

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 15-49 (MJD/FLN)

|                               |   |                                  |
|-------------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA,     | ) |                                  |
|                               | ) |                                  |
| Plaintiff,                    | ) | <b>GOVERNMENT’S CONSOLIDATED</b> |
| v.                            | ) | <b>RESPONSE TO DEFENDANTS’</b>   |
|                               | ) | <b>MOTIONS FOR RELEASE</b>       |
| 1. HAMZA NAJ AHMED,           | ) |                                  |
| 5. ZACHARIA YUSUF ABDURAHMAN, | ) |                                  |
| 6. HANAD MUSTOFFE MUSSE,      | ) |                                  |
|                               | ) |                                  |
|                               | ) |                                  |
| Defendants.                   | ) |                                  |

This memorandum is submitted in response to the defendants’ motions for release. See Docket Numbers 142 (Ahmed), 140 (Musse) and 145 (Abdurahman). A hearing on these motions and the respective release proposals is scheduled for July 8, 2015.

*Background*

This case arises out of a long-running investigation into young men who have left Minnesota, or have attempted to leave Minnesota, to join the terrorist organization, *Islamic State of Iraq and the Levant* (“ISIL”). The superseding indictment alleges, *inter alia*, that the defendants conspired to provide, and attempted to provide, material support to ISIL, a designated foreign terrorist organization. Defendant Ahmed was arrested on February 2, 2015. Defendants Musse and Abdurahman were arrested on April 19, 2015. At the initial appearances, the government moved for detention of all defendants. In each case, Federal Pretrial Services recommended detention pending trial. After litigating the issue of detention, this Court ordered each defendant detained pending trial, noting both the danger to the community and the risk of flight presented. At the time of the

respective orders for detention, this Court invited the defendants to provide detailed proposals for release. Defendants Ahmed, Abdurahman and Musse have each submitted a proposal to the Court and to the government. This memorandum is a consolidated response to these release proposals.

*Summary of the Defendants' Proposals*

In their submissions to the Court, the defendants offer various organizations and individuals willing to assist in their supervision while they prepare for trial. The defendants suggest alternative residential options (i.e. the homes of relatives, halfway houses), religious instruction, physical exercise, work and education in lieu of custody pending trial. In some instances, the proposals suggest that the defendants participate with, or even lead other youth in various activities.

*Summary of the Government's Position*

The defendants' unique and untested proposals for release do not adequately protect the community nor alleviate the very real risk of flight if any one of the defendants is released. For the reasons set forth in this memorandum and in the government's memoranda previously filed in support of the initial motions for detention, the government maintains that detention pending trial continues to be warranted.

*Government's Position on the Defendants' Release Plans*

Having carefully reviewed the defendants' proposals, the government is not satisfied that the novel alternatives adequately protect the community or ensure the appearance of the defendants in court. While the various groups and individuals cited in the proposals appear to be well-meaning, none have experience supervising individuals

charged in federal court with conspiring and attempting to provide material support to ISIL or any other terrorist organization. Even with the assistance of a pretrial services officer, qualified counselor, religious leader or caring family member, none of these proposals can sufficiently guarantee that the defendant will eschew his extremist ideology, remain law-abiding and appear in court when instructed to do so.

Each defendant currently faces a potential 30 years' imprisonment if convicted at trial. Prior to facing prison terms, each defendant was living with family, was enrolled in school, was attending mosque and, in some cases, was employed. Despite these seemingly favorable conditions, each defendant made a concerted effort to leave the United States in order to join a terrorist organization of uncompromising violence. The current proposals to live with family members, work, visit with counselors, attend mosque and enroll in school do little by way of providing any certainty that this will not happen again – particularly where radicalized and as-yet unrepentant defendants are concerned.

Undergirding each of the defendants' proposals is the assumption that with proper guidance and supervision, he will remain law-abiding and will appear for court. Unfortunately, the facts of this case demonstrate that even when living with parents, while holding jobs, while attending mosque, and with the FBI conducting physical surveillance on several of them, the defendants took extraordinary steps to flee their families, their schools, their mosques and their country to join a terrorist organization. The suggested release plans do not meaningfully overcome the extraordinary risk

involved with the release of men determined to turn their backs on their families, their country and the rule of law.

The persistence to join ISIL demonstrated by the defendants is remarkable – particularly in light of the atrocities advertised by this terrorist organization over the course of the past year or more. Importantly, there is no indication that any of the defendants wish to reject the extremist ideology exhibited by ISIL. Notably, in the discovery provided to the defendants, a recorded conversation reveals one defendant’s position on any effort to “deradicalize” him. On March 15, 2015, Zacharia Abdurahman participated in the following exchange with the CHS:

*ZA: I think Bones<sup>1</sup> going to be an experiment (UNI).*

*CHS: Oh*

*ZA: Deradicalization program.*

*CHS: Didn’t he like admit guilt?*

*ZA: Yeah, he did acknowledge. Even if they give him time it’s not going to be long (UNI). With me, all of us, we’re hopeless, we’re not gonna be in a program, bro. We will straight up serve time.*

*CHS: Why?*

*ZA: Cause we’re not, first of all Bones was a high school student. (UNI) Radicalization (UNI) it wasn’t that big deal. But the program is for anyone or radicalized right now. Like ----<sup>2</sup>.*

*ZA: Not for us, bro. Straight up prison. Yeah.*

*ZA: Cause you’re already, they know they cannot change you. Because you’re an adult you know.*

Later in this same recording, defendants Abdurahman and Guled Ali Omar can be heard speaking on a cell phone with current ISIL-fighter and co-conspirator, Abdi Nur. In that portion of the recording, Abdurahman bragged to Nur about how he and his co-conspirators in Minnesota were “*the hot boys on the block, bro.*” Abdurahman then told

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<sup>1</sup> “Bones” is the nickname for co-conspirator Abdullahi Yusuf.

<sup>2</sup> Here, Abdurahman gives the name of an uncharged individual.

Nur, “*we’re not too far bro, we gonna be with you, bro. Soon. In Jannah<sup>3</sup> or in Dunya<sup>4</sup>, bro.*”

Release from custody now would give any one of these defendants yet another chance to join their co-conspirators in Syria and Iraq. Jobs, family, school, and attendance at mosque did not stop the defendants from trying to flee before and will not stop them from trying again. Nor will taking away a passport, signing an appearance bond or placing a defendant on location monitoring.

Finally, as is their right, the defendants have entered ‘not guilty’ pleas and in doing so have denied the accusations contained in the Superseding Indictment. Importantly, none of the defendants before the Court have accepted responsibility for their actions nor have any renounced ISIL and its violent ideology. There has been no change in circumstances mitigating the seriousness of the criminal conduct engaged in by the defendants, nor have the attendant risks of placing these men in the community been diminished. As such, detention of these defendants continues to be warranted.

#### *CONCLUSION*

The government has carefully reviewed the proposals put forth by the defendants. The government takes no issue with the well-meaning organizations and individuals cited therein, but rather, it is the dangerous intentions of the defendants themselves that concern the government here. Indeed, there is no evidence that the defendants are seeking intervention – rather, it is being foisted upon them by other well-intentioned

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<sup>3</sup> The afterlife.

<sup>4</sup> This world.

individuals. These proposals are insufficient to overcome the very real danger to the community and the risk of flight presented by the release of any one of the defendants. For these reasons, the government respectfully requests that the motions for release be denied and that the detention of each defendant continue pending trial.

Dated: July 7, 2015

Respectfully submitted,

ANDREW M. LUGER  
United States Attorney

s/Andrew R. Winter

BY: ANDREW R. WINTER  
Assistant U.S. Attorney  
Attorney ID Number 0232531

JOHN DOCHERTY  
Assistant U.S. Attorney  
Attorney ID No. 017516X