

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 1:10cr413
	)	
FAROOQUE AHMED,	)	
	)	
Defendant.	)	

PLEA AGREEMENT

Neil H. MacBride, United States Attorney for the Eastern District of Virginia, Gordon D. Kromberg, Assistant United States Attorney, the defendant, Farooque Ahmed, and the defendant's counsel have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

**1. Offense and Maximum Penalties**

The defendant agrees to plead guilty to Counts 1 and 2 of the indictment, charging the defendant with attempting to provide material support to a designated foreign terrorist organization, and collecting information to assist in planning a terrorist attack on a transit facility, in violation of Title 18, United States Code, Sections 2339B and 1992(a)(8), respectively. The maximum term of imprisonment for Count 1 is 15 years, and the maximum term of imprisonment for Count 2 is 20 years. The maximum penalties for each of these offenses include a fine of \$250,000, a special assessment, and supervised release for life. The defendant understands that this supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

## **2. Factual Basis for the Plea**

The defendant will plead guilty because the defendant is in fact guilty of the charged offenses. The defendant admits the facts set forth in the statement of facts filed with this plea agreement and agrees that those facts establish guilt of the offenses charged beyond a reasonable doubt. The statement of facts, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

## **3. Assistance and Advice of Counsel**

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

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

## **4. Role of the Court and the Probation Office**

The United States and the defendant agree that the defendant's sentence shall be imposed pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. The United States and the defendant agree that a sentence to 276 months of incarceration is the

**appropriate disposition of this case, and that, if the Court accepts the defendant's guilty plea, such recommendation or request binds the court pursuant to Rule 11(c)(1)(C).** The United States does not oppose the defendant's request that the Court recommend that the defendant be designated to a Bureau of Prisons institution with a security classification lower than Administrative Maximum (ADX).

**5. Waiver of Appeal, FOIA and Privacy Act Rights**

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the statutory maximum described above (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

**6. Special Assessment**

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

**7. Payment of Monetary Penalties**

The defendant understands and agrees that, pursuant to Title 18, United States Code, Section 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, the defendant agrees to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

**8. Immunity from Further Prosecution in this District**

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the specific conduct described in the indictment or statement of facts.

**9. Dismissal of Other Counts**

As a condition of the execution of this agreement and the Court's acceptance of the defendant's plea of guilty, the United States will move to dismiss the remaining count of the indictment against this defendant.

**10. Forfeiture Agreement**

The defendant agrees to forfeit all interests in the following properties seized by law enforcement authorities on or about October 27, 2010:



- a. \$2,651.46 from a BB&T Bank account with a number ending in 8182;
- b. \$2,400.94 from a BB&T Bank account with a number ending in 8305;
- c. \$443.06 from a BB&T Bank account with a number ending in 0771;
- d. \$2,675.78 from a SunTrust Bank account with a number ending in 7364; and
- e. One green 2006 Honda Accord, VIN: 1HGCM56415A120045.

The defendant further agrees to waive all interest in these assets in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. The defendant understands that the forfeiture of assets is part of the sentence that may be imposed in this case.

#### **11. Waiver of Further Review of Forfeiture**

The defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The defendant also waives any failure by the Court to advise the defendant of any applicable forfeiture at the time the guilty plea is accepted as required by Rule 11(b)(1)(J). The defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. The defendant understands and agrees that all property covered by this agreement is subject to forfeiture as property of a person engaged in planning a Federal crime of terrorism against the United States, citizens, or residents of the United States.

## **12. Defendant's Cooperation**

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

- a. The defendant agrees to testify truthfully and completely at any grand juries, trials or other proceedings.
- b. The defendant agrees to be reasonably available for debriefing and pre-trial conferences as the United States may require.
- c. The defendant agrees to provide all documents, records, writings, or materials of any kind in the defendant's possession or under the defendant's care, custody, or control relating directly or indirectly to all areas of inquiry and investigation.
- d. The defendant agrees that, at the request of the United States, the defendant will voluntarily submit to polygraph examinations, and that the United States will choose the polygraph examiner and specify the procedures for the examinations.
- e. The defendant agrees that the Statement of Facts is limited to information to support the plea. The defendant will provide more detailed facts relating to this case during ensuing debriefings.
- f. The defendant is hereby on notice that the defendant may not violate any federal, state, or local criminal law while cooperating with the government, and that the government will, in its discretion, consider any

such violation in evaluating whether to file a motion for a downward departure or reduction of sentence.

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

### **13. Use of Information Provided by the Defendant Under This Agreement**

The United States will not use any truthful information provided pursuant to this agreement in any criminal prosecution against the defendant in the Eastern District of Virginia, except in any prosecution for a crime of violence or conspiracy to commit, or aiding and abetting, a crime of violence (as defined in Title 18, United States Code, Section 16), for conduct other than that described in the Indictment or Statement of Facts. Pursuant to U.S.S.G. section 1B1.8, no truthful information that the defendant provides under this agreement will be used in determining the applicable guideline range, except as provided in section 1B1.8(b). Nothing in this plea agreement, however, restricts the Court's or Probation Officer's access to information and records in the possession of the United States. Furthermore, nothing in this agreement prevents the government in any way from prosecuting the defendant should the defendant knowingly provide false, untruthful, or perjurious information or testimony, or from using information provided by the defendant in furtherance of any forfeiture action, whether criminal or civil, administrative or judicial. The United States will bring this plea agreement and the full extent of the defendant's cooperation to the attention of other prosecuting offices if requested.

### **14. Motion for a Downward Departure**

The parties agree that the United States reserves the right to seek any departure from the applicable sentencing guidelines, pursuant to Section 5K1.1 of the Sentencing Guidelines and

Policy Statements, or any reduction of sentence pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, if, in its sole discretion, the United States determines that such a departure or reduction of sentence is appropriate.

**15. Breach of the Plea Agreement and Remedies**

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement, including any obligation to seek a downward departure or a reduction in sentence. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and
- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements



made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.

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

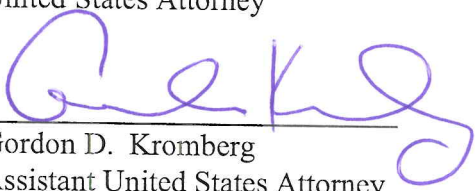
**16. Nature of the Agreement and Modifications**

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any

modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

Neil H. MacBride  
United States Attorney


By:

  
Gordon D. Kromberg  
Assistant United States Attorney

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal indictment. Further, I fully understand all rights with respect to Title 18, United States Code, Section 3553 and the provisions of the Sentencing Guidelines Manual that may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date:


3-29-11

  
Farooque Ahmed  
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending indictment. Further, I have reviewed Title 18, United States Code, Section 3553 and the Sentencing Guidelines Manual, and I have fully explained to the defendant the provisions that may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date:

3-29-11

  
Todd Richman  
Kenneth Troccoli  
Counsel for the Defendant

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FAROOQUE AHMED,	)	
	)	
Defendant.	)	

STATEMENT OF FACTS

The parties stipulate that the allegations in Counts 1 and 2 of the Indictment and the following facts are true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt:

1. From on or about April 18, 2010, and continuing through at least on or about October 27, 2010, within Arlington County in the Eastern District of Virginia and elsewhere, defendant FAROOQUE AHMED did knowingly and unlawfully attempt to provide material support and resources, as that term is defined in Title 18, United States Code, Section 2339A(b), to wit, personnel and services, to a foreign terrorist organization, namely al-Qaeda, in that, defendant AHMED attempted to assist others whom he believed to be members of al-Qaeda in planning multiple bombings to cause mass casualties at Metrorail stations in the Washington, D.C. metropolitan area.

2. From on or about May 15, 2010, and continuing through at least on or about October 25, 2010, within Arlington County in the Eastern District of Virginia and elsewhere, defendant FAROOQUE AHMED did knowingly and unlawfully surveil, photograph, videotape, diagram,

and otherwise collect information with the intent to plan or assist in planning the following unlawful activities:

- A. wrecking, derailing, setting fire to, and disabling railroad on-track equipment and mass transportation vehicles;
- B. placing a destructive substance or a destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle with intent to endanger the safety of persons or with a reckless disregard for the safety of human life;
- C. setting fire to, undermining, making unworkable, unusable, and hazardous to work on and use, and placing a destructive substance and destructive device in, upon, and near any - -

tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, station, depot, terminal, or any other way, structure, property, or appurtenance used in the operation of and in the support of the operation of a railroad carrier and with intent to, or knowing or having reason to know, such activity would likely derail, disable, or wreck railroad on-track equipment; or

garage, terminal structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, and with intent to, or knowing or having reason to know, such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

as described in Sections 1992(a)(1), (a)(2), and (a)(4) of Title 18 of the United States Code, in that defendant AHMED surveilled, photographed, videotaped, diagramed, and otherwise collected information with the intent to plan and assist in planning multiple bombings to cause mass casualties at Metrorail stations in the Washington, D.C. metropolitan area.

3. In January 2010, AHMED and an associate were inquiring about making contact with a terrorist organization in order to participate in jihad by traveling overseas to fight coalition forces in Afghanistan. In April 2010, AHMED and his associate received an email that notified



AHMED that he could meet an individual that AHMED believed to be a representative of a terrorist organization at a hotel near the Washington-Dulles International Airport on April 18, 2010.

4. On April 18, 2010, AHMED drove to a hotel near the Washington-Dulles International Airport in Dulles, Virginia, and met in the lobby of that hotel with a courier he believed to be affiliated with a terrorist organization. AHMED received from that individual a Koran that contained a document which provided potential locations at which future meetings could be arranged, and provided code words for locations to be used for future meetings. AHMED and his associate used those code words in emails to indicate that AHMED planned to meet an individual that AHMED believed to be a representative of a terrorist organization on May 15, 2010, at a hotel in Northern Virginia.

5. On May 15, 2010, AHMED met with an individual he believed to be a terrorist operative in a hotel room in Sterling, Virginia. At this meeting, the individual who AHMED believed to be a terrorist operative (hereinafter "Operative-1 ") asked AHMED why AHMED had come to see him. AHMED replied that he wanted to fight and kill Americans in Afghanistan. When Operative-1 asked AHMED to clarify whether he wanted to become a martyr, AHMED responded "of course" and stated that he wanted to fight. AHMED said that he might be ready to travel overseas to conduct jihad in January 2011 after he had completed the Hajj pilgrimage to Saudi Arabia in November 2010.

6. At the meeting, Operative-1 told AHMED that his organization would require certain tasks to be completed during the next six months in preparation for an operation. These tasks would include gathering information on specific locations in the Washington, D.C. area,

including the Arlington Cemetery Metrorail station and a hotel in Washington, D.C. AHMED agreed to watch and photograph the Arlington Cemetery Metrorail station and a hotel in Washington, D.C. in order to obtain information about their security and busiest periods, and report back to Operative-1.

7. In July 2010, in Arlington, Virginia, AHMED participated in the surveillance and the recording of video images of the Arlington Cemetery Metrorail station.

8. On July 13, 2010, AHMED sent an email to signal that he had completed the surveillance and the recording of video images of a Metrorail station.

9. On July 19, 2010, AHMED again met with Operative-1 in a hotel room in Sterling, Virginia. AHMED told Operative-1 that AHMED had gone to the Arlington Cemetery Metrorail station and completed one of the two tasks that Operative-1 had provided him. AHMED told Operative-1 that, if you come from outside the cemetery there are guards standing there, and when you come from inside the station there is a security camera and then a security guard.

10. At the meeting, AHMED also provided Operative-1 with a thumb drive which contained recorded video of the Arlington Cemetery Metrorail station. AHMED explained that he and an associate used a mobile phone video camera, with the associate holding the phone up as though talking on the phone and not recording. Operative-1 then explained to AHMED that his information-gathering was in preparation for an attack on a total of four locations, including the Arlington Cemetery, Courthouse, and Pentagon City Metrorail stations, and a hotel in Washington, D.C. AHMED replied that those were good targets that contained many people. AHMED agreed to continue gathering information on the targets as he did for the Arlington Cemetery Metrorail station. AHMED further said that he wanted to donate \$10,000 to support

their brothers overseas, and that he would collect donations from people even if he had to do it in the name of another cause, and send it to the organization in increments of \$1,000 in order to not raise any red flags.

11. On August 22, 2010, AHMED participated in the surveillance of the Courthouse and Pentagon City Metrorail stations in Arlington, Virginia.

12. On September 28, 2010, Ahmed and Operative-1 again met in a hotel room in Northern Virginia. Upon AHMED's arrival, Operative-1 introduced AHMED to another individual who represented himself as the boss of Operative-1. This newly introduced individual (hereinafter "Operative-2"), asked AHMED if AHMED knew the identity of the organization to which Operative-1 and Operative-2 belonged; AHMED said - - and then repeated - - that he understood them to belong to Al-Qaeda.

13. At the meeting on September 28, 2010, AHMED provided Operative-1 and Operative-2 with a thumb drive containing videotaped images of the Courthouse and Pentagon City Metrorail stations, and told them that he had completed all the tasks except for one (a hotel in Washington, D.C.).

14. Operative-2 told AHMED that the organization was planning to attack these sites some time in 2011. AHMED described the entrances and general layouts of the stations, and stated that between 4:00 p.m. and 5:00 p.m. would be the best time to stage an attack to cause the highest number of casualties. AHMED also sketched and provided to Operative-1 and Operative-2 a written diagram of each Metrorail station on three small pieces of paper, and provided suggestions on where to place explosives at each location to kill the most people.

15. AHMED was shown three backpacks and asked which would be the most conducive for the attacks. AHMED tried one of them on and explained that, although the backpacks would

work, it would be better to use wheeled suitcases. AHMED stated that he wanted to kill as many military personnel as possible, and suggested an additional attack on the Crystal City Metrorail Station. AHMED agreed to provide the bombers with Metrocards and to conduct surveillance on the Crystal City Metrorail station.

16. AHMED told Operative-1 and Operative-2 that AHMED wished to fight in jihad himself, and that he has trained to do so using various firearms. AHMED previously discussed the various firearms he has used and/or purchased (including rifles and a shotgun) and stated that he had been to a shooting range. AHMED also noted that he had studied martial arts for four years, learned knife and gun techniques, and learned disarming techniques. AHMED said that he could teach these skills to others and indicated that he could purchase additional firearms.

17. On October 18, 2010, AHMED received an email message from an individual whom he believed to be affiliated with al-Qaeda, indicating that a courier would be available to meet him between October 27 and October 29, 2010, to pick up the results of the surveillance of the Crystal City Metrorail station.

18. On October 21, 2010, AHMED participated in the surveillance of the Crystal City Metrorail station in Arlington, Virginia.

19. On October 21, 2010, AHMED sent an email message to an individual whom he believed to be affiliated with al-Qaeda, indicating that he had completed the surveillance of an additional Metrorail station, and would be available to meet with a courier between October 27 and October 29, 2010.

20. On October 27, 2010, AHMED passed to an individual whom he believed to be affiliated with al-Qaeda a thumb drive containing surveillance of the Crystal City Metrorail



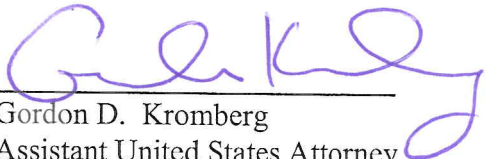
station, and five Metrorail farecards to enable the easy entry into the Metrorail system of the individuals that AHMED believed would be al-Qaeda suicide bombers.

The acts taken by the defendant, Farooque Ahmed, in furtherance of the offenses charged in this case, including the acts described above, were done willfully and knowingly with the specific intent to violate the law.


Respectfully submitted,

Neil H. MacBride  
United States Attorney

By:


  
\_\_\_\_\_  
Gordon D. Kromberg  
Assistant United States Attorney

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

  
\_\_\_\_\_  
Farooque Ahmed

3-29-11

We are Farooque Ahmed's attorneys. We have carefully reviewed the above Statement of Facts with him. To our knowledge, his decision to stipulate to these facts is an informed and voluntary one.

  
\_\_\_\_\_  
Todd Richman  
Kenneth Troccoli  
Attorneys for Farooque Ahmed

3-29-11