

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,
Plaintiff,
- against -
HAMZA AHMED, et al.,
Defendants.

MOTION TO SEVER COUNT SEVEN
(FINANCIAL AID FRAUD)

15-CR-49 (MJD/FLN)

Hamza Ahmed, through his attorney, respectfully moves the Court for an Order severing Count 7 (financial aid fraud) of the Indictment for a trial separate from the other charges.

Count 7 alleges Mr. Ahmed defrauded the United States by using his student loan money to buy a plane ticket to Turkey (Superseding Indictment, p. 6). This count makes no allegation of any terroristic activity, no mention of the Islamic State in Iraq and the Levant or any other foreign terrorist organization, and no mention of any false statement to law enforcement officers. The entirety of the allegation seems to be that it is fraudulent for students to attempt to travel using financial aid. To this charge, it is irrelevant as to what Mr. Ahmed intended to do after he allegedly purchased the plane ticket to Turkey.

Rule 14(a) of the Federal Rules of Criminal Procedure allows a Court to mandate separate trials of counts if joinder appears to prejudice either the defendant or the government. “Even if joinder is proper . . . the court still has discretion to sever under Rule 14.” *United States v. Ruiz*, 412 F.3d 871, 886 (8th Cir. 2005). There is a presumption against severance, but that presumption is overcome here.

The terrorism-related charges against the defendants are uniquely inflammatory and prejudicial which, in turn, makes this motion unique. The kind of evidence the jury may deal

with in the terrorism-related charges would unfairly warp the way the jury would assess the financial aid fraud charge. The jury would need to view the charges and elements independently, which would be extraordinarily difficult, if not impossible, for a juror in this case. Further, the two types of charges are not of the same or similar character – they are not the same type of offense, and most evidence does not overlap. *See United States v. Boyd*, 180 F.3d 967, 981 (8th Cir. 1999).

This motion is based on the Indictment, the Fifth Amendment to the United States Constitution, the Federal Rules of Criminal Procedure, the records and files in this case, and upon such other and further points and authorities as the interests of justice requires.

CONCLUSION

For the foregoing reasons, Mr. Ahmed respectfully request that his motion to sever Count 7 be granted.

Dated: August 7, 2015

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