to.

18 After I was moved, the defendant and his friends
19 spotted my jacket rather quickly. I was knocked down onto the
20 ground flat. The defendant had his knee in the middle of my
21 back, had his AK47 at my head. One of his friends had their
22 hand grenade right in front of my face and was screaming
23 something at me in Arabic.

24 I quickly decided that my life was probably coming to

25 an end and if that was going to be the case, I should die with

1 dignity and not have much to say. My next thought was I wonder
2 what is happening at home. I wonder how the news will be
3 taken. Suddenly there was movement. They picked up their
4 weapons and went on their business.

5 My second episode with our defendant occurred when
6 the shooting started. As I said a few minutes ago, I was near
7 the emergency exit on the right of the door that opened onto
8 the wing. When the shooting started, people were struck all
9 about us. I knew it was time to get the doors open and to
10 attempt an escape. As I was at the emergency exit working to
11 get the door open, the defendant fired a burst with his AK47 at
12 me and I'm proud to say, and maybe it's obvious, he missed. As
13 the plastic off the door flew in my face, the door flew open,
14 there was the wing, I stepped down onto the wing, looked down
15 inside and yelled, "Come on, get out of here."

16 A few moments later, I was able to jump from the wing
17 into the slide that came down from door number four. A few
18 weeks ago -- actually it's been a few months ago, I suppose, I
19 was called by the Public Defender's Office, an investigator,
20 and she wanted to interview me. And I told her right up front
21 I wasn't interested in being interviewed. I didn't have one
22 inclination to help her client, but go ahead and tell me what
23 she was after. She said, "Look, we're not asking you to help

24 anybody. We're asking you to -- we want information about what

25 happened to you."

1 I said, "Well, that's probably okay," and we made a
2 date to talk on the phone later. She called up and we did have
3 a long discussion. I probably talked for an hour telling her
4 what had happened to me. At the end of the conversation she
5 went out of her way it seemed to tell me two things: One,
6 Mr. Safarini is a changed person, she said. I kind of laughed.
7 I said, "Well, 20 years in a Pakistani jail would probably
8 change almost anyone." I joked back with her. She then told
9 me that he had a close as possible relationship with his
10 family. I said, "Wait, I don't want to hear another word about
11 association with ones family." We have heard the disasters
12 that have occurred in families in this courtroom in the last
13 two days.

14 Your Honor, I don't know whether you have the power,
15 I don't know what kind of a relationship this person has with
16 his family. I would certainly request that he not be allowed
17 to have any association with his family after what's happened
18 to these folks.

19 Your Honor, this defendant has failed in every aspect
20 of his life. He's failed his family, he's failed his country,
21 he's failed his religion, and he's failed mankind. His final
22 judgment is coming and it will not be in the court of man, it
23 will be in the court of God. And I have no doubt the outcome

24 of that.

25 I want to make a personal statement to Sunshine.

1 It's so nice to see you. You saved our lives. I don't know if
2 you remember as we sat on the floor, we decided we were going
3 to say a prayer and we touched fingers or thumbs and it went
4 all around the folks that were sitting there. Everybody prayed
5 in their own way, and prayed quietly. If there was ever an
6 uplifting moment in a horrible day, that was it. I don't know
7 if you remember.

8 Your Honor, thanks for the opportunity and thank you
9 for the way you have treated us. It was very much appreciated.

10 THE COURT: Thank you, sir.

11 MR. MAISEL: There is nothing further from the
12 government.

13 THE COURT: All right. Had you planned on making any
14 argument at all, Counsel, or any other representations to the
15 Court?

16 MR. MAISEL: Our argument was contained in our
17 presentation earlier. We've said what we need to say.

18 THE COURT: All right. Mr. Bruck or Mr. Tucker?

19 MR. TUCKER: What is the Court's pleasure, to proceed
20 at this time?

21 THE COURT: I was trying to get a feel for how much
22 time you would like. It is quarter to one. At some point
23 we're going to break for lunch. Probably not an hour and a

24 half, but an hour. Let me just inquire now how much time you

25 would like.

1 MR. TUCKER: I suspect an hour probably. I'm not
2 really sure, exactly, to be honest with you. We have four
3 people, counting Mr. Bruck and I, I guess, if we speak, so not
4 much time over an hour.

5 THE COURT: I was not aware that anyone was going to
6 speak.

7 MR. TUCKER: Oh, yes, yes. Father Bryant will speak,
8 Mr. Safarini will speak, Mr. Bruck and then perhaps me, perhaps
9 not, we'll see, if that's okay with the Court.

10 THE COURT: No, absolutely, sure. Mr. Maisel?

11 MR. MAISEL: On a scheduling matter, Your Honor, if
12 the Court could accommodate me, Judge Urbina needs me in his
13 court between 1:45 and 2:15, so if we can break in a way that
14 we're back at 2:15.

15 THE COURT: Can that matter wait? Would you like me
16 to talk to Judge Urbina? Do you have a jury panel out?

17 MR. MAISEL: No, but I did try to rearrange and it
18 should be quick. But if we could do it in a way that we just
19 perhaps hear from their first witness.

20 THE COURT: Perhaps Judge Urbina can accommodate you
21 over the lunch hour when we break. I would be happy to give
22 him a call. I mean, there are 100 people here. I'll try to
23 accommodate you, but I'll give him a call. Is there a

24 scheduling issue that has to be worked out?

25 MR. MAISEL: It was an issue with the marshals

1 getting someone here.

2 THE COURT: All right.

3 MR. MAISEL: But perhaps if we could hear from their
4 first witness, then that would make the break natural.

5 THE COURT: That's fine. Why don't we use the time
6 we have before we break and I'll hear from your first witness.

7 MR. TUCKER: Okay. If we could start with Father
8 Michael.

9 THE COURT: Let me just say to everyone, we will
10 finish today?

11 MR. TUCKER: Oh, absolutely.

12 THE COURT: Good afternoon, sir.

13 FATHER BRYANT: Your Honor.

14 THE COURT: How are you today?

15 FATHER BRYANT: Very good. Thank you.

16 Your Honor, Judge Sullivan, survivors and family
17 members of Pan Am 73, ladies and gentlemen, my name is Father
18 Michael Bryant. I am a Catholic priest. And I have been the
19 chaplain at the District Jail for 24 years. My background is
20 that of a pastoral counselor and a licensed mental health
21 therapist.

22 I've been present throughout the sentencing hearings,
23 listening and deeply saddened by the sheer volume of suffering

24 associated with this atrocious event. I have read the painful

25 accounts of the survivors and their horrifying memories

1 recounted in page after page of unspeakable horror and the
2 written impact statements. And I was particularly saddened
3 when I read the story of a mother who laid across her children
4 in the dark and felt blood on their clothing and she did not
5 know at that time whether it was their blood or someone else's.

6 I listened to statements of paralyzing fear,
7 paralyzing fear of passengers who endured so many hours the
8 dread of who might be next to die. The sheer terror, the loss,
9 the sense of loss, the sense of powerlessness, the sense of
10 helplessness, the rage and the anger. I thought, as I listened
11 yesterday and today, that in a very real way I was on sacred
12 ground. And I prayed for the many with so many wounded lives
13 and so many painful memories.

14 My reason for coming to court today is to offer some
15 insight into the mind and into the heart of Zayad Safarini, who
16 I've come to know during his two and a half years in the
17 District Jail.

18 One of the efforts of the chaplain service is to try
19 to help prisoners and their families maintain contact while
20 they are incarcerated. And it was in this context that I first
21 met Mr. Safarini. He had not spoken with his mother in a very
22 long time and I helped him make initial contact with her in
23 Jordan. Periodically, I did assist him in calling his family,

24 not knowing at the time who he was or what he had done.

25 Zayad Safarini's demeanor when he came to the office

1 was always respectful and unobtrusive. He was quiet, he was
2 unassuming, he was subdued in manner. He was never insistent
3 or demanding. Most of the time he was sad and depressed and I
4 knew that he was on medication. The few times I saw Zayad
5 smile and animated was when he spoke with his mother.

6 After many months of coming to the office and
7 occasionally being able to call his family, I began to spend
8 time sitting with him. Gradually I came to understand who he
9 was. And then I visualized and recalled the television report
10 of the news account of the passengers. Specifically, the
11 passenger who was pushed from the door of the plane. That came
12 to my memory years later. And as we talked, I was initially
13 taken back by the sheer number of people who had died or were
14 injured. And for a time, I could not believe I was sitting in
15 the presence of a person who was responsible for this horrific
16 event.

17 As he continued to share his story, he never looked
18 up, he always looked down. There were long pauses between
19 words and sentences, his lips quivered. It indicated to me the
20 pain associated with memories of what he had done. And he said
21 to me in a broken voice, he said, "I wish I were dead." I
22 believe Zayad Safarini is overwhelmed when he visualizes what
23 he has done. I believe Zayad is frequently tormented by the

24 memories of his deeds.

25 On that day in 1986, Zayad believed he was going to

1 die on that airliner. He never considered having to live with
2 the horror of his actions years later. On another occasion, he
3 told me, "I am not the man I was then." I asked him if he
4 wanted me to pray with him as our talk ended that day. I asked
5 him if he wanted forgiveness, and he acknowledged he did. And
6 as we prayed for God's healing for those who live with open
7 wounds from this event, we also prayed for God's forgiveness
8 upon him.

9 As I continued to listen, I began to see and hear a
10 broken human being who now, 18 years after the fact, is, in my
11 belief, deeply remorseful and contrite for what he has done. I
12 believe further that he is no longer that young zealot of
13 almost two decades ago. He is no longer a merciless terrorist
14 threatening defenseless people.

15 From what I have heard and what I have seen, Zayad
16 Safarini is a man deeply contrite and pained for causing so
17 much horror in the lives of so many innocent people. And I
18 also believe that God has forgiven him. And now Zayad wants to
19 find words and asks your forgiveness.

20 In the jail, Zayad Safarini is not perceived as a
21 threat or a danger by the administration or the correctional
22 staff. After he was there a few months, he was put in open
23 population. He attends Moslem services every Friday.

24 I would just like to close, if I may, with a few

25 reflections. All great faith traditions believe that every

1 person is made in the creator's image and is therefore sacred.
2 No stoppable person's actions, no matter how inhuman can take
3 away their humanity as it is God given. Punishment is a
4 legitimate response to wrongdoing, but if it's punishment for
5 punishment sake alone, then it approaches retaliation.
6 Punishment must be balanced with mercy to bring the reform of
7 the sinner. If there is no mercy, if there is no compassion,
8 then there's little hope for anyone.

9 I would like to respectfully share with you a way to
10 find healing and peace, recognizing that many in this room may
11 not, and understandably so, have the same approach, finding
12 healing and peace through forgiveness. Bishop Desmond Tutu of
13 South Africa said when he was conducting the truth and
14 reconciliation hearings in the aftermath of the apartheid
15 atrocities, said, "There can be no future without forgiveness."

16 Gandhi said, "Hate the sin, love the sinner."

17 Martin Luther King said, "In the face of years of
18 brutal racist behavior in this country, the old law about an
19 eye for an eye leaves everyone blind."

20 And again, we must maintain the capacity to forgive,
21 for he who is devoid of the power to forgive is devoid of the
22 power to love. There is some good in the worst of us and
23 there's some evil in the best of us. When we discover this, we

24 are less prone to hate our enemies.

25 And Jesus said from the cross, "Father forgive them,

1 for they do not know what they do." And again, "As I have
2 forgiven you, so you must forgive one another."

3 My prayer is for each of you that you will find
4 healing and peace.

5 THE COURT: Thank you, sir. I understand that
6 Mr. Safarini wanted to address the Court as well.

7 MR. TUCKER: Yes.

8 THE COURT: How much time do you need for that? I'm
9 just inquiring. I'm not trying to curtail your time. I'll
10 give you as much time as you want.

11 MR. TUCKER: For Mr. Safarini to address the Court,
12 it shouldn't take long. We are wrestling with the language,
13 how we want to do this, but in terms of the language and
14 there's a possibility we might try to do it in both languages,
15 twice, but it won't be long either way.

16 THE COURT: That's fine. That's fine. What I'll do
17 is I'll telephone Judge Urbina also, Mr. Maisel, and let him
18 know just what we're doing and I'm sure he'll accommodate you.
19 In fact, if you can bear with me for a minute or so, I'll call
20 him before I go downstairs.

21 If you were to call that matter at 1:45, how long do
22 you think it would take? Is this going to be a potentially
23 protracted matter?

24 MR. MAISEL: I think 15 minutes.

25 THE COURT: All right. Let me see if I can get him

1 to hold off until the end of the day on that order. Is this
2 time sensitive? Is this an issue that has to be resolved
3 today?

4 MR. MAISEL: I think he's going to want it resolved
5 today.

6 THE COURT: All right. I'll give him a telephone
7 call. We're going to start promptly at 2:00. I'll ask you to
8 be back here at 2:00. Don't worry about -- if I'm not able to
9 resolve it with Judge Urbina, just be back here at 2:00. I'll
10 let you know before you leave. We'll start promptly at 2:00.
11 We will be ending today. We will start promptly at 2:00.
12 Mr. Safarini would like to be heard and you would like to make
13 some representations as well, or Mr. Tucker, or both.

14 MR. TUCKER: Yes.

15 THE COURT: All right. Anyone else?

16 MR. TUCKER: No.

17 THE COURT: All right. That's fine. We'll break
18 until 2:00. There's no need to stand. Thank you.

19 (Recess taken for lunch.)

20 THE COURT: All right. Mr. Tucker?

21 MR. TUCKER: Your Honor, Mr. Safarini would like to
22 make his statement. I know Your Honor is going to ask him, but
23 I think he wants to address the statement to the Court,

24 although the words will be directed elsewhere. And he, as we

25 all know, he's a native Arabic speaker, but he also wants to

1 try to say it in English too.

2 THE COURT: I assume he's been conversing with the
3 minister in English?

4 MR. TUCKER: Oh, yes, he can speak English.

5 THE COURT: Why do we need the interpreter? That's a
6 question I've been asking you for a couple of years now.

7 MR. TUCKER: Well, it is a little different in
8 Arabic. He's written it in Arabic too. And so what we would
9 like to do, it's not that long, with the Court's permission we
10 would like for him to first say what he wants in Arabic because
11 that is his native tongue. And that will be translated. And
12 then he will say it in English so there's a degree of
13 directness.

14 THE COURT: That's fine.

15 Mr. Safarini, would you like to come to the podium?

16 Would you like to turn the podium around?

17 THE INTERPRETER: No, I have my own microphone, Your
18 Honor.

19 THE COURT: I'm sorry, I was talking to him.

20 Mr. Safarini, would you like to turn the podium
21 around so you could address the survivors?

22 THE INTERPRETER: He's saying, "I want to face Your
23 Honor."

24 THE COURT: All right.

25 THE DEFENDANT: Good afternoon. I initially wanted

1 to address you in English, but in the Arabic language I can
2 express myself better. At the beginning I would like to
3 express my remorse, certain sorrow. I am very, very, very
4 sorry.

5 THE COURT: Would you like to turn to the victims and
6 the survivors and express your sorrow to them directly?

7 THE INTERPRETER: He's going to try, Your Honor.

8 THE COURT: I'm not forcing you. I'm just asking
9 you. You wanted to express your sorrow to me. That's fine.
10 I'm not a victim. I'm not a survivor. I wasn't there. These
11 people were there. They are family members of people who were
12 there.

13 THE INTERPRETER: He says, "I would like to face Your
14 Honor."

15 THE COURT: All right. So is that, no, you would not
16 like to turn and speak to the victims? Would you like to sit
17 at the --

18 That's fine. Thank you, Marshal.

19 MR. TUCKER: I had told him that I would stand next
20 to him.

21 THE COURT: If you would like to stand next to your
22 client, that's fine with me, if it's all right with the
23 marshals. Sure, go ahead.

24 THE DEFENDANT: At the beginning, I would like to
25 start with expressing my remorse and sorrow. I was sorry from

1 the very beginning, but after I read the statements of the
2 victims, that added to my pain. And after I heard in court
3 your statements, that added to my pain. I am really sorry for
4 all my actions. I initially wanted to address the Court
5 because I didn't -- I am somewhat reluctant to face the victims
6 in this sad incident.

7 THE COURT: Let me ask you a question. Why are you
8 reluctant to face the victims?

9 THE INTERPRETER: No, there is no reason why -- there
10 is no reason why, Your Honor.

11 THE COURT: There is no reason what?

12 THE INTERPRETER: He does not want to face the
13 victims -- no there is no special -- he's saying, "I'm facing
14 them now." He said it in English, Your Honor.

15 THE COURT: All right.

16 THE DEFENDANT: Now I would like to address Judge
17 Sullivan and request the victims and the families of the
18 victims to listen to me if they so desire. I am not going to
19 ask you for forgiveness because I have suffered quite a lot.

20 THE COURT: You haven't suffered as much as these
21 people have, sir. By no stretch of the imagination have you
22 suffered as much as they have. You've heard their stories.
23 They're still suffering and they're going to suffer

24 continuously for the rest of their lives. You think your

25 suffering is equal to theirs?

1 THE DEFENDANT: No, Your Honor. I do not think so.

2 Shall I continue?

3 THE COURT: Sure.

4 THE DEFENDANT: But I would like them to know that I

5 did listen to them and read their statements and I feel their

6 pain and their sufferings. I am sorry for what has happened to

7 them and for those that they love. I know I am sorry for all

8 what they're suffering and I know that their sufferings are to

9 continue for the rest of their lives.

10 And I want them to know that all this pain, I take

11 the responsibility for all this pain that they are suffering.

12 And I wish that all your pains and aches would --

13 THE INTERPRETER: I'm getting a little bit nervous.

14 I'm sorry.

15 THE DEFENDANT: -- would heal and I take

16 responsibility for all this pain. And my sorrow is from the

17 depth of my heart. If you do not believe that I am a person

18 who has a heart, I can understand that and I would accept that.

19 And I strongly believe that if anybody has exerted or

20 done that to me, that person would be having a very thick heart

21 and does not have any weight or meaning or understanding of

22 humanity. I know that it is very difficult that you would

23 believe in my truth and my words would not have any value. But

24 this is all what I possess.

25 Once again, I do express my remorse and sorrow and I

1 do strongly wish that all those who are suffering, that their
2 hurts and feelings would heal. And I think of them all the
3 time. And I remember all what has happened in Pakistan as if
4 it happened yesterday.

5 I strongly express my remorse and sorrow and that was
6 wrong. I'm aware of the fact that those people who were on the
7 plane really suffered and I bear the responsibility for these
8 actions. This is a horrible incident. And what I feel today
9 words cannot express the extent of my feelings.

10 At the beginning, I used to have dreams every night
11 about these actions and incident. And I still get nightmares
12 of this incident. And I abruptly get up out of my sleep in
13 fear. But I would like to express to you that I wish I had
14 died on the plane. I don't say that so that you would feel
15 sorry towards me. I am telling you that because if that person
16 had done these horrible actions towards me, I would wish that
17 that person would suffer in pain.

18 That's why I'm telling you that I am suffering and I
19 have no hope. This is a horrible matter that I am living
20 through. I am not enjoying my life and I don't feel any
21 happiness. And I sit in my cell and have no hope and no
22 feeling of life. I know that when I die that I'm going to be
23 by myself without ever seeing my family.

24 I also would like to bring to your attention two

25 matters. That I do not hate the United States. I admire this

1 country tremendously, their traditions and their thinking and
2 the freedom in this country. When I was incarcerated in
3 Pakistan, I used to read a lot about the United States. It
4 appeared to me that it is full of light and it was full of --
5 it was bright and full of light and full of freedom and ever
6 twinkling.

7 And I would like to tell you that when I committed
8 these actions, I did not do that as a drive on account of my
9 religion. At the beginning when I got involved with this
10 organization it was my understanding that I was extending a
11 helping hand to the Palestinian people. I believed that I was
12 living a dream for a country, a homeland. On that account,
13 myself and my family -- so that myself and my family would go
14 back to our homeland.

15 Now I quite believe that the organization that I was
16 a part of, this is not their aim. Now I know that I was used
17 and so were the others. And I was at fault and I was wrong and
18 so were the others that the force that I was using was serving
19 the Palestinian cause. I was at fault. I was wrong. And the
20 victims that fell were innocent people. They had no relation
21 or connection to the Palestinian cause. I am not expressing an
22 explanation to give you reason for what happened because that
23 is impossible. I am sorry, I am remorseful, and thank you.

24 THE COURT: When the plane was taken over, did you

25 think that the Palestinian cause justified that type of

1 activity?

2 THE DEFENDANT: In the past, this was my
3 understanding.

4 THE COURT: At the time the plane was taken over and
5 at the time that innocent and defenseless men and women and
6 children were murdered, do you really believe that your cause
7 justified that type of conduct?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: At the time it was significant, though?

10 THE DEFENDANT: I was brainwashed.

11 THE COURT: Into believing that your conduct and
12 activities were justified then on behalf of the Palestinian
13 cause?

14 THE DEFENDANT: Yes, Your Honor, at that time, yes.

15 THE COURT: All right. Is there something else you'd
16 like to say? My understanding is you'd like to make a
17 statement in English now, is that correct?

18 Before you do that, who brainwashed you?

19 THE DEFENDANT: The organization I was a part of.

20 THE COURT: So you were told that this type of
21 conduct or that type of conduct was justified then?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And you believed it?

24 THE DEFENDANT: In the past, yes.

25 THE COURT: How could any cause justify the killing

1 of defenseless men, women and children?

2 THE DEFENDANT: I admit that that was wrong.

3 THE COURT: All right.

4 THE INTERPRETER: Your Honor, do you want him to read
5 it in English?

6 THE COURT: If he would like to.

7 THE INTERPRETER: It's the same words that I have
8 just indicated stated in Arabic.

9 THE COURT: It's up to him. His attorney indicated
10 that he would like to make a statement in Arabic and then an
11 English version. If what you've repeated is the correct
12 version, it's up to Mr. Safarini as to whether he wishes to
13 repeat it in English. If he would like to, that's fine.

14 THE INTERPRETER: He wants the interpreter to stand
15 by him just in case.

16 THE COURT: All right.

17 THE DEFENDANT: Good afternoon, I am going to speak
18 today in English because I think it's important that you hear
19 from my mouth these words that I have written down.

20 I am sorry, I am so very, very sorry. I thought I
21 was sorry before, but after reading the victim impact
22 statements it was a new sorrow. And now hearing these things
23 in court it is even more painful. I am so sorry for what I

24 have done. I will speak to the Judge today because I do not

25 want to direct anything, not even my words, to the victims of

1 this tragedy who have suffered so much. I will speak to Judge
2 Sullivan and ask the victims and the families of the victims to
3 hear me if they wish.

4 I will not ask the victims for their forgiveness.
5 Already I have taken too much from them. But I do want them to
6 know that I have listened to them and that I read their
7 statements and that I feel the great pain they have. I am
8 sorry for what happened to them and what happened to the people
9 they love. I know I am sorry and I know that their pain
10 continues now and that they will remain injured for the rest of
11 their life. I know that all of this suffering I'm responsible
12 for. I wish that I could heal their injuries and I know that I
13 cannot. I offer this apology. It comes from my heart.

14 If you cannot believe that I am a man with a heart, I
15 understand that. I accept it. I will feel this way if someone
16 had done this thing to me. I would think that person had no
17 heart, was a killer and did not appreciate the meaning of
18 humanity. I understand that it will be difficult for you to
19 believe that I am sincere. My words may seem to you without
20 value, but they are all I have.

21 So once more I apologize. I am sorry. I hope that
22 the people I have hurt will find healing. I think of them all
23 the time. I remember what happened that day in Pakistan as if

24 it were yesterday. I regret it. It was wrong. I know what

25 those people and their families suffered and I know that I'm

1 responsible for it. It is terrible to think about it. What I
2 feel is so great it is almost not possible to put into words.
3 It is too much to say.

4 In the beginning I dreamed about it every night.
5 Still now I dream about it. It is a nightmare and I wake up
6 very frightened. I know that I am fortunate because for me it
7 is a nightmare only. I woke up, I am not dead. But I wanted
8 to do that. Often I wish for death. Often I wish I had died
9 in the airplane.

10 I do not say this to ask you to feel sorry for me, I
11 say it because if such a terrible thing happened to me, I would
12 want to know that the person who did it suffered. I would want
13 him to suffer. So I tell you that I am suffering. I am full
14 of despair. I do not enjoy life. I do not feel happiness. I
15 sit in my cell and then I am filled with fear and without hope.
16 I will die alone I will not see my family.

17 There are two other things I would like you to know.
18 I do not hate America. Actually I admire this country. The
19 tradition, the customs, the freedom. When I was in a prison in
20 Pakistan, I would read about America. Already I fell in love
21 with this country. To me it looked bright, shiny, and open and
22 free.

23 I would also like to tell you that when I did this

24 terrible thing, I did not act for the good of religion. I did

25 not. When I first got involved with this organization, I

1 thought that I was helping the Palestinian people, my people.
2 I thought that I was working for the dream of a homeland so
3 that I and my parents and grandparents could return to the land
4 of brothers and sisters.

5 I believe now that the organization I was part of did
6 not have that as its mission. I now know that I was used and
7 others will use it and that I was wrong to think that the
8 violent thing I did would help the Palestinian cause. I was
9 wrong and the people who died were innocent. They had no
10 connection to the Palestinians. I do not explain this to
11 justify what I did. It is not possible.

12 I am sorry. Thank you.

13 THE COURT: All right. You made a statement, "I will
14 die" and then your voice trailed off. What is the word after
15 that? "I will die," I think you said.

16 MR. TUCKER: I think he said, "lonely."

17 THE INTERPRETER: "I know I will die in prison. I
18 will die alone. I will not see my family."

19 THE COURT: All right. Anything else?

20 All right. Thank you.

21 THE DEFENDANT: Thank you.

22 THE COURT: All right. Mr. Bruck or Mr. Tucker?

23 MR. BRUCK: Good afternoon.

24 THE COURT: Good afternoon, Counsel.

25 MR. BRUCK: I only have a few things to say. I'm not

1 going to prolong this proceeding any more than a few minutes
2 more.

3 THE COURT: Take whatever time you need.

4 MR. BRUCK: Thank you. I would like the Court to be
5 aware in listening, and everyone here to be aware, that
6 Mr. Safarini is medicated. That affects the way his voice
7 comes across. He is on --

8 THE COURT: Is he competent to participate in this
9 proceeding?

10 MR. BRUCK: Yes, absolutely. There's absolutely no
11 question about his competency.

12 THE COURT: Let me ask him a couple of questions.

13 Do you understand why you're in court today,
14 Mr. Safarini?

15 THE DEFENDANT: Yes.

16 THE COURT: Why don't you join your attorney at the
17 podium. I need to ask you a few questions since your attorney
18 raised the issue of your being medicated today. I just want to
19 make sure that you understand why you're in court today and
20 yesterday.

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. And what's your
23 understanding?

24 THE DEFENDANT: Today I'm in court for sentencing.

25 THE COURT: All right. And have you had a chance to

1 take a look at the presentence report?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. And do you understand it?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you have any questions about it?

6 THE DEFENDANT: No.

7 THE COURT: Are there any corrections you would like
8 to make to the presentence report?

9 THE DEFENDANT: No.

10 THE COURT: Are you able to assist your attorney with
11 his representation of you today?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Is there anything that you do
14 not understand about this proceeding?

15 THE DEFENDANT: No.

16 THE COURT: What type of medication are you taking
17 now?

18 THE DEFENDANT: An anti-depression.

19 THE COURT: All right. Do you know the name of the
20 medication?

21 THE DEFENDANT: No.

22 THE COURT: All right. How often do you take it?

23 THE DEFENDANT: I have been taking it for a period of

24 two years.

25 THE COURT: Two years. All right.

1 Do you take it on a daily basis or every other day?

2 THE DEFENDANT: Daily.

3 THE COURT: I'm sorry?

4 THE DEFENDANT: Daily.

5 THE COURT: Daily.

6 Have you had your medication today?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you feel as though you're under the
9 effects of your medication now?

10 THE DEFENDANT: No.

11 THE COURT: Are you able to understand and think
12 clearly this afternoon?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you have any questions about your
15 medication and its impact on you and your ability to understand
16 these proceedings here today or yesterday?

17 THE DEFENDANT: No, I can understand.

18 THE COURT: All right. And you're fully alert and
19 attentive then, is that correct?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: I'm satisfied that he's competent to
22 participate and to assist his attorney.

23 THE DEFENDANT: Thank you.

24 THE COURT: And do you feel as though you're

25 competent to participate in this proceeding?

1 THE DEFENDANT: Yes.

2 THE COURT: And to assist both of your attorneys?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. And I understood you,

5 Mr. Bruck. You weren't suggesting that your client was

6 incompetent. But you raised the medication and that triggered

7 the appropriate questioning colloquy with Mr. Safarini.

8 Go ahead, Mr. Bruck.

9 MR. BRUCK: Thank you. I mentioned that because if

10 the Court -- and I'm sure everyone else here wants to interpret

11 what they just heard. And it's noticeable that Mr. Safarini's

12 manner is flat.

13 THE COURT: It's noticeable and it's quite

14 remarkable, also. I mean, it's as if the words are hollow that

15 he's reading and he's reading a script. I mean, I wouldn't

16 have the emotion either because it's not coming from my heart.

17 MR. BRUCK: Yes.

18 THE COURT: And that's the impression that one gets

19 when you listen to him because he's totally emotionless.

20 Although he admits sorrow and pain and the fact that he

21 suffered, it is flat.

22 So what does the Court make of it? What do the

23 victims make of that, that it's from the heart?

24 MR. BRUCK: I don't know. I want the victims to have
25 as much information as they can. And that's what I would like

1 to provide now.

2 Mr. Safarini is on an anti-depressant medication. He
3 is also on Risperdol, which is a medication prescribed both for
4 anxiety and for psychosis. These were both prescribed a long
5 time ago by the medical staff at the jail.

6 It was entirely appropriate that the Court ask
7 questions about competency, but I think it's important for
8 everyone to know, and, of course, the Court to realize, that
9 the very reason, one of the reasons that he is being treated
10 with these medications is to ensure that he remained competent.
11 And he did and he is. And there's absolutely no doubt about
12 that.

13 But both the medications, and I think the fact that
14 he is clinically depressed, that he is suffering from the
15 mental illness of depression, slows him down and makes him
16 speak in the way you just heard all the time. In private, with
17 us, no matter what emotion he is feeling, that's how he sounds.

18 THE COURT: But he was showing emotion earlier. He
19 was raising his hands when victims were speaking. I don't know
20 if you noticed that or not. You could see he was shaken or
21 moved by something. I assume by the very compelling words of
22 the victims.

23 MR. BRUCK: That's exactly what it was.

24 THE COURT: I didn't see that type of emotion

25 displayed when he read that statement.

1 MR. BRUCK: Well, those were his words. He wrote
2 that statement. And yesterday when we walked back into the
3 lock-up with him and he was visibly distressed, I said, "How
4 are you, what's the matter?" And he just uttered the single
5 word, "unbearable." And that was what he was feeling based on
6 what he was hearing.

7 THE COURT: And he should feel that way. It is
8 unbearable. I hope to never have a case like this again. And
9 I'm not new to judging or new to law, but it takes its toll.
10 Everyone's life in this courtroom is going to be different,
11 including mine, after today. There's a certain -- it has a
12 certain drain on a person what we've heard.

13 MR. BRUCK: I know. I have a family too.

14 THE COURT: When women and children are rounded up
15 like animals, defenseless men, women and children and
16 slaughtered, you know, by cold blooded, cowardly, murderous,
17 thugs with grenades and AK47s. And he looks at me like, you
18 know, he wants to have one in his hand now. That's the
19 impression I get, you know, with that cold steel stare that
20 he's got fixed on me now, you know.

21 So I don't buy his sorrow. I don't buy this at all.
22 You had a statement and that's fine. Does he mean it? No,
23 absolutely not. Not in this Court's view. Maybe he does.

24 MR. BRUCK: Well --

25 THE COURT: I recognize there is a higher authority

1 and maybe he is demonstrating a basis for forgiveness. I'm not
2 persuaded. But I'm not as high as that other authority.

3 MR. BRUCK: Well, he doesn't expect to be forgiven
4 and we're not asking on his behalf for forgiveness, but
5 Mr. Tucker and I do feel some small responsibility because of a
6 privileged position we have, which is that we have access to
7 him in the way that no one else does. And that means we have
8 information that no one else has. Your Honor can accept it or
9 reject it or doubt that anything I say has validity, but I
10 think I have a responsibility to say what I have observed.

11 THE COURT: Sure. And let me be fair and clear with
12 you and your client as well. I have no intent to reject the
13 plea agreement. I mean, I think that the plea agreement is
14 appropriate. I think that those types of plea agreements
15 pursuant to Rule 11(c)(1)(c) should be accepted conditionally
16 upon receipt and review of a presentence report and that judges
17 should have the opportunity to hear from victims. And maybe
18 I'll stop using that word and call them "survivors" because
19 that's probably more appropriate.

20 Before making a decision as to whether a plea
21 agreement should be accepted, I think it's a most appropriate
22 plea agreement. I think that the sentence of three consecutive
23 life terms plus 25 years is better than he deserves, but it's

24 the maximum allowable sentence. And for the Court to reject it

25 would just be arbitrary. Reject it in favor of what? There's

1 no other maximum sentence that can lawfully be applied in this
2 case. And he will die alone in jail.

3 MR. BRUCK: Yes.

4 THE COURT: He'll live more years. And that's not an
5 opportunity available to the 21 people that he murdered,
6 though. So I don't have a lot of compassion in that regard.
7 He's going to spend -- he's going to get medical care. And as
8 one of the speakers said, you know, taxpayers will pay for his
9 stay at a federal facility for the rest of his natural life.

10 How old is your client now, 42, 43? How old is your
11 client now?

12 MR. BRUCK: He's 42.

13 THE COURT: 42. I mean, with medical science being
14 the way it is, he may live to be 80, 90 years old. And
15 taxpayers will pay for that. He'll get excellent medical care.
16 There are a lot of benefits that people assume that he may not
17 have the opportunity to get. But it's the most severe sentence
18 that can be applied in this case consistent with this country's
19 rule of law.

20 The question becomes, what are you asking me to do?
21 You're not asking me to reject the plea agreement, you're
22 asking me to accept it and impose the sentence, which I will
23 do. I don't think there's any survivor here who would ask me

24 not to impose that sentence. There are survivors here that

25 would ask me to impose other sentences, but they're not

1 appropriate sentences under our rule of law.

2 MR. BRUCK: I'm partly here for some of the same
3 reasons that have motivated other people here.

4 THE COURT: Absolutely. And please take whatever
5 time you would like, please.

6 MR. BRUCK: As I say, Mr. Tucker and I have come to
7 know Mr. Safarini for two and a half years. I was so struck by
8 what Mr. Thexton said yesterday when he was trying to size
9 Mr. Safarini up on the plane and wondering whether or not this
10 was someone who had been driven to this by a terrible situation
11 or whether he was just playing Mr. Thexton for sympathy.

12 That states in those few words exactly the issue that
13 we all confront when we deal with a crime like this and with a
14 person who committed it. A lot of people may not believe it,
15 but one of the jobs of a defense attorney is to try to find out
16 where the truth lies, who someone really is.

17 You cannot convince anyone of anything that you don't
18 believe yourself. And that's why, in this case, as in every
19 other case of this nature, a lawyer has to ask himself who is
20 this guy, where is he coming from, who is he now, whatever he
21 did before. And so we've tried to do that as best we're able.
22 And like Mr. Thexton, we don't know if we're right or wrong,
23 but I want to share with you what we observed.

24 THE COURT: Absolutely. Please take whatever time

25 you would like. I'm going to be fair to you as I did for

1 everyone else. Take whatever time you need.

2 MR. BRUCK: Thank you. In two and a half years
3 Mr. Safarini has never expressed an angry word in our presence
4 about anything. He has never expressed frustration or
5 irritation or petulance or self pity. What we have seen is a
6 very depressed, lonely, despairing person, and that's what
7 we've encountered.

8 Now, it could be that that's all an act and that he's
9 exactly the same person that he was when he was a robotic
10 killer on that plane. And there is no doubt that that's what
11 he was. Or it is possible that he is no longer that person.
12 Everyone has to make their own judgment. We had to make ours.
13 And the evidence of our eyes and ears and our common sense is
14 that he is not the same person that he was.

15 Now, what practical difference that makes, it doesn't
16 make very much. But it is a piece of information that we can
17 offer if anyone is interested in it. It is the truth as we
18 observe it. And we feel a responsibility since, as I say, we
19 have a vantage point that no one else has to this man just to
20 say what we've seen.

21 Like most people in the world, the most important
22 thing to him --

23 THE COURT: You used the word "robot" though. That

24 suggests that he didn't have control over what he did.

25 MR. BRUCK: No, he did.

1 THE COURT: He did?

2 MR. BRUCK: He did.

3 THE COURT: So he wasn't a robot. Robots are
4 controlled by someone else.

5 MR. BRUCK: I used that as a metaphor to describe the
6 way he appeared.

7 THE COURT: I don't want to loose focus on that he
8 intentionally did everything that he set out to do.

9 MR. BRUCK: He was born into this organization. He
10 joined it when he was 17 years old. Shortly before he went on
11 this mission, as the Court knows by his own submission, his
12 best friend was hanged in front of him by this organization.
13 This was a psychotic terrorist organization, psychopathic. It
14 preyed on its own members, just as it preyed on the public at
15 large.

16 None of this is an excuse. It does not justify
17 anything. It is just so. And that is what produced the four
18 men that were on that plane and the fifth who was orchestrating
19 it from hiding on the ground. He did not withdraw from that
20 organization right away.

21 When they were on trial in Pakistan, he was still a
22 member. They signed statements in common. And I don't mean to
23 suggest that the moment he was arrested he became somebody

24 different, but he does appear to us to be somebody different

25 today.

1 As I say, that's not a particularly useful piece of
2 information. But if anyone finds it to be interesting, I think
3 we have a responsibility just to say what we saw. I think
4 people should know that he is completely unlike the religious
5 fanatic terrorists who are attacking the United States today.
6 He has no religious political ideology. He no longer has any
7 political ideology at all. He is as private a person as it is
8 possible to be. His entire world centers on nothing but his
9 own family and his desire which will never be met, to be with
10 them before he dies. He has in that sense, withdrawn into
11 almost the smallest of shells.

12 THE COURT: That tends to happen when people are
13 incarcerated and faced with the prospect of being incarcerated
14 for the rest of their lives. They tend to withdraw, they tend
15 to accept their surroundings. But it's an acceptance as
16 opposed to a change, though. It's an acceptance. They accept
17 because of the circumstances.

18 I mean, I've visited prisons. I've been around
19 people who were very, very dangerous while outside the prison.
20 And can I interact with them and mingle and shake their hand
21 across the table? I can. But are they changed? I don't know.
22 I mean, they're with marshals when I do it. Would I go in by
23 myself? Probably not. I don't know, I don't know if I would.

24 But he's a changed man. So what? We should drop the

25 charges or say he's spent enough time?

1 MR. BRUCK: It doesn't have any practical
2 significance.

3 THE COURT: It does, though. I know how you feel.
4 You're a defense attorney and it's a difficult job that you
5 have in this case. And you're offering the information that
6 you have available. And I understand that and I accept that
7 information. And whether I credit it or not, that's another
8 issue. But you're doing the very best you can with a very
9 difficult situation. I understand that. And he's fortunate to
10 have one of the best in the country.

11 MR. BRUCK: Thank you. In the course of preparing
12 this case for what we thought would be a long and difficult
13 adversarial trial, and one that I am very glad everyone has
14 been spared by this guilty plea, I had to read about the
15 history of the Palestinian saga and what produced the Abu Nidal
16 Organization and where it came from. And one of the books I
17 read was a book by Benny Morris and it's called, "Righteous
18 Victims," which begins from a line from W. H. Auden that I'm
19 going to recall from memory. It may not be exactly right, but
20 it goes like this.

21 THE COURT: It probably is. If you recall it from
22 memory it probably is verbatim. Go ahead.

23 MR. BRUCK: "I know what the public knows, what every

24 school child learns, that those to whom evil is done, do evil

25 in return."

1 Now, those words haunted me as I worked on this case
2 and they haunt me still because what justice is, this is the
3 day when the cycle breaks. When evil has been done, but we do
4 not do evil in return, we do justice.

5 And that leads me to the last practical issue that
6 the Court has to decide. You've already expressed an opinion
7 about it and perhaps nothing I say can change your mind.

8 THE COURT: No, go ahead.

9 MR. BRUCK: This has to do with a recommendation by
10 the Court for confinement in the ADX, that is solitary
11 confinement.

12 THE COURT: The Florence facility.

13 MR. BRUCK: At Florence, Colorado. That's a decision
14 in the end that's up to the Bureau of Prisons.

15 THE COURT: Absolutely.

16 MR. BRUCK: But your recommendation will carry great
17 weight with the Bureau of Prisons.

18 THE COURT: I don't know about great weight. It will
19 carry some.

20 MR. BRUCK: I know for a fact --

21 THE COURT: I'm not so sure about that. I make
22 recommendations a lot to cases and I get a lot of letters back
23 from the BOP saying, Judge, thanks a lot, we really appreciate

24 it, but these are the reasons why. And I accept that. There's

25 a separation of powers and I accept that.

1 MR. BRUCK: One of the survivors yesterday in such a
2 eloquent way expressed the emotion of revenge, that we would
3 like to rip him limb from limb and feed him to the vultures.
4 And then he said, but that would not be justice. That is not
5 the law. That is not the right thing to do.

6 That expresses a human emotion and it also reminds us
7 that there is a continuum of things that we can do to a person
8 who is at our mercy and in our hands. And solitary confinement
9 is one of them.

10 Now, the reason for Florence, Colorado, the reason
11 for ADX, is to house prisoners who cannot and will not behave
12 as prisoners. It is a security measure for the Bureau of
13 Prisons. But it can also be used as punishment.

14 THE COURT: Right.

15 MR. BRUCK: It is not supposed to be used as
16 punishment. That is not what it's for. But it is within the
17 legal power of the United States to use solitary confinement as
18 punishment.

19 I would very respectfully suggest to the Court that
20 when one draws the line between ripping limb from limb and
21 doing justice, it is always hard to tell on what side of the
22 line a given action lies. But I would respectfully suggest
23 that for this man, who has had not a single disciplinary

24 infraction in two and a half years, and as far as we know had a

25 spotless record as a prisoner in Pakistan, that to condemn him

1 to solitary confinement lies just on the wrong side of that
2 line.

3 I realize that reasonable minds can differ, but I
4 think that's true. The government, pursuant to our agreement,
5 does not oppose our request that this not be done. There is no
6 law enforcement reason, there is no prison reason, there is no
7 penological reason.

8 THE COURT: I'm sorry, the government agrees with
9 your request?

10 MR. BRUCK: They do not agree with our request. They
11 do not oppose our request.

12 THE COURT: So the government takes no position.

13 MR. BRUCK: They do not oppose our request. I don't
14 think that's quite the same thing.

15 THE COURT: I'll hear from Mr. Maisel, then he can
16 tell me.

17 MR. BRUCK: I think, obviously, the Court has the
18 power.

19 THE COURT: I get unopposed motions every day. This
20 is an unopposed motion then for a request that he not go to
21 Florence or the --

22 MR. BRUCK: What we're asking for is the Court make
23 an affirmative recommendation that he does not.

24 THE COURT: And the government does not oppose that?

25 MR. BRUCK: And the government does not oppose that.

1 We think in the normal course that if the Court does not make
2 any recommendation one way or the other, he will not be sent
3 there because he doesn't need to be there.

4 THE COURT: Right. That's right. He'll participate
5 in the BOP's classification program.

6 MR. BRUCK: Exactly.

7 THE COURT: I've recommended Florence before and the
8 BOP has informed the Court that Florence was not appropriate.
9 I recommended it for very compelling reasons. The BOP said
10 they didn't think he was a dangerous person.

11 MR. BRUCK: I understand. But the realities being
12 what they are, this is a terrorism case and your
13 recommendations will be given greater weight.

14 THE COURT: So the judge's recommendations get
15 greater weight in terrorist cases?

16 MR. BRUCK: That would not surprise me. The events
17 of the last couple of weeks in Iran, I don't for a moment deny
18 that Your Honor has the right to make any recommendation you
19 want to the Bureau of Prisons. But what we have seen in Iran
20 is another reminder that the best people to make an untrammelled
21 and unfettered decision about how a prisoner should be housed
22 are the experts, the people whose job it is.

23 And I would ask the Court with all respect simply to

24 leave that decision to the Bureau of Prisons without a

25 recommendation one way or the other. If the Bureau of Prisons

1 concludes that this man needs to be in solitary confinement,
2 they will put him there and they will keep him there as long as
3 he needs to be there. And if need be, they will leave him
4 there until he goes mad or dies.

5 THE COURT: I got the impression yesterday when the
6 issue came up, maybe I broached it, I got the distinct
7 impression though from the responses of survivors and victims
8 that they agreed with the Court's observation that maybe
9 segregated incarceration at a maximum facility was appropriate.
10 I didn't get the impression that they disagreed with that. So
11 maybe what the Court should do, if the Court is correct in that
12 regard, and I think I am, judging from the response, then if
13 the Court is so inclined to make a recommendation, maybe the
14 recommendation should be phrased that the Court makes this
15 recommendation based upon the views of the victims, the
16 survivors, that he be in segregated isolation. That's their
17 view.

18 MR. BRUCK: If it were framed in that way.

19 THE COURT: I know that's not universal. I
20 understand your views, I understand your views, the law
21 student, correct?

22 MS. GARI DAVE: Yes.

23 THE COURT: I understand your view. It's not

24 universal, I understand.

25 MR. BRUCK: I think if it were framed in that way,

1 the Bureau of Prisons would have the most accurate reflection.

2 THE COURT: The majority of the victims.

3 MR. BRUCK: I have to say that if my son had been on
4 that plane, I would probably be in the limb from limb camp. So
5 nothing I say today in any way impugns the feelings that have
6 been expressed. I knew we were in for a very painful couple of
7 days, but what I was not prepared for was the dignity and the
8 courage and the beauty of so much of what we've heard in the
9 last few days.

10 THE COURT: It's very compelling, very moving and
11 your life would be changed also. That's not to mean that
12 you'll be a prosecutor next week. It's going to have an impact
13 on everyone. Something like this has to have an impact. We're
14 all humans.

15 MR. BRUCK: Yes, yes, it does. Your Honor, I have
16 spoken much longer than I wanted to.

17 THE COURT: I mean it when I say take as much time as
18 you want to now.

19 MR. BRUCK: That's all I have. Thank you.

20 THE COURT: It's a pleasure as always.

21 Mr. Tucker?

22 MR. TUCKER: Your Honor, I'm not going to stretch it
23 out either. I do want to add just one thing, very briefly. I

24 have to say I sort of shuddered yesterday just a little bit

25 when I heard the solitary confinement.

1 THE COURT: Why? Isn't that appropriate from your
2 view?

3 MR. TUCKER: Well, I don't think it's appropriate.
4 First of all, I don't think it's needed. He's demonstrated in
5 two and a half years that he has been a very good inmate.

6 THE COURT: Let me ask you this. Explain to me the
7 profile of someone who should be in solitary confinement.

8 MR. TUCKER: Somebody who is very dangerous, likely
9 to attack somebody in the prison, the same reason that the
10 Bureau of Prisons have ruled as to who goes to solitary
11 confinement. There are rules, there are regulations. If he
12 goes to the Bureau of Prisons and he is a danger to the staff,
13 if they believe that, then that's where he'll be.

14 Why I shuddered is this. When I thought of it, you
15 know, everybody has been talking about messages. And to some
16 extent it's appropriate to send messages when sentencing and
17 other views, perhaps not. It's the defendant who is being
18 sentenced. There are some messages that I agree with. As much
19 as I hate to say it, I agree with the government a lot of
20 times. And I do agree that a message that the United States
21 doesn't forget is an appropriate message. A message that we
22 will track you down 20 years later when you do a crime like
23 this is appropriate. It's very comforting to everyone and it's

24 justice.

25 What worries me when I heard solitary confinement is

1 the message in this world today. If we're going to be sending
2 messages, solitary confinement historically has been associated
3 with secrecy, with dungeons, with out of the public view. And
4 is that the message we want to be sending now?

5 THE COURT: Why shouldn't that be the message that we
6 want to send, to serve for no other reason but as a deterrent
7 to someone who thinks about commandeering a plane and killing
8 innocent children? Why shouldn't that be the message? And the
9 last part of that question is, why isn't that better than what
10 he deserves, solitary confinement? Twenty-one people were
11 murdered. These people's lives have been altered irrevocably.
12 They'll never be the same. You heard the stories, the most
13 compelling stories I've ever heard and hope to never hear those
14 type of stories in another case again. Why hasn't he earned
15 that solitary confinement?

16 MR. TUCKER: I agree with you as far as --

17 THE COURT: And the ironic thing is this, too. By
18 virtue of the rule of law in this country he's avoided the
19 death penalty. I didn't make that decision based on emotion.
20 If I had to make it on emotion, I'd query what the decision
21 would have been. I made it upon applying the rule of law.
22 He's been a beneficiary of, in my view, an appropriate rule of
23 law that has not been challenged in an appellate court. It's

24 the law of this case. He doesn't have to fear being executed.

25 MR. TUCKER: Can I --

1 THE COURT: Yeah, I threw out a lot of questions.

2 I'm sorry.

3 MR. TUCKER: No, no, no, please. I actually would
4 prefer just to answer whatever questions Your Honor has. I
5 actually prefer to do that.

6 THE COURT: At some point, you earn solitary
7 confinement. If not this case, then what case? The person who
8 just murders two people. Or maybe that's okay for Leo Gonzalez
9 Wright. He's there. He murdered two people. This man
10 murdered 21. Why shouldn't he be there?

11 MR. TUCKER: Because I think, as Mr. Bruck really
12 correctly pointed out.

13 THE COURT: He's not a danger?

14 MR. TUCKER: Yes, he's not a danger. And solitary
15 confinement is not used for punishment purposes. It's used for
16 other purposes. And, you know, there is --

17 THE COURT: Why is he not a controlled danger? You
18 know, his actions are controlled now. He's in prison.

19 MR. TUCKER: I'm sorry?

20 THE COURT: Why isn't he a controlled danger? He's
21 in prison. Everything he does --

22 MR. TUCKER: He is, but he's not in solitary
23 confinement. And he has done perfectly well, as he did in

24 Pakistan apparently.

25 THE COURT: This comes up in cases where the

1 government tries to prove dangerousness and the countervailing
2 argument is he's not a danger, everything is being controlled,
3 he's not a danger, when a person really is.

4 MR. TUCKER: If I can respond how I actually feel
5 about that. I think the 20 years have actually demonstrated
6 that he's not a danger. And do you know what? At the Bureau
7 of Prisons that's their job, that's their profession. If they
8 determine he is a danger and so classify him, then that's a
9 different question.

10 THE COURT: And we know the system works. I
11 recommended the segregation for Sigmund and the Bureau of
12 Prisons said, thanks, Judge, but we're going to do something
13 else with him.

14 MR. TUCKER: If you'll permit me the luxury of just a
15 couple of remarks. And maybe it's my own feelings about this.
16 And I know I've been in this court long enough you won't hold
17 it against Mr. Safarini.

18 THE COURT: No, no.

19 MR. TUCKER: But, first of all, there is an element
20 of terror to that. When you say, well, why won't this act as a
21 deterrent, there is an element of terror to that.

22 THE COURT: Terror?

23 MR. TUCKER: Terror to be put into a dungeon for the

24 rest of your life.

25 THE COURT: So I'm a terrorist then?

1 MR. TUCKER: No.

2 THE COURT: Well, I must be. If I sentence him to a
3 dungeon, then I'm a terrorist.

4 MR. TUCKER: Let me finish my thought.

5 It is because that sort of penalty is designed, as
6 you said, to deter anyone from ever committing this crime
7 again. We will treat you as harshly as we can possibly think
8 of, basically.

9 But I respectfully suggest, Your Honor, that that's
10 not a deterrent. If you'll let me finish, it's not a
11 deterrent. And please excuse my -- you know I'm not going to
12 call you a terrorist.

13 THE COURT: No, I'm just trying to figure out. Well,
14 what does that make me though, if it's terror, if that's an
15 expression of terror?

16 MR. TUCKER: It's to inflict a fear so great in
17 somebody. It's meant as a deterrent to others. But I think
18 this case demonstrates --

19 THE COURT: Then it serves its purpose then. It
20 means that someone else will think twice before commandeering a
21 plane and killing some children. That is a deterrent, yes.

22 MR. TUCKER: And I would like to respond to that.

23 THE COURT: So if I'm a terrorist in that regard, I

24 accept the title.

25 MR. TUCKER: No, no, no. If I have chosen my words

1 not well, please don't hold me --

2 THE COURT: We've known each other long enough to
3 know I don't take that personally.

4 MR. TUCKER: But what I'm saying is that certain sort
5 of things don't work to a certain limit. You can incarcerate
6 him for the rest of his life, as you are doing, and we all
7 understand that. But it's just like --

8 THE COURT: Pursuant to his agreement?

9 MR. TUCKER: Right. But just like Mr. Safarini and
10 his confederates in 1986 attempted to instill unbearable and
11 unbelievable terror in the victims, he didn't succeed. He
12 didn't succeed because that doesn't work. That doesn't work.
13 And the bottom line of this -- and I'm sorry if I'm out here by
14 myself.

15 THE COURT: I understand what you're saying. The
16 bottom line is one terrorist act doesn't deserve another
17 terrorist act. That's the analogy you're making. Because
18 planes are still being commandeered by cowards and thugs and
19 murderers. And innocent women and children are still being
20 murdered. So what are you saying, just accept the inevitable
21 then, Judge?

22 MR. TUCKER: No, no.

23 THE COURT: What do we do then to get the message out

24 that we're not going to tolerate this.

25 MR. TUCKER: Well, certainly it seems to me that

1 rounding him up after 20 years, sentencing him to three life
2 sentences and 25 years, and we're going to follow you, we're
3 going to round you up, we're going to lock you up forever.

4 THE COURT: Do you know what, I think this is the
5 appropriate forum for a United States Judge to call upon the
6 Government of Pakistan to release his comrades to the United
7 States so they can be tried in this court or some other court
8 and then give your client an opportunity to redeem himself then
9 and accept responsibility and provide testimony against those
10 people.

11 MR. TUCKER: Which he's agreed to do that.

12 THE COURT: Then I'll be happy to make
13 recommendations to the Bureau of Prisons.

14 MR. TUCKER: And he's agreed to do that, as you're
15 aware of. Nobody has talked about that, but he has agreed to
16 do that. That was part of his agreement. And he will do that.

17 THE COURT: And I would hope that the Pakistani
18 Government would respond to my request, not to me personally,
19 but to appropriate channels in the United States Government and
20 respond to my request to release those people and let the
21 courts of law in this country determine their fate in this
22 country.

23 He was released, right?

24 MR. TUCKER: We certainly --

25 We agree with you.

1 THE COURT: Sure, sure. Then we'll see how
2 remorseful and how sincere your client is and whether or not he
3 will then confront those former colleagues of his and testify
4 and provide crucial testimony against them. Because the
5 government undoubtedly wants testimony from him in order to
6 convict his colleagues.

7 MR. TUCKER: And he intends to do that. And that's
8 something that should redound to his benefit in all this if he
9 does. And that's part of how he feels about this.

10 Just an aside, recall that when that case does come,
11 that Mr. Bruck and I have a conflict in that case.

12 But he's agreed to do that. He will do that. I
13 understand -- and I think Mr. Bruck said it perfectly -- we
14 can't -- you know, we have our views on his remorse, you know.
15 Probably I've spent as much time as -- probably more than
16 anybody with the geographical considerations here with
17 Mr. Safarini and he's agreed to testify.

18 And just to get back to the issue as far as any
19 recommendation. I think there's another thing that you should
20 consider, Your Honor. The government has done a wonderful job
21 in this case as far as the victims.

22 THE COURT: An outstanding job.

23 MR. TUCKER: They have done a wonderful job.

24 THE COURT: An outstanding job.

25 MR. TUCKER: And they've watched out for the victims

1 every step of the way, as they should have. And you can bet --
2 and, you know, the case has been settled --

3 THE COURT: Both sides. Take some credit also. Both
4 of you. You mounted a great defense against the death penalty.
5 I was persuaded and one thing led to another and your client
6 was afforded a plea agreement.

7 MR. TUCKER: Well, I appreciate that. But the point
8 I wanted to make is that -- and the government, you know, this
9 case was settled for the maximum possible sentence that was
10 available.

11 But, Your Honor, remembering that the government has
12 done everything in their power to protect the victims in this
13 case and the government's interest, the government agreed
14 themselves in Paragraph 10 of the plea agreement that not only
15 would they not oppose you affirmatively saying in the judgment
16 recommending that he not be sent to ADX, but they also stated
17 that they take the position with the Bureau of Prisons that
18 they don't see any need for him to be at ADX.

19 MR. MAISEL: Let me clear this up because there
20 certainly was quite a bit of negotiation about this clause. We
21 in the plea agreement recognized that the defendant was going
22 to be asking this of the Court regarding assignment. Our
23 position was we would stay silent, not object and the statement

24 was it is up to the Bureau of Prisons. The government's

25 position has always been the Bureau of Prisons is in the

1 business of determining the proper assignment for defendants,
2 they will do their job, they will have all the information,
3 that's their job, we take no position, recognizing that they're
4 making this recommendation.

5 But to say that we would join in that --

6 THE COURT: No, that's why I want the record --

7 And Mr. Tucker agreed it was an unopposed motion.

8 And I think that's consistent with everything you just said,
9 counsel.

10 MR. TUCKER: My point being that the government would
11 not have agreed, I don't believe, not to oppose it if they
12 thought there was really sufficient reason they needed to
13 oppose it.

14 I would also say this, Your Honor, as far as remorse.
15 One last point. It was not only a statement here, but even
16 when he -- he was interrogated for 12 hours on the way to the
17 United States. And he said in his statement that he -- you
18 know, I was young and stupid, I was young and stupid at the
19 time. And he commented how the Abu Nidal organization had used
20 people. They used people who were depressed.

21 And I won't get into --

22 You know, he's responsible for what he did. You have
23 a certain degree of personal responsibility regardless and we

24 know that. But there's always a part of me that, you know,
25 maybe it's my job and maybe it's because I've done a few of

1 these, I really have seen a little broader picture in one
2 sense. And, you know, that statement, that was his statement,
3 that was his statement. He delivered it the best he could.

4 If the Court has any questions of me -- or, actually,
5 you know, Mr. Bruck and I will be happy to answer any questions
6 afterwards any of the survivors have about Mr. Safarini or any
7 type for that matter, we're happy to do that to supply any
8 information. Of course I'm happy to answer your questions. I
9 think we've done all we could tell you -- we've said all we
10 could do.

11 But we believe that the evidence when you look at
12 how -- he's done the best he could do since he came to the
13 United States. He's done -- you know, as far as he's been a
14 model prisoner. As Mr. Bruck said, he's never been anything
15 but the most polite person to us, we've never heard him try to
16 give any excuse or anything. I mean, that's how he's been and
17 that's what I'm telling you. And, you know, I've been here
18 many times before. I'm not going to tell you that if it's not
19 true, simple as that. And that's the way he's been.

20 And, you know, again, we have heard the victim's
21 story ourselves for two days and we feel, you know, we can
22 never put ourselves in their shoes and we realize that.

23 THE COURT: What I've done on occasion, and I have no

24 problems doing it, I can't allow everyone who's spoken before

25 to speak again, but if there are one or two people who would

1 like to respond, victim survivors who would like to respond to
2 what your client had to say, I would certainly afford them a
3 brief opportunity to do that.

4 Yes?

5 MS. SUNSHINE VESUWALA: I have something to say.

6 MR. MAISEL: Just for the record, as the Court is
7 aware, this is Sunshine Vesuwala.

8 THE COURT: How are you today?

9 MS. SUNSHINE VESUWALA: I'm good. I have something
10 to say. When I commented on the people he killed, when I
11 commented on Neerja, when I commented on Kharas and commented
12 on all the people who lost people on that incident, there was
13 no reaction from him. He was sitting just like that.

14 But when I commented on him being a man, I got a
15 reaction. He was glaring at me. Twice he glared at me across
16 this courtroom. That got a reaction. So don't tell me he's
17 doped out of his mind. He knows what's happening. He knows
18 exactly what is happening. He just doesn't care. He doesn't
19 feel anything for anybody but himself. He talks to his mother.
20 Who's talking to Neerja's mother?

21 THE COURT: I know the feeling. I felt the glare
22 also. I know the feeling. I agree with you.

23 MS. SUNSHINE VESUWALA: So all this, I don't believe

24 it. I don't think most of the people out here believe it. If

25 one person believes it, even that would be an achievement.

1 THE COURT: Thank you.

2 MS. SUNSHINE VESUWALA: Thank you.

3 THE COURT: Anyone else? We have a few minutes. And
4 please state your name again for the court reporter.

5 MR. TUSHAR NAGAR: Hi, Your Honor.

6 THE COURT: How are you, sir?

7 MR. TUSHAR NAGAR: I'm Tushar Nagar. And I just
8 heard him say that he gets nightmares and he's afraid and he's
9 fearful. What is he afraid of? What's going to happen to him
10 when he gets these nightmares and he wakes up and he says he's
11 fearful? I don't think he's fearful. It's the victims who,
12 you know, get the nightmares. And they're afraid that
13 something is going to happen to them. He is not.

14 Take away all his medications and see what happens.
15 He's not going to be the same man that he is right now. He's
16 going to be the same person as he was 20 years ago. That's all
17 I have to say.

18 THE COURT: Thank you. Anyone else? I refer to you
19 as the law student, but you are a law student. Would you like
20 to come forward?

21 MS. GARGI DAVE: Yes.

22 THE COURT: All right. What's your name again?

23 MS. GARGI DAVE: Gargi Dave.

24 THE COURT: How are you today?

25 MS. GARGI DAVE: I'm making it. Thank you.

1 THE COURT: Good afternoon.

2 MS. GARGI DAVE: Good afternoon. And thank you
3 again. I really appreciate this. I have to say I feel like
4 solitary confinement is not right.

5 THE COURT: I understand.

6 MS. GARGI DAVE: Okay.

7 THE COURT: You made that very clear yesterday.

8 MS. GARGI DAVE: Okay. And I would also like to add
9 that, adding to just from the background of what they said,
10 that he saw his best friend hung in front of him. That sort of
11 a thing that happens to somebody when they're that young, I
12 mean, we've heard of studies of -- I mean, I'm sure you're
13 aware of this, of young people who experience trauma, they're
14 traumatized. And they don't have options like we have options.
15 We have an option. We have a support system. We have the
16 privileges that come with our life. If you don't have that --
17 I don't know what his life was like.

18 But I know a lot of people in the states in other
19 countries where, you know, they're given guns when they're nine
20 years old. And he was a part of some terrorist organization.
21 And if he was brainwashed and if the defense attorneys are
22 speaking the truth, I would definitely take that into account.

23 And I would not -- I mean, I don't think that he's

24 just going through the motions. And when he was speaking

25 flatly, I mean, what is he going to do if he really is sorry?

1 I mean, I just have to say this. I know this probably sounds
2 really funny coming from me. And I completely support the
3 people who feel anger, and I can understand that. I wasn't
4 them. I didn't go through what they did. Each one of us went
5 through our own horror in our own way.

6 But adding to human suffering, what does that do? It
7 doesn't do any good. I mean, try reform, try something else,
8 come up with something more intelligent. Sticking him in
9 solitary confinement does not do any good.

10 I mean, if you're going to --

11 That is torture. And, yes, as that gentleman said,
12 that is terrorizing. And I have no problem saying that. I
13 don't think that's right. I think we should be above that. I
14 just think it's wrong to heap wrong on wrong. I'm not speaking
15 religion. I don't have any religious belief. But I believe
16 that each of us has the capacity for both good and bad in the
17 mix. And I think that's what we see in this man.

18 And I think we saw a lot of darkness and maybe he
19 still has that. But I think he has a heart. And I did not
20 take it the way you did, Your Honor. And I think that's
21 something that we all need to wake up to. I think it's much
22 easier to cast away a person and throw them in jail and not
23 deal with the complexity of what we might go through because

24 it's too difficult. And it's easier for the government to make

25 a case out of this.

1 And it looks good right now because of all the
2 terrorism that's been going on. But that's not what this
3 should be about. He's a human being just like we are. I don't
4 think we should be making him into a monster like people want
5 to. And, I'm sorry, I know people might hate me for saying
6 this, but, I'm sorry, I just don't think he's a monster. And I
7 don't think it's right for us to do that. And I think it's
8 much easier to treat him that way, but he's not.

9 Just because a person has an illness doesn't mean you
10 treat them like they're an animal. There are many people who
11 have mental problems and they do things. And God knows what he
12 went through. Doesn't that matter? It matters to me. It
13 definitely matters to me that his best friend was hung in front
14 of him. My God, if I went through that. That matters to me.
15 It should matter. We want to share our side of the story. We
16 want to share what's happened to us and why we are the way we
17 are. Likewise, that's the reason why he is the way he is. And
18 that definitely matters.

19 THE COURT: Let me ask you a question. As a law
20 student, do you have an opinion as to whether the sentence in
21 this case should or should not serve as a potential deterrent
22 to future similar activity?

23 MS. GARGI DAVE: I think what we see right now in the

24 world is we see rising fundamentalism. We see more and more

25 suicide bombers. We see that continuing. I don't think that

1 what you do in the prison system is going to make much of a
2 difference to that. I think we should be thinking about what
3 is causing fundamentalism in the first place.

4 I was speaking with the gentleman who was on the
5 Pakistan ground, his wife, I forgot his name, but the tall
6 gentleman with white hair. Yes, his wife. I was speaking with
7 her. And she was telling me how Pakistan more and more --

8 THE COURT: Can I ask you just to sit back?

9 MS. GARGI DAVE: I'm sorry.

10 THE COURT: That's all right. It's just amplifying
11 your voice too much.

12 MS. GARI DAVE: I'm just saying, if you really are
13 concerned about preventing this from recurring, you need to
14 think about the causes. And that's not what we're thinking
15 about. You're just thinking about punishment. And that just
16 raises the suffering. And, yes, people might feel better by
17 the fact that this man is put in jail. We're still left with
18 all our problems. We're going to go back and continue to deal
19 with our own trauma.

20 I deal with PTSD, I'm on medication, I suffer from
21 depression, I didn't share that yesterday, but I do. I have
22 all kinds of symptoms. What happens to him is his life. I
23 don't want to see him suffer. I'd much rather see him reformed

24 and do something positive. I'd much rather see him go and talk

25 to other terrorists and express his remorse and see what he can

1 do as a reformed terrorist. Now, that would be powerful.
2 Utilize him as a vehicle for changing the world. Don't just
3 throw him in a jail and make him a useless being. He's not a
4 useless being. My sense is he's a very intelligent man.

5 Sorry. That's true. There's intellect behind him.

6 I know that. Okay? Deal with it.

7 THE COURT: Thank you. We respect your views. Your
8 views may be different from others.

9 MS. GARGI DAVE: Yeah. I'm sorry, but gosh. I'm
10 sorry, I don't mean to be angry. I'm just saying that just
11 because a person has intellect does not make them a good person
12 or a bad person. But I'm just saying people are complex and
13 he's a complex being. I'm not saying what he did was right.
14 Obviously, he wasn't right. That's not why I'm up here.

15 All I'm saying is what is the purpose of punishment?
16 And if we really care about being better human beings, which is
17 what I'm concerned about, and which I think what our government
18 is concerned about, and I think the justice system is concerned
19 about, if it is about being better human beings, then great,
20 then let's think about how we can make him a better human
21 being.

22 Throwing him in a jail cell without anything, facing
23 walls in darkness, that doesn't make him a better human being.

24 That's going to torture him. That's going to make him feel

25 violence. That would make me go crazy. There's no good in

1 that.

2 I think we really need to reevaluate our justice
3 system. And I think we really need to reevaluate how we treat
4 prisoners. And, yes, as a survivor I want to say, yes, I
5 suffered by that, yes, I've dealt with trauma and I continue to
6 deal with trauma, and, yes, I feel tremendous pain, and I have,
7 and I haven't shared a lot of what I've gone through because
8 that wasn't the point. And I heard everything that everybody
9 here said. And I care tremendously about the pain that they
10 feel and continue to feel. But I do not see a point in adding
11 to human suffering. That does not do anyone good.

12 If we care about fundamentalism, if we care about
13 terrorism, deal with the cause. Throwing him in jail is not
14 going to do it just like that. Instead, yes, deal with the
15 president of Pakistan. Use your political power there.

16 THE COURT: I don't have any political power.

17 MS. GARGI DAVE: As a judge, I'm sure you do. In
18 certain ways I'm sure you do.

19 THE COURT: Thank you very much.

20 Yes? Maybe a couple more. Yes? Why don't you come
21 forward.

22 MR. DWIJAL DAVE: Sorry. I'm a little emotional
23 right now.

24 THE COURT: Would you state your name again for the

25 benefit of the court reporter.

1 MR. DWIJAL DAVE: Dwijal Dave. I was on that plane.
2 I was 11. I saw people get shot. I saw a seven year old boy
3 get shot. I didn't go out and hijack a plane, okay. I don't
4 care what he suffered through when he was little or what he
5 saw. That does not justify what he did. And all this talk
6 about fundamentalism, that's not why we're here. We're here to
7 see justice done.

8 Is it going to really matter if he is --
9 What I want to say is the punishment, the only
10 punishment I see fit for him is what all of these guys go
11 through out there who have lost their family. They can't
12 communicate with them. I don't think he needs to be
13 communicating with his family. He shouldn't have those
14 privileges because that's what they don't have.

15 What he stole from me, he stole my childhood. He
16 stole my time of when I could be out there playing with my
17 friends. Basically, he hurt me a lot. I mean, it's great to
18 talk about living in this wonderland where we can reform
19 everybody, but that's not reality. And that's not the way the
20 world works. And that's not why we're here.

21 We're here to see justice done. We're here to see
22 that this man does not hurt anyone again. And if we have the
23 resources to reform him, great. But the fact of the matter is

24 we don't. And so we're dealt with what we have here. Thank

25 you.

1 THE COURT: Thank you, sir.

2 Hello. How are you?

3 MS. ANU NEMIVANT: Fine thanks. How are you?

4 THE COURT: Would you state your name again?

5 MS. ANU NEMIVANT: Anu Nemivant. And I'll be very
6 brief. There's only three things that I wanted to say in
7 reaction to his comments.

8 One, you mentioned the fact that you needed a reason
9 for the super max, as you call it. You know, terrorism is a
10 national security threat. And I just feel that being in
11 prisons where he's exposed to other people, having the ability
12 to communicate with others, or for whatever means, then he may
13 have the ability to communicate out to the world to other
14 people. And I feel that, if nothing else, that that's a
15 significant reason to put him in a place where he'll have no
16 communication with others.

17 The second point is knowing the amount of fun that
18 he's had in the two and a half years in this country, that
19 doesn't sit well with me. Working two jobs, I pay a lot in
20 taxes. And so knowing that some of my taxes go to his benefit,
21 I think that's difficult.

22 Actually, I only really had two points then. So
23 really those two things. And more from a practical perspective

24 I think that, you know, from a national security perspective

25 that he needs to be in a place where he's not going to cause

1 any harm or any communications to any other people. That's it.

2 THE COURT: Thank you. Anyone else? Yes, sir.

3 MR. MICHAEL THEXTON: Michael Thexton. I don't know
4 whether I believe him or not. I said yesterday I never knew
5 then. But I feel that if it is true that he feels remorse, if
6 there is any element of truth in that, then his life sentence
7 will be terrible whether he lives it in solitary or whether he
8 lives it with other people. Because he will have the words of
9 all the people who sat here in his head for the rest of his
10 life.

11 As I said yesterday, and am going to say it again
12 now, if he could be used in some way to get this message across
13 to the other people who may have their own twisted reasons, who
14 may be misled in their own way to go out and kill other people,
15 then that would be a powerful force for good. I know he's done
16 terrible wrong and he can never undo that. But if only he
17 could do something, if only he could do something so that other
18 people won't be sitting in this courtroom in some future year,
19 then maybe he would deserve not to be in solitary confinement.

20 That was one thing. The only other thing I would
21 have to say is, as I said yesterday, I only speak for myself.
22 And I quite understand why many people would want him to be
23 locked in the darkest dungeon. But not for me, not for me.

24 And I would leave it to the Federal Bureau of Prisons, but

25 that's just for me. Thank you.

1 THE COURT: All right. Thank you very much, sir.

2 Yes, sir?

3 MR. ANEESH BHANOT: My name is Aneesh Bhanot. I'm
4 Neerja's brother. Mr. Safarini said that he spoke with his
5 mother. Mr. Safarini, do you know what you did to my mother?
6 For many, many years after this hijack my mother used to sit
7 with a book in her hand and a pen and she thought she was
8 communicating with Neerja. For many, many years. And she used
9 to scribble things on that notebook and very proudly show to us
10 that these are the messages that I'm getting from Neerja.

11 For all those years my mother lived in solitary
12 confinement in our own house. She was in her own world. And I
13 feel no reason why you should not get that same treatment.
14 More so because you escaped from a prison once. And I'm not
15 very sure, but your mind must be already ticking on how you can
16 do that again. Thank you.

17 THE COURT: Thank you, sir.

18 Yes, ma'am?

19 MS. FARHAT HUSSAIN: My name is Farhat Hussain and
20 I'm not here to agree or disagree with any one of you. I think
21 that both sides have their own goods and bads. I am here to
22 say that just like the person before me said, that we've been
23 living in confinement facilities in our own homes. Our

24 beautiful homes that we call our house turned into jails for us

25 for days, for hours, for months and for years. Our children,

1 we don't know how they're going to live in their homes. They
2 don't even know what affected them for the rest of their life
3 and how to deal with it.

4 We as adults, 50 or so of us here, know what affected
5 us in this whole thing. What do you expect from two years old
6 and three years old or four years old and seven years old to
7 deal with the issues? They don't even know what kind of issues
8 affected them. We know what affected us and we can deal with
9 it. So their life is a solitary confinement for them. That's
10 the only way they know how to live with it. When they will
11 have anger or they will see something, they will not know how
12 to deal with it because they don't know what really did affect
13 them.

14 The other issue is that we are all adults, no matter
15 how much somebody can brainwash us. If we have sense and we
16 are human, we are all capable of making our own decisions to
17 some extent. We know from right and wrong. When we are all
18 born, we are born the same way. We are given different paths
19 in our lives and we choose the one we feel is right for us.

20 Mr. Safarini chose to do to some extent what he did.
21 And we all pay for our mistakes. If we go and speed 100 miles
22 an hour in a 50 mile speed limit and we get into an accident
23 and kill somebody, we chose to do so. We chose to go 100 miles

24 an hour to kill that person or ourselves and we are responsible

25 for that. To some extent, I still feel Mr. Safarini,

1 regardless how much he was brainwashed, he had some sense what
2 he was doing and he chose to do so.

3 In that regard, what we all say, what goes around
4 comes around. So many of us suffered from his hands. And then
5 if he's going to suffer, he has to accept that as coming from
6 God. So they need to accept that this happened because it was
7 meant to be. So what is going to happen to Mr. Safarini is
8 going to be meant to be for him.

9 And I don't feel this punishment -- Judge Sullivan
10 asked me earlier and I did not say too much about it, but I
11 think the punishment we are giving him, if there was one above
12 that, I would recommend you to do so.

13 THE COURT: One above three consecutive life
14 sentences?

15 MS. FARHAT HUSSAIN: Exactly. If there was something
16 above super max, I would stand here and recommend that.

17 THE COURT: All right.

18 MS. FARHAT HUSSAIN: The one above that was not
19 available. So I just want to express my view and just shed
20 some light on it.

21 THE COURT: All right. Thank you very much. Thank
22 you.

23 Yes, sir, you wanted to say something?

24 MR. DARRELL PIEPER: My name is Darrell Pieper. I

25 have a slightly different view. The reason we're here is for

1 the actions this man has taken. And I feel that the punishment
2 should be appropriate to the actions taken, not to some future
3 mitigation. I think that he should be in solitary confinement
4 and he earns his way out by testifying against his former --

5 THE COURT: Comrades.

6 MR. DARRELL PIEPER -- comrades. Thank you. That's
7 all I have to say.

8 THE COURT: Yes? You will be the last person, I
9 think.

10 MR. GOPAL DADHIRAO: My name is Gopal Dadhirao. I
11 believe with the counsel that some people change. And if he is
12 a changed man, we should accept the plea. But the question I
13 have is for the last 18 years while he was in the prison, what
14 did he do to show the world that he has changed? To show
15 remorse at the time of sentencing is very, very easy. But he
16 has not done anything for last 18 years to show that he
17 deserves that kind of treatment.

18 And he has been a model prisoner you say. Everyone
19 in that plane was a model prisoner. We listened to everything
20 he said. We didn't fight, we didn't disagree with him, we did
21 everything he said and he did what he wanted to do to us. So
22 we should just follow his example.

23 The last thing I had to say is this. When one of the

24 defendants from the World Trade Center attack for the first

25 time was being taken, one of the FBI agents said that, look,

1 the building is still standing. And the guy looked at him and
2 said, not for long. And a few years later they succeeded in
3 bringing down the World Trade Center.

4 So if we let him go free, you know, easy, it sends a
5 statement to other terrorists that, yes, it's going to be easy,
6 we can go and live in prison for the rest of our life. Thank
7 you very much.

8 THE COURT: Thank you, sir. Anyone else? All right.
9 Just one last person. Come right ahead.

10 THE COURT: Good afternoon.

11 MR. PRABHAT KRISHNASWAMY: I'm Prabhat Krishnaswamy.

12 At the end of an Indian epic there is a scene exactly like this
13 where the villain who has been slain and on his death bed
14 expresses remorse and requests mercy. And the line that sticks
15 in my mind is when the judge, or the guard personified as the
16 human who oversees that war says, no good man is completely
17 good, no evil man is completely bad, for what good is left in
18 you I salute you, but for the evil that you have done I rejoice
19 in your death. And we should celebrate his incarceration.
20 Thank you very much.

21 THE COURT: Mr. Maisel, you were about to say
22 something?

23 MR. MAISEL: Your Honor, I really wish we could end

24 with Mr. Krishnaswamy because that was so eloquent. And I'm

25 not going to go through a full response or a full rebuttal.

1 There was one factual impression that was created,
2 particularly in reference to Ms. Dave's testimony that I wanted
3 to correct. I know defense counsel didn't misstate it, but it
4 left the impression that this incident, when he witnessed the
5 hanging of his friend, happened at some youthful moment that
6 affected the rest of his life.

7 That happened, according to the defense briefs, in
8 1985. This man, before that ever happened, joined a terrorist
9 organization, was trained in weapons and underwent weapons
10 training with this organization. He went on a mission to Malta
11 to assassinate. He went three times to Malta before he saw his
12 target and then assassinated the wrong man. He spent time in
13 jail long enough to make connections to get out of jail,
14 escaped and then go back to that same terrorist organization.
15 And only then did he witness this event.

16 So the idea that this was some formative event that
17 compelled his life, that is a wrong impression. The defendant
18 stated he was prepared to die. There was no reason for him to
19 take others with him. If he were truly prepared to die and he
20 saw his friend being killed by this group, he could have done
21 that. He took the cowardly way out, as so many people have
22 testified.

23 The contrast here --

24 There was so many --

25 There was a quote made by Mr. Bruck who committed it

1 to memory, and I never heard it before, so I don't have it
2 correct, but he said something like, those to whom evil has
3 been done, do evil to others. And I took that as some
4 explanation for how Mr. Safarini came to do evil.

5 Virtually everything that was said about trauma,
6 about medication, all those things, everything applies to our
7 survivors here. Evil has been done to them and they have not
8 done evil. Many of them have lived on medications, yet they
9 can sit and read a statement and show their emotions.

10 The young and stupid comment, as though that's
11 meaningful to us, compare that to our young flight attendants,
12 the same age. Young and stupid. Not stupid. That's a way of
13 minimizing it. Young and evilly murderous versus young and
14 self-sacrificingly heroic beyond words. All of those flight
15 attendants. That's the difference.

16 There was a lot of talk about incarceration and
17 conditions. There was talk used by the defense attorney trying
18 to allude to the news of Iraq and what things happened in
19 prison. There were words used like torture and words used like
20 dungeons. Our prison system is subject to a rule of law. It
21 is subject to our constitution. The Eighth Amendment protects
22 against cruel and unusual punishment. Whatever punishment the
23 Bureau of Prisons assigns to him, whatever incarceration will

24 be within our Constitution.

25 This Court, there's no sentence, no place within our

1 prison system that is equivalent to the torture of somebody.
2 And the idea that Ms. Dave believes, and I respect her for
3 expressing them, but in the end her belief that, well, what
4 good is it to lock him up, that's the agreement. Even he
5 understands that whether or not he is a monster now, his acts
6 were monstrous. Those acts deserve the agreement and they
7 deserve to be spending the rest of his life in jail. That's
8 why he agreed to it. That's why the government agreed to it.
9 Thank you.

10 THE COURT: All right. Thank you.

11 Mr. Tucker, Mr. Bruck, anything else?

12 Mr. Safarini, did you want to say anything else?

13 THE DEFENDANT: No.

14 THE COURT: All right. Let me just say a couple of
15 things. And, again, having heard these very moving, very
16 compelling life stories over the last two days, I don't think
17 it's inappropriate at all for a United States Judge on the
18 verge of sentencing Mr. Safarini for the horrible things he did
19 to call upon the Government of Pakistan to release his
20 comrades. And I'll do that. It's the second time I've said
21 that this afternoon and I won't say it again. I don't think
22 it's inappropriate to request the government to release those
23 people to this government for prosecution in this country.

24 To the victims, to the survivors, and maybe the

25 phrase survivor is more appropriate than victim, you're both,

1 you're victims and survivors. Even though you weren't on the
2 plane, you're victims because all your family members were on
3 the plane. All of you are survivors and I've been very, very
4 touched by your stories. This horrible incident has impacted
5 your lives in so many ways.

6 I told you yesterday before we even started that I
7 read your victim impact statements over the weekend and had
8 been extremely touched by what's happened in your lives and to
9 the lives of your friends and your loved ones. And I did feel
10 your pain. It came through loud and clear. And I felt your
11 anguish and I felt your emotion and I felt your anger. And I
12 felt, to a certain extent, only to a certain extent, all the
13 emotions, all the feelings that you've had as a result of this
14 incident 18 years ago that, indeed, consumed some 18 hours.
15 It's something I'll never forget. My heart goes out to each
16 and every one of you.

17 I hope that this opportunity to confront the person
18 who is responsible for these acts of terror, and they are acts
19 of terror, and murder and horror, I hope that opportunity in
20 some small way helps you to continue to attempt to bring some
21 peace and quiet and enjoyment and closure in your lives.

22 With respect to this incident, you'll never forget
23 it. You'll never forget it. You'll have nightmares.

24 Unfortunately, not as often as you've had them in the past.

25 You'll never forget what happened. But hopefully in some

1 small, small way, the opportunity to express yourself, the
2 opportunity to be understood, the opportunity to confront
3 someone responsible for taking so much from your lives will
4 help you.

5 My heart goes out to you. God bless each and every
6 one of you.

7 Mr. Safarini, are you prepared to be sentenced?

8 THE DEFENDANT: Yes.

9 THE COURT: Would you come forward with your
10 attorneys.

11 I understood what you said about the cause and your
12 getting caught up in a cause. And I'm not persuaded by that.
13 And even if I were, that there was this cause that you got
14 caught up in, there's no cause that justifies what you did in
15 this case. And I know it's difficult for you to look me in my
16 eyes because you are a coward and a cold blooded murderer. And
17 why don't you look me in my eyes? Can you? You don't have to.
18 But there's no justification for what you did. There's no
19 excuse for what you did.

20 Is there true remorse? I don't know. I don't know
21 if your attorneys know because they're limited in their ability
22 to obtain information about you. One of the speakers just made
23 a good point. What have you done in the last 16 years or so

24 while you were incarcerated in Pakistan to demonstrate that

25 your life has changed? I'm not sure we know the answer to that

1 question. It's a very, very interesting question. And it may
2 well be that your attorneys are not privy to what you've done.
3 That's a very good question one of the speakers asked.

4 MR. TUCKER: What did he do during --

5 THE COURT: Yeah, what has he done to demonstrate
6 remorse?

7 MR. TUCKER: Well, we do know this. He wrote to the
8 organization saying I don't want to have anything more to do
9 with you back in, I forget, sometime in the '90s. We know that
10 he wrote home several times from Pakistan totally swearing off
11 the organization and what had happened. And so we do know.

12 THE COURT: Yeah, but he was trying to get his
13 sentence commuted also, though, at the time, wasn't he?

14 MR. TUCKER: No, I don't think so. This was already
15 after he had his life sentence. This was well up until,
16 probably, I want to say '92 or 3, maybe even a little after
17 that, when he wrote home.

18 I never thought that was surprising that it would
19 take a few years to come out. If he had done this within a
20 couple years, one might look at it a little differently. But
21 he did do that. And on the airplane he clearly told them, you
22 know, the same thing, he was very sorry for what he did.

23 THE COURT: What about the other assassination,

24 though, we didn't talk about that, and I almost overlooked

25 that.

1 MR. TUCKER: It was back in the early --

2 THE COURT: Yeah, the assassination, the early
3 assassination, what about that? It's not like this was an
4 isolated incident involving 21 murders. It wasn't an isolated
5 21 murder event. It was 21, plus an assassination that was
6 carried out on the wrong person. But after many opportunities,
7 many attempts to assassinate someone. Why isn't he just a cold
8 blooded murderer as opposed to someone getting caught up in a
9 cause.

10 MR. TUCKER: That was --

11 THE COURT: That was part of the cause?

12 MR. TUCKER: Four years earlier than that, he was --

13 Well, actually, it sure was, of course. But he was,
14 obviously, still in the grips of the organization. At that
15 time even more so. This was back four years before that.
16 We're not -- I don't think anyone could tell Your Honor that he
17 wasn't clearly, you know, within the grips of the organization
18 for a long time. And, you know, I won't go into -- I know you
19 know the background because we've tried to explain the best we
20 could.

21 THE COURT: And you did a good job.

22 MR. TUCKER: And that's just what happened. You
23 know, the truth of the matter is I think that sometimes -- you

24 know, everybody can look back 18 years ago and, you know, we

25 all looked a lot different back then.

1 THE COURT: Well, you hit on a very good subject. I
2 was talking with my law clerks over the lunch hour and I said
3 we all have done things early on in our lives that we look back
4 on and say, I probably shouldn't have done this, I shouldn't
5 have done that, but I probably shouldn't have murdered 21
6 people? You know, it's not the same. If I had to do it over
7 again, I wouldn't have murdered 21 people or assassinated the
8 wrong person, I would have assassinated the right person or
9 assassinated anyone. We can't use that looking back through
10 the looking glass.

11 MR. TUCKER: The point I was trying to make was not
12 that. Of course there are certain lines you just cross. You
13 can't say it was just because I was younger.

14 THE COURT: Absolutely. He crossed the line and he
15 forfeited.

16 MR. TUCKER: And he's forfeiting the rest of his life
17 in prison.

18 THE COURT: Right.

19 MR. TUCKER: But my point is this. Actually, I'm a
20 firm believer in the human spirit, and that we have seen here
21 so dramatically demonstrated. And, you know, people's minds
22 grow in 17 years too. And what I think is being missed here is
23 that it was only when he was incarcerated in Pakistan and

24 removed from all of this, and one grows, one gets exposed to

25 different viewpoints, one sees a different world than what they

1 grew up in their entire life. And do you know what, I don't
2 think one should ever close the door on a man's life or close
3 the door on the fact that people do grow.

4 THE COURT: And so is rehabilitation still
5 appropriate, is that an appropriate factor for the Court to
6 focus on and consider in making a recommendation, not making a
7 recommendation or has he crossed that line so much so that even
8 rehabilitation is not even in the deck of cards?

9 MR. TUCKER: I think he is rehabilitated. He's going
10 to serve a life sentence. That's what he's going to do. And,
11 you know --

12 THE COURT: Let me phrase the question another way.
13 Retribution and rehabilitation are two factors people look at
14 in fashioning and imposing a sentence, carrying out a sentence.
15 Do we just focus on retribution and forget about
16 rehabilitation, just punishment?

17 MR. TUCKER: No, I don't think so. I think when we
18 are looking at a sentence of this length that, of course, you
19 know, it is a lot of punishment. And he agreed to the
20 sentence, everybody agreed to the sentence.

21 There's one other factor that perhaps people haven't
22 focused in on because it doesn't hit you at first blush. But
23 it's much easier to serve a life sentence and be locked up the

24 rest of your life if you believe in the ideology. If you still

25 have that ideology with you, it's so much easier.

1 It is so much harder for him because he does not have
2 it. He doesn't believe in this. He said it time after time
3 after time. And, you know, we can say whatever we want, but
4 his words were good, I was young and stupid.

5 THE COURT: But we're not talking about stealing M&Ms
6 from a CVS store. Young and stupid we're talking about. He
7 was not young and stupid. That's not young and stupid conduct.

8 MR. TUCKER: I just used those words because that's
9 what he --

10 THE COURT: If a kid gets some drugs to sell on the
11 street corner to buy some tennis shoes, that's young and
12 stupid. This is cold blooded murder.

13 MR. TUCKER: I understand. These are the words that
14 were in the statement. But the point is this. If you don't
15 have the ideology, if you come to believe that you know that
16 that was just -- you know, that this was just -- you know, the
17 ideology is not there anymore, it is so much harder every day
18 of your life. Or if you have that ideology, and I've seen it,
19 if you have it, then it's so much easier to deal with whatever
20 comes.

21 That's why every day for the rest of his life is much
22 harder than everybody thinks. Because he knows. He not only
23 knows what he did and what everybody has so eloquently pointed

24 out here, but he knows it was totally useless, it was wrong,

25 and the cause was wrong, the cause was just wrong. And he

1 knows that.

2 And there's nothing I can do but stand on my head and
3 tell everybody that. But I know he knows that because I've
4 heard it, heard it, and heard it. And he knows it and that
5 makes it so much different, very different. And I think that,
6 you know, we're not -- I mean, I understand everybody's
7 viewpoint, everybody's viewpoint.

8 THE COURT: And the views across the courtroom?

9 MR. TUCKER: Right.

10 THE COURT: That's the way it should be in a
11 democratic society. Fortunately, we can express those views
12 though.

13 MR. TUCKER: And we do have a system that we still
14 have words like compassion and mercy. And I'm not saying let
15 him go. But we do have a system that tries the best we can to
16 take everything into account, everything. It's very, very
17 difficult when you've heard this sort of testimony, it's so
18 difficult. And that's why, you know, we tried to spell this
19 out as much as we could in the sentencing memorandum in detail.
20 But, you know, I believe that there's room here for the
21 judicial system to say, okay, you're going to be locked up
22 forever, you're going to be locked up for three life sentences.

23 THE COURT: And the judicial system should have some

24 compassion also at the time of sentencing.

25 MR. TUCKER: I think so. Or it should say you're

1 going to be treated -- and I think it's a good message to the
2 world in general, especially the things that I've alluded to --
3 that you're going to be locked up forever and we're going to
4 track you down, but you're going to be treated in our system,
5 our rules, and, you know, whatever the BOP decides, they decide
6 based on whatever considerations they have. I think there's a
7 lot of value to that. There's a lot of value to everybody.

8 And there's a lot of messages that you send in this
9 situation and they're important, they're very important
10 messages, as the young lady whose name I don't recall that I
11 should recall because of the things she said.

12 But as far as deterrents, I'm sorry, I'm going to
13 stick to my guns here. It's going to come from the political
14 area, it's going to come from recognizing and listening.
15 History has shown that it just doesn't -- he deserves a
16 sentence, he's going to get the sentence that he deserves, he's
17 going to be locked up forever. And that's correct, that's
18 correct.

19 But I think we're losing sight if we think that any
20 kind of history supports any kind of idea that if he's treated
21 inhumanly, if he's treated in some way that just crosses that
22 line a little bit, that we deter anything. Because you don't
23 deter people. The United States Government since the mid '80s

24 have adopted a position, and it's a good position, that we're

25 going to treat this kind of conduct, criminal conduct, and

1 we're going to track people down all over the world. And we've
2 done that time after time.

3 Terrorism hasn't gone down. Kids over there and
4 people, these 17 year old kids, young women, girls blowing
5 themselves up, giving their lives, killing other people and
6 horrendous things, we haven't deterred any of that. He
7 deserves his punishment for what he did, but it shouldn't be
8 done over that line based on something that's really not --
9 it's not there, it's not. That's not, you know -- that doesn't
10 do it, I don't believe. I'm sorry, but that's really how I
11 feel.

12 THE COURT: Essentially, you're saying we just ought
13 to throw up our hands in frustration and not do anything?

14 MR. TUCKER: No. Again, three life sentences and 25
15 years, and, you know, he's in a foreign country.

16 THE COURT: It doesn't have to be where he has the
17 opportunity to play chess with prison guards though. And that
18 came through loud and clear in your submission. This is
19 something that he enjoys, playing chess with the prison guards.

20 MR. TUCKER: By the way, it wasn't the prison guards.
21 It was with the psychotherapist.

22 THE COURT: I mean, there are not a lot of comforts
23 to be derived from in prison. But I query whether he should

24 have any comforts, and if he doesn't, is that inhuman? Maybe

25 we just differ philosophically on that.

1 MR. TUCKER: A thirty minute chess game? Maybe we
2 do. I guess we have to agree to disagree.

3 THE COURT: That's not a big deal.

4 MR. TUCKER: Maybe we have to agree to disagree on
5 that.

6 THE COURT: It's a big deal for 21 people who will
7 never be able to play chess again.

8 MR. TUCKER: I understand. I guess, to me, the
9 bottom line is three life sentences in a foreign country. I
10 think it's remarkable he's been able to come here to get along
11 with people, not have problems.

12 THE COURT: He didn't ask to come here.

13 MR. TUCKER: I know. That's what I mean. He didn't
14 ask to come here.

15 THE COURT: In fact, he thought he was off to Jordan
16 to live with his family to live happily ever happen in Jordan
17 and start a new life, right? He was looking forward to that.

18 MR. TUCKER: I think it was more of a hope than
19 anything. But I think you understand my point. I appreciate
20 the colloquy here. But I guess the point that I'm trying to
21 make is I understand the other side, but nobody should think
22 for a minute that he is getting anything other than a
23 horrendous punishment too. And he deserves it.

24 THE COURT: That fits a horrific crime.

25 MR. TUCKER: I'm sorry?

1 THE COURT: Horrendous punishment that fits a
2 horrific crime.

3 MR. TUCKER: Right. We're just trying to say that --
4 You understand what we're saying.

5 THE COURT: Right. And I'll give him something to
6 look forward to. In the event that his comrades are brought
7 over and the government would like to have his testimony maybe,
8 I don't know. I don't know whether they need his testimony or
9 not.

10 MR. TUCKER: Well, he's agreed to testify.

11 THE COURT: I don't know.

12 MR. TUCKER: And to cooperate.

13 THE COURT: If he cooperates and testifies against
14 them, I would be the first one to go directly to the Bureau of
15 Prisons and say, take him out of wherever he is at that point.
16 And he can get a copy of the transcript. She's already
17 transcribed it. It's right there. I'll be the first one to do
18 it.

19 MR. TUCKER: Well, that's going to happen. He's
20 agreed to talk.

21 THE COURT: It may happen, it may not. A lot of
22 people agree to cooperate and when it comes time to it, they
23 don't.

24 MR. TUCKER: No, he's going to do what he said he's

25 going to do.

1 THE COURT: I'll be the first person to do it. I
2 think he's forfeited a lot of rights. He's going to get, and
3 the sentence shall be, three consecutive life sentences, plus
4 25 years. That is the sentence.

5 And does it make any sense to follow that up with
6 supervised release Ms. McCoy?

7 MS. McCOY: No, Your Honor.

8 THE COURT: Does anyone object the Court not imposing
9 supervised release? You'll never be released from prison,
10 Mr. Safarini. And the Court will recommend that you never be
11 paroled. The Court will make a recommendation that because of
12 the horrific nature of the criminal activity that you be
13 incarcerated at the Florence, Colorado facility, recognizing
14 that it's solely within the Bureau of Prisons' province to
15 determine where he'll be incarcerated. That's the sentence of
16 the Court.

17 You do have the right to challenge on appeal the
18 sentence. This was a plea agreement entered into pursuant to
19 11(c)(1)(c) of the Federal Rules of Criminal Procedure. The
20 Court has reviewed and approved the presentence report and
21 accepts the plea agreement.

22 MR. MAISEL: Excuse me, Your Honor, I think you said
23 he has a right to appeal. He has waived that.

24 THE COURT: That's right, he did. Thank you.

25 Special assessments, it's \$4,000.

1 Will he earn money while incarcerated?

2 MS. McCOY: No.

3 THE COURT: He won't?

4 MS. McCOY: No.

5 THE COURT: I thought all prisoners receive some
6 wages.

7 MS. McCOY: It depends. If he goes to super max, he
8 won't have the opportunity.

9 THE COURT: I see. That's right. Thank you very
10 much.

11 In the event you go to the maximum facility
12 institution, you won't earn anything to pay the court costs of
13 \$4,750. In the event the BOP exercises its discretion and
14 houses you elsewhere, you will earn money while incarcerated.
15 And I'll direct that that money be confiscated and applied
16 towards the court costs of \$4,750.

17 Let me just go through for the record, and if I make
18 a mistake, someone can correct me. Count 1 it's five years,
19 Count 2 it's 45 years, Counts 3 through 9 of the indictment
20 it's life for each count, Count 10 it's 20 years, Count 11 it's
21 45 years, Counts 12 to 87, 20 years, Counts 88 to 94 five
22 years, and Count 95 five years consecutive. Counts 1, 2, 5
23 through 7, 9 through 11 and 88 through 94 shall be served

24 concurrently with Counts 3, 4, 8, 12 through 87 and 95, a total

25 result in sentence will be three consecutive life sentences,

1 plus 25 years. And I'll spell this out in the judgment.

2 All right. Anything further from anyone?

3 MR. MAISEL: No, Your Honor. The government is
4 informing the Court we do plan within the next week or so to
5 file a motion with the Court asking the Court to vacate its
6 opinion in this case on the death penalty recognizing that the
7 opinion --

8 THE COURT: I deny that right now. I'll consider
9 your motion.

10 MR. MAISEL: We will file that motion with the Court.

11 THE COURT: What would be the reason for the Court to
12 vacate?

13 MR. MAISEL: Your Honor, the government did argue to
14 reconsider. The Court took the argument. It was under
15 consideration. At the end of that argument the Court indicated
16 that it had not decided the issue and that it was going to
17 reconsider and it was only because of this plea being entered
18 that it didn't. In terms of whether that plea should be
19 binding precedent for later cases, later hijackers in this case
20 or other cases, the government believes --

21 THE COURT: I think that case has a limited life.
22 It's been a long day, it's been a long two days. I don't want
23 to debate you on the pros and cons. My inclination is not to

- 24 vacate. I think it's a correct decision. I'll certainly
- 25 consider any motion that you file, counsel, and afford

1 Mr. Bruck and Mr. Tucker an opportunity to file a response to
2 it. I think there's limited applicability though with respect
3 to retroactive provisions for all the reasons I stated in that
4 opinion. But I'll certainly in good faith consider anything
5 the government would like me to consider.

6 MR. MAISEL: Thank you, Your Honor.

7 THE COURT: I'm not promising any outcome.

8 MR. MAISEL: I understand. But for the same reason
9 that the Court was not able to rule from the bench and thought
10 that it was something that it needed to consider, from the
11 government's perspective that is something that is still yet to
12 be resolved. Yet on the law books right now if we got back his
13 fellow hijackers, Your Honor's opinion would still be on the
14 books. The government believes that a more accurate state of
15 what the law should be is that that opinion should be vacated
16 and left open to argument for future individuals that are in
17 the same position.

18 THE COURT: What's the likelihood of getting
19 Mr. Safarini's colleagues back?

20 MR. MAISEL: Every day I hope that happens. I
21 welcome the courts comments. The government every day just
22 does whatever it can to try to see that happen. And we hope
23 that the Court's comments will somehow enable that to happen.

24 THE COURT: Thank you.

25 MR. MAISEL: Thank you.

1 THE COURT: Mr. Tucker, Mr. Bruck, anything?

2 Ms. McCoy?

3 MS. McCOY: That's it, Your Honor.

4 THE COURT: All right. Thank you. The parties are

5 excused. Thank you.

6 (The hearing concluded at 4:20 p.m.)

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CERTIFICATE OF REPORTER

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

ELAINE A. MERCHANT, RPR, CRR

Official Court Reporter

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