

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Case No: 15-CR-00049(MJD/FLN)

UNITED STATES OF AMERICA,

Plaintiff(s)

v.

HAMZA NAJ AHMED (1),  
ADNAN ABDIHAMID FARAH (3),  
ABDIRAHMAN YASIN DAUD (4),  
ZACHARIA YUSUF ABDURAHMAN (5),  
HANAD MUSTOFE MUSSE (6),

Defendant

**MOTION TO DISCLOSE EXCULPATORY EVIDENCE**

Defendant by counsel and pursuant to U.S. Const., amends V and VI, Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, moves the Court for an Order compelling the government to make inquiry about and disclose the information set forth below, which is either in the possession, custody or control of the government and its agents, or which the existence of is known or could become known to the Government by the exercise of due diligence by the Government and its agents.

**INTRODUCTION**

Defendant is broadly alleged to have conspired and attempted to travel abroad to Syria for purposes of providing “personnel,” a form of material support, to ISIS, an organization listed by the United States as a Designated Terrorist Organization, all in violation of 18 USC §2339B(a)(1). For purposes of the statute,

the definition of “personnel” is limited to only include a person, alone or with others, who “[work]s under that terrorist organization’s direction or control or . . . organize[s], manage[s], supervise[s], or otherwise direct[s] the operation of that organization.” 18 U.S.C. § 2339B(h). Section 2339B(h) also states that the ban on “personnel” does not criminalize the conduct of “[i]ndividuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives.” *Id.*

The conflict in Syria is incredibly complex, with multiple armed groups, some of which are directly supported by the United States, others which are also not a “Designated Terrorist Organization,” (“DTO”) and still others which may be DTO’s but are not ISIS, the DTO to which Defendant is alleged to have conspired and/or attempted to provide material support. Many of the fighting groups not directly supported by the United States are supported by other nations, including allies of the United States which engage in military cooperation and intelligence sharing with the United States, including fighting groups supported by allies of the United States which are also DTO’s under United States law. By this Motion, Defendant seeks information in the possession and control of the United States, including intelligence agencies and military branches of the United States, which would tend to exculpate Defendant of the charge that he sought to travel to Syria for purpose of acting under the direction and control of ISIS.

INFORMATION SOUGHT

Defendant seeks an order from the Court requiring the Government to make inquiry of, and to disclose any information covered by this Motion in the possession of, any of the intelligence agencies or military branches of the United States government. Such information includes, but is not limited to:

1. evidence showing support or involvement of any employee, private contractor of the United States, or foreign intelligence service or military branches of allies of the United States, in the creation or support of ISIS;
2. evidence showing any groups other than ISIS active in Syrian territory which include citizens or residents of the United States;
3. evidence showing any groups other than ISIS active in Syrian territory which include non-Syrian nationals who practice or claim to practice Islam as a religion;
4. evidence showing any groups other than ISIS active in Syrian territory who use any form of social media, Twitter, Facebook, or other electronic communication in order to gather support and/or encourage persons to travel to Syria for purposes of supporting the subject group;
5. evidence showing that ISIS engages in administration of territory and populations under its control and functions as a government entity in addition to, or separate from, any armed branch of ISIS;

6. evidence of the recruitment efforts of any armed groups active in Syrian territory which are supported by the United States government;
7. evidence of any groups active in Syrian territory which seek to provide humanitarian relief or other support to victims of conflict in Syria;
8. evidence that any persons who reside in physical territory controlled by ISIS do not either manage or control ISIS or function under the control or direction of ISIS.

Defendant specifically seeks an order requiring the United States to make inquiry about the existence of the above requested documents and information pursuant to the memorandum of Acting Deputy Attorney General Gary G. Grindler, dated September 29, 2010, entitled, "Policy and Procedures Regarding the Government's Duty to Search for Discoverable Information in the Possession of the Intelligence Community or Military in Criminal Investigations," or any subsequent Memorandum of the Department of Justice which modifies or supplements this Memorandum.

Defendant further seeks an Order of the court requiring the United States to produce a copy of this September 29, 2010, Memorandum.

This motion is based on the indictment, records and files in the above-entitled action and any and all other matters which may be presented prior to or at the time of the hearing of said motion.

Date: August 7, 2015

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