



U.S. Department of Justice
United States Attorney
Western District of New York



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PRESS RELEASE

May 19, 2003

UNITED STATES ATTORNEY'S OFFICE SUCCESSFULLY CONCLUDES TERRORISM CASE
WITH SIXTH CONVICTION OF AL QAEDA SUPPORTER

U.S. Attorney Michael Battle of the Western District of New York today announced the successful conclusion of one of the first terrorism cases in this country involving American citizens. In proceedings in United States District Court in Buffalo, Mukhtar al-Bakri became the sixth defendant to plead guilty to providing material support to Usama bin Laden and the terrorist organization al Qaeda. Known in the international media as the "Lackawanna Six", Al-Bakri and the other defendants attended and trained at a terrorist training camp run by bin Laden and al Qaeda, where they received instruction in a multitude of firearms, unconventional weapons, explosives, tactics, and other terrorist skills.

In October, a federal Grand Jury charged al Bakri and five other men with two counts of providing material support and resources to al Qaeda. The "material support" alleged in the indictment consisted of the men training in the al Farooq camp maintained by bin Laden and the al Qaeda organization. Over the past several months, each of the codefendants, Faysal Galab, Shafal Mosed, Yahya Goba, Sahim Alwan, and Yasein Taher, approached the Government through their attorneys with offers to plead guilty, in exchange for which the defendants could receive a slightly reduced sentence if they cooperated with the Government in its broadening investigation.

Assistant U.S. Attorney William J. Hochul, Jr., Chief of the Office's Anti-Terrorism Unit who prosecuted the case, stated that the material support law under which al-Bakri was convicted, defines "material support" as also including financial and personnel assistance, and that persons who helped recruit the Lackawanna Six defendants for their trip, financed it, or who provided logistical assistance such as housing or cover up stories, will be prosecuted as conspiring to commit the same offense. Mr. Hochul noted that the al-Bakri guilty plea, like the pleas of Galab, Mosed, Goba, Alwan, and Taher, obligates the defendant to cooperate with the government's ongoing and broadening criminal investigation into a number of



extremely significant terrorist targets located in this country and abroad.

U.S. Attorney Battle praised the intensive investigation conducted by agents of the FBI in coordination with the Joint Terrorism Task Force, and other federal, state and local law enforcement and intelligence agencies, whose hard work and dedication were responsible for today's conviction. Since the defendants' arrest last September, the Bush Administration and U.S. law enforcement officials have repeatedly used the Lackawanna Six case as a model in pursuing and prosecuting terrorism suspects, and in preventing terrorist acts here and abroad. U.S. Attorney Battle also encouraged anyone in the Western New York community who has information about the Lackawanna Six, or other terrorism related matters, to continue to contact the local Joint Terrorism Task Force located at the Buffalo Federal Bureau of Investigation.

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PLEA AGREEMENT:

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :
 :
 -v- :
 :
 MUKHTAR AL-BAKRI, : 02-CR-214-S
 Defendant. :
 :

PLEA AGREEMENT

The defendant, MUKHTAR AL-BAKRI, the United States Attorney for the Western District of New York, and the Criminal Division of the United States Department of Justice (hereinafter "the government") hereby enter into a plea agreement with the terms and conditions as set out below.

I. THE PLEA AND POSSIBLE SENTENCE

1. The defendant agrees to plead guilty to Count Two of the Indictment which charges a violation of Title 18, United States Code, Section 2339B (providing material support or resources to designated foreign terrorist organizations), which carries a maximum possible sentence of a term of imprisonment of 10 years, a fine of \$250,000.00, or both, a mandatory \$100 special assessment and a term of supervised release of at least 2 years and up to 3 years. The defendant understands that the penalties set forth in this paragraph are the maximum penalties that can be imposed by the Court at sentencing.



1) The defendant understands that, if it is determined that the defendant has violated any of the terms or conditions of supervised release, the defendant may be required to serve in prison all or part of the term of supervised release, up to 2 years, without credit for time previously served on supervised release. As a consequence, in the event the defendant is sentenced to the maximum term of incarceration, a prison term imposed for a violation of supervised release may result in the defendant serving a sentence of imprisonment longer than the statutory maximum set forth in paragraph 1 of this agreement.

II. SENTENCING GUIDELINES

2) The defendant understands that the sentence in this action will be determined pursuant to the Sentencing Guidelines (Sentencing Reform Act of 1984).

ELEMENTS OF THE CRIME

3) The defendant understands the nature of the offense set forth in paragraph 1 of this agreement and understands that if this case proceeded to trial, the government would be required to prove beyond a reasonable doubt the following elements of the crime:

1. that the defendant, within the United States or subject to the jurisdiction of the United States;
2. knowingly provided material support or resources;
3. to a foreign terrorist organization.

The defendant understands and agrees that the term "foreign terrorist organization" includes al Qaeda, and that by obtaining a uniform, attending the al Farooq training camp, and providing guard duty at the training camp, the defendant did provide material support or resources to a foreign terrorist organization.

FACTUAL BASIS

4) The defendant and the government agree to the following facts, which form the basis for the entry of the plea of guilty for this defendant including relevant conduct:

a). In approximately early April, 2001, defendant MUKHTAR AL-BAKRI, together with codefendants SHAFAL MOSED, FAYSAL GALAB, YAHYA GOBA, YASEIN TAHER, SAHIM ALWAN, and others, agreed to attend a military-type training camp located in the country of Afghanistan for the purpose of receiving training for jihad; that is, to prepare to fight a war against those who are opposed to the Islamic faith. Two men whose identities are known to the parties and are hereafter designated as Persons 1 and 2 were responsible for recruiting the defendant AL-BAKRI for his trip to the training camp in Afghanistan. The parties agree that Person 1 is a member of al Qaeda.

Defendant GOBA arranged the purchase of airline tickets for defendant AL-BAKRI's travel to the country of Pakistan, and also obtained a Pakistani visa for AL-BAKRI. On May 14, 2001, defendant AL-BAKRI, together with codefendants ALWAN, GOBA, and another man whose identity is known to the parties and is hereafter designated as Person 3, commenced their trip to the al Farooq training camp. Defendants GOBA, AL-BAKRI, ALWAN and Person 3 traveled via automobile from Buffalo, New



York to Toronto, Canada, where the defendants and Person 3 boarded a flight to London, England. The defendants GOBA, AL-BAKRI, ALWAN and Person 3 thereafter traveled to the United Arab Emirates and on to Karachi, Pakistan, with the defendants and Person 3 arriving in Karachi on or about May 15, 2001.

Defendants AL-BAKRI, GOBA, ALWAN and Person 3 spent several days at the Faran Hotel in Karachi, Pakistan, during which time the defendants and Person 3 met on a periodic basis with Person 1, who had himself departed Lackawanna in approximately April, 2001. On the defendant AL-BAKRI's second day in Karachi, Person 1 came to the Faran Hotel with two Saudi men, designated as Persons 4 and 5, at which time AL-BAKRI was told that the name of the training camp to which AL-BAKRI was going was "al Farooq". AL-BAKRI was also told during this same meeting that AL-BAKRI was going to meet the "most wanted" at the training camp in Afghanistan, which AL-BAKRI knew meant Usama bin Ladin.

Upon leaving Karachi, defendants AL-BAKRI and GOBA traveled to Quetta, Pakistan, where they stayed at the residence of a man, designated as Person 6, whose name is known to the parties, and who aided the defendants AL-BAKRI and GOBA with their travel into Afghanistan. The next day, defendants AL-BAKRI and GOBA traveled to Kandahar, Afghanistan, where they stayed at a guest house associated with the al Qaeda terrorist organization and supervised by Person 7. While at the Kandahar guest house, defendant AL-BAKRI viewed videotapes which contained footage concerning the bombing of the U.S.S. Cole and which contained speeches by Usama bin Ladin. AL-BAKRI also observed at the Kandahar guest house a book written by Usama bin Ladin which was made available to persons staying at the guesthouse, and AL-BAKRI obtained a uniform to be worn at the al Farooq camp.

After approximately five days at the Kandahar guest house, defendants AL-BAKRI and GOBA, and others, traveled to the al Farooq training camp associated with Usama bin Ladin and the al Qaeda terrorist organization. Over a period of time consisting of several weeks, the defendant AL-BAKRI and others, while at the al Farooq training camp, worked under the direction and control of members of the al Qaeda organization, and received and took orders from instructors at the camp. Among other things, defendant AL-BAKRI received training and instruction in the assembly and use of firearms, including a Kalishnikov rifle, 9mm handgun, M16 automatic rifle, and a rocket propelled grenade launcher. All persons at the camp, including defendants AL-BAKRI, GOBA, GALAB, MOSED, TAHER, and Person 3, were required on a periodic basis to perform guard duty for the camp. Defendant AL-BAKRI also received instruction and training on subjects consisting of explosives such as plastic explosives, TNT, use of detonators, and land mines, improvised explosives consisting of Molotov cocktails, and in concealment and camouflage techniques.

While AL-BAKRI was receiving his training at the al Farooq camp, Person 1 was at the al Farooq camp receiving advanced training in artillery, mortars, and anti-aircraft weaponry.

While all defendants named in the Indictment and Person 3 were at the al Farooq camp, Usama bin Ladin appeared and spoke to all persons at the camp. Among other things, bin Ladin spoke about the alliance of al Qaeda and the Egyptian Islamic Jihad, and threatened America and Israel. AL-BAKRI also met personally with Usama bin Ladin while bin



Ladin was at the al Farooq camp. Throughout the course of training, the trainers at the al Farooq camp spoke about the operation and success of the Tanzania Embassy bombing, the intention of al Qaeda to attack America, and the request of trainees to volunteer for suicide missions.

Defendant AL-BAKRI left the al Farooq training camp after completing the training. AL-BAKRI, GOBA, and Person 3 thereafter traveled from Kandahar, Afghanistan, to Quetta, Pakistan, to Karachi, Pakistan. AL-BAKRI, GOBA, and Person 3 thereafter traveled to the United Arab Emirates and the country of Yemen. AL-BAKRI returned to Lackawanna, N.Y., via Toronto, Canada on or about August 11, 2001.

The parties agree that al Qaeda is a designated foreign terrorist organization within the meaning of Title 18, United States Code, Section 2339B.

b.) The above facts are set forth for the limited purpose of complying with Rule 11(f) and are not intended to serve as a complete statement of the defendant's knowledge concerning the conduct of the codefendants.

BASE OFFENSE LEVEL

5) The government and the defendant agree that Guidelines §2M5.2 (2000 Guidelines Edition) is the most analogous Guideline which applies to the offense of conviction and provides for a base offense level of 22.

USSG CHAPTER 3 ADJUSTMENTS

6) The government and the defendant agree that the following adjustment to the base offense level applies:

The 12 level upward adjustment of Guidelines §3A1.4 (Terrorism).

ADJUSTED OFFENSE LEVEL

7) Based on the foregoing, it is the understanding of the government and the defendant that the adjusted offense level for the offense of conviction is 34.

ACCEPTANCE OF RESPONSIBILITY

8) At sentencing, the government agrees that the Court should apply the three (3) level downward adjustment of Guidelines §§ 3E1.1(a) and (b) (acceptance of responsibility), which would result in a total offense level of 31.

9) The government and the defendant agree not to move for, request, recommend or suggest any upward or downward adjustments or departures other than those specifically set forth in this agreement. A breach of this paragraph by a party shall relieve the other party of any agreements made herein with respect to departure motions and recommendations regarding the sentence to be imposed.



CRIMINAL HISTORY CATEGORY

10) It is the understanding of the government and the defendant that, based upon Sentencing Guidelines §3A1.4, the defendant's criminal history category is VI. The defendant understands that the defendant has no right to withdraw the plea of guilty based on the Court's determination of the defendant's criminal history category.

GUIDELINES' APPLICATION, CALCULATIONS AND IMPACT

11) It is the understanding of the government and the defendant that, with a total offense level of 31 and criminal history category of VI, the defendant's sentencing range would be a term of imprisonment of 188 to 235 months, a fine of \$15,000 to \$150,000, and a period of supervised release of 2 to 3 years. Notwithstanding this, the defendant understands that the defendant may not be sentenced beyond the statutory maximum penalties of ten years imprisonment, \$250,000 fine, special assessment and supervised release provisions set forth in paragraph 1 of this agreement.

12) The defendant understands that the Probation Office will make an independent determination of the defendant's total offense level and criminal history category and that the Court will ultimately determine the appropriate total offense level and criminal history category. The defendant will not be entitled to withdraw the plea of guilty because of the Court's failure to adopt any Sentencing Guidelines calculations set forth in this agreement or because of an upward departure made by the Court.

III. STATUTE OF LIMITATIONS

13) In the event the defendant's plea of guilty is withdrawn, or conviction vacated, either pre- or post-sentence, by way of appeal, motion, post-conviction proceeding, collateral attack or otherwise, the defendant agrees not to assert the statute of limitations as a defense to any criminal offense involving or related to the providing of material support or resources to a foreign terrorist organization which is not time barred as of the date of this agreement. This waiver shall be effective for a period of six months following the date upon which the withdrawal of the guilty plea or vacating of the conviction becomes final.

IV. GOVERNMENT RIGHTS AND RESERVATIONS

14) The defendant understands that the government has reserved the right to:

- a. provide to the Probation Office and the Court all the information and evidence in its possession that the government deems relevant concerning the defendant's background, character and involvement in the offense charged, the circumstances surrounding the charge and the defendant's criminal history;
- b. respond at sentencing to any statements made by the defendant or on the defendant's behalf that are inconsistent with the information and evidence available to the government;



c. modify its position with respect to any sentencing recommendation or sentencing factor under the Guidelines including criminal history category, in the event that subsequent to this agreement the government receives previously unknown information regarding the recommendation or factor.

15) At sentencing, the government will move to dismiss the open count of the Indictment in this action as to this defendant.

16) The defendant agrees that any financial records and information provided by the defendant to the Probation Office, before or after sentencing, may be disclosed to the United States Attorney's Office for use in the collection of any unpaid financial obligation.

V. APPEAL RIGHTS

17) The defendant understands that Title 18, United States Code, Section 3742 affords a defendant a limited right to appeal the sentence imposed. The defendant, however, knowingly waives the right to appeal, modify pursuant to Title 18, United States Code, Section 3582(c)(2) and collaterally attack any sentence imposed by the Court which falls within or is less than the sentencing range for imprisonment, a fine and supervised release set forth in Section II, above, notwithstanding the fact that the Court may reach the sentence by a Guidelines analysis different from that set forth in this agreement.

18) The government waives its right to appeal any sentence imposed by the Court which falls within or is greater than the sentencing range for imprisonment, a fine and supervised release set forth in Section II, above, notwithstanding the fact that the Court may reach the sentence by a Guidelines analysis different from that set forth in this agreement. However, in the event of an appeal from the defendant's sentence by the defendant, the government reserves its right to argue the correctness of the defendant's sentence. Further, the government otherwise reserves all of its rights of appeal as provided for in the Sentencing Reform Act of 1984.

VI. COOPERATION

19) The defendant will cooperate with the government including the military by providing complete and truthful information regarding the defendant's knowledge of any and all criminal activity, whether undertaken by the defendant or others, including but not limited to activity involving or related to providing material support or resources to a foreign terrorist organization. The defendant's cooperation shall also include submitting to interviews by government attorneys and agents, as well as testifying truthfully and completely before grand juries and at such pre-trial and trial proceedings as the government shall deem necessary.

20) The defendant's cooperation shall also be provided to any local, state, federal or military authorities designated by the government and who have agreed to abide by the terms of the "Cooperation" section of this agreement. The defendant's obligation to testify truthfully and completely shall extend to proceedings in



federal, state and local courts including military commissions, in jurisdictions which have agreed to abide by this agreement. In no event will the defendant be removed from United States custody.

21) In exchange for the defendant's plea of guilty and cooperation as set forth in this agreement, the defendant will not be prosecuted by the United States Government, including military authorities, for any other criminal offenses committed anywhere in any way involving or related to providing material support or resources to a foreign terrorist organization, and/or engaging in transactions with a specially designated terrorist and/or terrorist organization, committed up to the date of this agreement and about which the defendant has provided complete and truthful information. Such a promise of non-prosecution does not foreclose any prosecution for an act of murder, attempted murder, or act of physical violence against the person of another.

Further, no testimony, statements or tangible objects provided by the defendant in compliance with this agreement (or any information directly or indirectly derived therefrom) will be used against the defendant in any criminal case or military commission, except a prosecution for perjury or making false statements.

22) Upon condition that the defendant has fully complied with all terms and conditions of this agreement, it is the understanding of the parties that the Court will sentence the defendant to the statutory maximum of 120 months.

23) This agreement does not preclude the prosecution of the defendant for perjury or making false statements in the event the defendant testifies falsely or provides false information to the government. This agreement is not contingent upon the filing of charges against, the return of an Indictment against, or the successful prosecution of, any person or entity.

24) It is a condition of this agreement that, from the date of this agreement up through the date of the defendant's sentencing, the defendant shall commit no further crimes. It is also a condition of this agreement that the defendant must, at all times, give complete, truthful and accurate information and testimony and not withhold information from the government or refuse to testify truthfully and completely. Should the defendant be sentenced prior to the completion of the defendant's cooperation with the government, the defendant's obligation to comply with the cooperation provisions of this agreement extends past sentencing.

25) In the event the government believes the defendant has violated any of the conditions in the "Cooperation" section of this agreement, then the government may, before or after sentencing, petition the Court to declare that the defendant has breached this agreement and for an order relieving the government of its obligations under this agreement. The Government may also request the Court proceed to sentencing on Count 2 of the Indictment, request the Court impose a 120 month term of imprisonment for this count of conviction, and thereafter prosecute the defendant for any other federal criminal charges of which it is aware, including the conduct described in Count 1 of the Indictment.



Whether or not the defendant has violated any of the conditions of this agreement shall be determined by the Court in an appropriate proceeding at which any disclosures and documents provided by the defendant shall be admissible and at which the government shall be required to establish any violation by a preponderance of the evidence. In order to establish any violation by the defendant, the government is entitled to rely on statements and information given by the defendant pursuant to this agreement.

If this agreement is declared breached:

- a. the defendant shall thereafter be subject to prosecution for any criminal violations of which the government has knowledge, including but not limited to, perjury and obstruction of justice;
- b. the defendant has no right to withdraw the plea of guilty;
- c. the defendant shall waive all rights under Fed. R. Crim. P. 11(e)(6), Fed. R. Evid. 410 and Sentencing Guidelines § 1B1.8 and the defendant expressly agrees that all statements, testimony and tangible objects provided by the defendant (with the exception of statements made in open court during guilty plea proceedings), whether prior or subsequent to this agreement, can be used directly and indirectly in any and all criminal proceedings against the defendant; and
- d. the defendant agrees that any charges that were dismissed pursuant to this agreement may be automatically reinstated at the request of the government. Furthermore, the defendant agrees not to assert the statute of limitations as a defense to any criminal offense involving or related to providing material support to a foreign terrorist organization which is not time barred as of the date of this agreement. This waiver shall be effective for a period of six months following the date upon which the Court's order declaring the agreement breached by the defendant becomes final.

26) At the time of sentencing, the government will make the nature and extent of the defendant's compliance with this agreement known to the Court. The government and the defendant will request that sentencing be adjourned until full satisfaction by the defendant of the terms of this agreement.

27) The defendant's attorney is expressly permitted to be present at any time the defendant is questioned or interviewed by government agents regarding the matters set forth in this agreement.

VII. ENEMY COMBATANT STATUS

28) Should the defendant comply with all the terms of this agreement, the United States agrees to forego any right it has to detain the defendant as an enemy combatant based upon the conduct set forth in the factual basis and/or any other conduct about which the defendant has provided complete and truthful information.

VIII. ASSIGNMENT OF PROFITS FROM PUBLICITY



29) The defendant hereby assigns to the United States any profits or proceeds which he may be entitled to receive in connection with any publications or dissemination of information relating to illegal conduct alleged in the Indictment. This assignment shall include all profits and proceeds for the benefit of the defendant, regardless of whether such profits and proceeds are payable to himself or to others, directly or indirectly, for his benefit or for the benefit of the defendant's associates or a current or future member of the defendant's family. The defendant shall not circumvent this assignment by assigning the rights to his story to an associate or to a current or future family member of the defendant's family, or to another person or entity who would provide some financial benefit to the defendant, to the defendant's associates, or to a current or future member of the defendant's family. Moreover, the defendant shall not circumvent this assignment by communicating with an associate or a family member for the purpose of assisting or facilitating their profiting from a public dissemination, whether or not such an associate or other family member is personally or directly involved in such dissemination.

IX. DESIGNATION

30) In the event the defendant cooperates with the Government, the Government agrees to recommend to the federal Bureau of Prisons that the defendant should not be designated to the Administrative Maximum Facility at Florence, Colorado, and will recommend that the Bureau of Prisons consider the defendant for the least secure facility close to the Western District of New York consistent with Bureau of Prisons policy. The parties understand that the final decision concerning where the defendant serves his federal sentence must be made by the federal Bureau of Prisons.

X. TOTAL AGREEMENT AND AFFIRMATIONS

31) This plea agreement represents the total agreement between the defendant, MUKHTAR AL-BAKRI, and the government. There are no promises made by anyone other than those contained in this agreement. This agreement supersedes any other prior agreements, written or oral, entered into between the government and the defendant.

MICHAEL A. BATTLE
United States Attorney

Western District of New York

MICHAEL CHERTOFF
Assistant Attorney General
Criminal Division
U.S. Department of Justice

BY:

WILLIAM J. HOCHUL, JR.
Assistant U. S. Attorney

Dated: , 2003



I have read this agreement, which consists of 20 pages. I have had a full opportunity to discuss this agreement with my attorney, JOHN J. MOLLOY, Esq. I agree that it represents the total agreement reached between myself and the government. No promises or representations have been made to me other than what is contained in this agreement. I understand all of the consequences of my plea of guilty. I fully agree with the contents of this agreement. I am signing this agreement voluntarily and of my own free will.

MUKHTAR AL-BAKRI
Defendant

Dated: _____, 2003

JOHN J. MOLLOY, Esq.
Attorney for the Defendant

Dated: _____, 2003