

Introduction

The Indictment charges Laith with a single violation of 18 U.S.C. §2339B(a)(1,) alleging an attempt to provide material support to a Foreign Terrorist Organization (hereinafter “FTO”), “collectively ‘ISIS’”, in the form of personnel, i.e., himself. The factual allegations are that Laith attempted to violate §2339B(a)(1) on April 26, 2017 after he attempted to board a flight to Jordan at the Cincinnati/ Northern Kentucky International Airport. The flight was purchased with funds provided by the FBI and given to Laith by a Confidential Informant working for the FBI. To date there has been no indication that Laith had any communication, whatsoever, with anyone from ISIS or purporting to be in any way affiliated with ISIS. The government’s theory is *not* that Laith was plotting any type of terrorist attack either in America or abroad, but rather that he intended to ultimately make his way to join ISIS in Syria to fight against the Bashar al-Assad regime. Laith does not dispute he was exploring the possibility of going to Syria to fight the Assad regime, but maintains he had no intent to place himself *under the direction and control* of ISIS. While he expressed support for the concept of an Islamic State (which is a concept that predates ISIS), and indicated he felt obligated to help his Muslim brothers and sisters being oppressed in Syria, he specifically denounced the violence done by ISIS in the name of Islam and was searching for other legitimate, non FTO groups, who were also fighting against Assad in Syria.

The magistrate judge ordered he be detained without bond after the government moved for pretrial detention. The following facts, however, overcome any of the government’s objections to Laith’s release:

- (1) Laith, who is 27 years old, does not have any prior criminal record, or any history or incidents involving violence. Since being detained without bond after his arrest in late April of this year, he has been a model inmate without any disciplinary infractions;
- (2) Laith, a citizen of Jordan, is a legal permanent resident of the United States, as of April 8, 2014. He initially arrived in the United States from Jordan on or about July 24, 2011. In early March, 2017 he moved to Dayton to live with his wife, Destiny Eshelmen. They were residing at [REDACTED], Ohio before his arrest. Destiny gave birth to his first child, Waleed Laith Alebbini on July 15, 2017. Laith will not be able to travel because (a) the government already possesses his passport; (b) he consents to electronic monitoring and home confinement; and (c) he is without the funds or wherewithal to travel and would spend any time on bond assisting with his defense and caring for his first-born infant son;
- (3) the letters submitted from Laith's family and friends attest to his character and non-violent nature;
- (4) the imposition of strict conditions of pretrial supervision, including electronic monitoring, home confinement, and strict reporting in accordance with the schedule set by Pre-Trial Services will be sufficient;
- (5) the government's case is deficient with respect to certain elements of the alleged offense, including any intent formed to travel with the *purpose of placing himself under the direction and control of ISIS*;

- (6) while the indictment charges an offense with a maximum sentence of 20 years, sentences for similarly situated defendants convicted of similar (and even more serious) conduct have been significantly lower than the potential maximum term; and;
- (7) The voluminous discovery in this case is comprised mainly of electronic media on disks which requires the use of a computer. Laith has no access to a computer to review his discovery in the Montgomery County Jail and it is impractical for counsel to take a computer to the jail for any meaningful review of the discovery. If released, Laith could be allowed the use of a computer without internet access to assist in his defense. He could also come to counsel's office to review the discovery if approved by Pretrial Services.

I. The Legal Standards Regarding Pretrial Release

There are several factors, operating separately or in combination, that justify granting Laith's request for bail pursuant to 18 U.S.C. §3142, the statute governing release or detention of a defendant pending trial. Indeed, pursuant to §3142(g), in determining whether there are conditions of release that would "reasonably assure the appearance of the person as required and the safety of any other person and the community," the Court must take into consideration,

- (1) "the nature and circumstances of the offense charged;"
- (2) "the weight of the evidence against the person;"
- (3) "the history and characteristics of the person including
 - (A) the person's character, physical and mental condition, family ties, . . . financial resources, length of residence in the community, community ties,

past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;” and

- (4) “the nature and seriousness of the danger to any person or the community that would be posed by the person’s release.”

See 18 U.S.C. §3142(g).

Indeed, if the Court, when considering the factors enumerated in §3142(g), determines that Laith is eligible for release on conditions, the Court must then order Laith’s pretrial release “subject to the least restrictive further condition, or combination of conditions that . . . will reasonably assure the appearance of the person as required and the safety of any other person and the community,” pursuant to §3142 (c)(1)(B).

As a threshold matter, it has been long and well established that pre-trial release is the norm, and should be denied “[o]nly in rare circumstances.” *United States v. Motamedi*, 767 F.2d 1403, 1405 (9th Cir. 1985), citing *Sellers v. United States*, 89 S.Ct. 36, 38 (1968) (Black, J., in chambers); see also *United States v. Stone*, 608 F.3d 939 (6th Cir. 2010)(“[t]he default position of the law, therefore, is that a defendant should be released pending trial”). Furthermore, when balancing the arguments and evidence for and against pre-trial release, any “[d]oubts regarding the propriety of release should be resolved in favor of the defendant.” *Id.*, citing *Herzog v. United States*, 75 S. Ct. 349, 351 (1955) (Douglas, J., in chambers) and *United States v. McGill*, 604 F.2d 1252, 1255 (9th Cir.1979).

The government shoulders the burden of demonstrating either “by a preponderance of the evidence that the defendant poses a flight risk, [or] by clear and convincing evidence that the defendant poses a danger to the community.” *United States v. Gebro*, 948 F.2d 1118, 1121 (9th

Cir. 1991), citing *Motamedi*, 767 F.2d at 1406-07. In order to justify the extraordinary measure of pre-trial detention, the Court must conclude that the risk of flight or danger to the community is “serious,” and that the risk cannot be reasonably alleviated by imposing conditions of release upon the defendant. 18 U.S.C. §3142(f)(2)(A)-(B) & §3142(c)(1)(B).

When the Court finds there is probable cause to believe the defendant has committed an offense listed under §2332b, a rebuttable presumption in favor of detention arises. *See* 18 U.S.C. § 3142(e)(3). The presumption does not eliminate the government’s burden of demonstrating that pre-trial detention is necessary, but rather imposes on the defendant the burden of producing credible evidence that he is neither a flight risk nor danger to the community. *See United States v. Stone*, 608 F.3d 939 (6th Cir. 2010), citing *United States v Mercedeses*, 254 F.3d 433, 436 (2d Cir. 2001); *United States v. Portes*, 786 F.2d 758, 764 (7th Cir. 1985); *see also United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008) (“[a]lthough the presumption shifts a burden of production to the defendant, the burden of persuasion remains with the government”); *see also United States v. Freitas*, 602 F. Supp. 1283, 1290 (N.D. Cal. 1985) (“the presumption does not affect the government’s obligation to prove that detention is necessary”).

While the presumption “remains in the case as an evidentiary finding militating against release,” the government’s obligation to prove that no conditions would reasonably assure the safety of the community or the defendant’s subsequent appearances remains intact. *Hir*, 517 F.3d at 1086; *see also United States v. Moore*, 607 F. Supp. 489, 498 (N.D. Cal. 1985) (“government may not rest solely on the rebuttable presumption to support its motion to detain a defendant pending trial[,] . . . even if [evidence that the defendant committed the charged offense is] very compelling, [the presumption] cannot by itself satisfy the requirement of §3142(f)”).

Accordingly, regardless whether the presumption applies, “the government’s ultimate burden is to prove that no conditions of release can assure that the defendant will appear and to assure the safety of the community.” *United States v. Stone*, 608 F.3d 939,946 (6th Cir. 2010). The Court is required to consider all of the factors included in §3142(g) when determining whether any conditions in section 3142(c) will reasonably assure [the defendant’s] appearance and the safety of the community. *Id.* However, the “the weight of the evidence,” is the “least important of the factors,” because “the bail statute neither requires nor permits a pretrial determination of guilt.” *United States v. Gebro*, 948 F.2d 1118, 1121 (9th Cir. 1991).

II. Analysis of the Factors Relevant to Pretrial Release Demonstrates That Laith Should Be Granted Bail

A. *Laith Does Not Have Any Prior Criminal Record or History of Violence*

Laith does not have any prior criminal record. Nor does he have even the slightest history of violence. In addition, as the letters submitted on his behalf and attached to this motion attest, he is by nature, gentle, generous and *non-violent*. (See Letters of support attached as Exhibit A).

B. *Laith Does Not Present a Risk of Flight*

There are several factors that effectively eliminate the risk of flight from consideration with respect to Laith’s pretrial release:

- (1) Laith has been in the United States since July 24, 2011 and has been a legal permanent resident of the United States since April 8, 2014. He has an infant son with his American citizen wife. His Jordanian passport is in the custody of the FBI after his arrest. He does not

possess any documents or the financial resources that would permit him to engage in international travel; and

- (2) Laith consents to electronic monitoring, home confinement, and prohibition on internet access (without Pre-Trial Services approval) as conditions of his release.

C. The Government's Decision Not to Arrest Laith At Various Stages of Its Investigation of Him Demonstrates That he Does Not Present A Danger to the Community.

By not arresting Laith during various stages of its investigation, the government has tacitly conceded that Laith is not a danger to the community. As detailed in the Criminal Complaint, the government knew of Laith's previous international travel and the incident with the Turkish embassy. Laith had been interviewed by the FBI, and he actually asked the FBI if he was permitted to travel overseas. The government elected to have a Confidential Informant offer to pay for travel and purchase a ticket to secure what they believed would be a substantial step for an attempt charge. Instead of allowing him to leave the country with the ticket the government purchased and notifying the foreign authorities (which would surely have protected the citizens of the United States), they elected to arrest him at the airport when he attempted to board the flight they had purchased. The only logical reason for not intervening earlier was that there was no danger posed by Laith to anyone in the United States. Even if the government's theory is correct - which Laith does not concede - his purpose was supposedly to join ISIS to fight against Assad in Syria - a goal most rational human beings would agree is laudable - especially those concerned with Muslims being oppressed or killed in Syria. In fact the United States supports and funds this objective in certain capacities.

D. *The Government's Case is Deficient In Material Respects*

The Complaint (attached as Exhibit B) sets forth facts that reveal the material weakness in the government's case, which alleges that Laith attempted to provide himself as material support to ISIS. In particular, the Complaint is devoid of evidence establishing his intent to place himself *under the direction and control* of ISIS as opposed to searching for non FTO groups who had the similar objective of overthrowing the Assad regime in Syria.

The Complaint correctly states the applicable law, “[i]ndividuals who act entirely independent of the foreign terrorist organization to advance its goals or objectives **shall not be considered to be working under the foreign terrorist organization's direction and control.**” Complaint at ¶ 5. Importantly, *there is no evidence of any contact, whatsoever, between Laith and ISIS.*

Paragraph 8f of the Complaint states:

On or About January 23, 2017, ALEBBINI was interviewed by the FBI and the U.S. Secret Service regarding the incident at the Turkish Embassy. During the interview, ALEBBINI admitted posting pro-ISIS videos on his Facebook page in the past...ALEBBINI admitted to supporting ISIS's desire for a united Middle East (the Islamic State), but he said **he did not agree with their violence.**”

This is of course consistent with the letters attesting to his peaceful and non-violent nature.

While the government will undoubtedly point to arguably pro-ISIS statements made by Laith, these of course, if proven, are insufficient to support a conviction given the government's inability to prosecute individuals exercising their First Amendment rights.

Despite the alleged existence of classified documents that won't be turned over to defense counsel, and the wealth of discovery in this case, the issue at trial is simple. The government believes it can prove Laith's intention was specifically to place himself under the direction and

control of ISIS in the fight in Syria. Laith does not dispute that his deeply held religious beliefs compelled him to take action in Syria. He does dispute that he was going to place himself under the direction and control of ISIS – the essential element of this charge. Instead, he was going to assess the situation for himself and look for a group – one not designated an FTO- to join to do what he believed his religion compelled him to do. This is born out in paragraph 8v of the Complaint which recounts a recorded conversation with the Confidential Informant:

v. ALEBBINI stated he wanted to follow R.A. and there was a good chance that Q.A. would follow too. He said he would go and make sure the “group” is right first, *seemingly* referring to the prior discussion of ISIS.

The word “seemingly” used by the FBI agent is telling in the context of this charge and frames the real issue in this litigation. This is especially true given paragraph 8vii of the Complaint:

vii. At the end of the meeting, ALEBBINI reiterated that, like he told Q.A., ALEBBINI will be the first to go “look for a way and see what the story is...If anything happen to me, you see and learn. If nothing happen to me *and the group turns out to be right*, on the phone.. and then you spread...Anticipate that there will be a call.”

This portion of the Complaint indicates his desire to ascertain the situation for himself. This coupled with the uncontroverted fact that he fundamentally disagreed with the violence perpetrated with ISIS is evidence of his intent not to join ISIS. While the government and Laith do not agree on his intention to join ISIS – what is not in dispute in this case is that there is **no evidence that he was intending to carry out any act of terrorism**, or posed a threat to any innocent human being.

Conclusion

For all these reasons, it is respectfully submitted that the Court should set a reasonable bail for Laith, concurrent with any conditions including electronic monitoring, home confinement, and/or any other strict terms the Court is empowered to impose.

Respectfully submitted:

DEBORAH L. WILLIAMS
Federal Public Defender

by s/Thomas W. Anderson, Jr.
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Attorney for Defendant
Laith Waleed Alebbini

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the government on the date same was filed.

s/Thomas W. Anderson, Jr.
Thomas W. Anderson, Jr.

Dear Judge Rice,

My name is Destiney Eshelman I am Laith Alebbini's wife. We have been married since June of 2016. I come to you today to ask you for the release of laith on the home monitoring system. This would greatly benefit our son who was born on July 15th of 2017. If Laith was out of the jail system he would be able to watch his son so I could work and we could become more self sufficient. My goal for my son is to grow up with both of his parents in his life. To never rely on any type of government assistance and to see that his parents did everything they could to take care of him. I do not want my son to grow up without the love and support of his father like I did or to become another statistic. In my opinion having Laith home with us would help achieve this.

Laith is one of the most kind hearted person I have ever met. He is always the first to offer help to anyone that is in need. I know that if you released him he would only show you that it was a good decision. He wouldn't disappoint you. I'm pleading with you for you too give him this chance so that we can have our family together and he can be here with his son.

Thank you for your time and consideration your Honor. We greatly appreciate it.

Sincerely,

Destiney Eshelman

A handwritten signature in black ink, appearing to read "Destiney Eshelman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dear Judge Walter H. Rice,

My name is Noor Abughannam. I am Laith Alebbini's sister in law. I met Laith last year when I got engaged to his brother. In all honesty, when I first met Laith I thought he was one of the smartest most educated people I have ever met. He had his entire life put together. He had a great, great job, making good money for himself and his new wife. He was just a great guy to be around, the type of person to always want to make people happy and comfortable. I think that is his downfall that he always puts others ahead of himself. Even now that he's in jail he puts a brave face on and makes us feel like he's ok. That's just the type of person he is. In the short amount of time I have known him, I've always felt safe around him. He has never hurt anyone, and will never do anything to harm anyone. Please give him this chance to prove to everyone he is a civilized person and I know you won't regret it. Please don't let him waste his life in a jail cell when he can be spending his time raising his son. His son needs his father. Please.

I have known Laith Alebbini for roughly a year and a half, almost 2. I met him through my sister, Destiney.

I was nervous to meet him at first. I had many stereotypical thoughts running through my head about who he was. Once I was able to meet him, I was so ashamed of myself for ever thinking badly of him.

Laith is by far one of the best most kind hearted people I could ever be lucky enough to meet. He is such a sweet heart and would do anything to help someone in need. He is kind and gentle with my three little ones. They absolutely adore him. He became a part of our family so quick and easily because of his kind nature.

It hurts me to know he has gotten to know my children more than his own newborn son. This day in age, children need their fathers to play an active role in their lives and I know he would be such a great father to his son as he is a great uncle to my kids.

Laith is a terrific, smart, kind, caring and sweet man. I am proud to call him my brother in-law!!

Bridget Hasty

To whom it may concern,

I, Michelle Brown, am writing this to inform you about Mr. Laith Alebbini. During my time with him I was able to notice, that he was not violent. He was/is respectable. He would help anyone in need. He has a very caring heart. It has also come to my attention that he is looking to be out on house arrest. If I thought he would jeopardize my family and put them in any potential danger I would not open my home to him. I have a 17-year-old and a 21-year-old still residing in my residence. I occasionally have my grandchildren visit. I care for my family very much and I know that Mr. Alebbini does too.

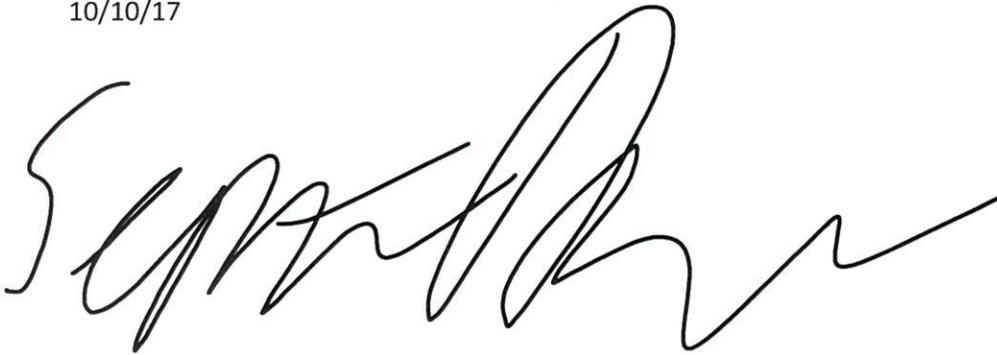
Michelle
Brown
10/10/17

To whom it may concern,

I was fortunate enough to meet Mr. Alebbini through my sister, Destiney Eshelman. I met him face to face in 2016 around Christmas. I did chat with him on occasion when Ms. Eshelman would facetime him. He was very well mannered. He respected everyone. We had many discussions about my education. He was very helpful with many of my academic orientated problems. Mr. Alebbini was very kind when it came to interacting with my niece and nephews. He made sure to include them all in activities that interested them. He supported each of their hobbies. For example, my niece loves to fish. He would take her fishing when he could. He is very much a part of the family. He has helped us, in more ways than one could think. He gave moral support and guidance.

September Brown

10/10/17

A handwritten signature in black ink, appearing to read "September Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

To whom it may concern,

My name is Ahmad I am Laith Alebbini's brother in law. I never had a chance to meet him in person given that he lives in America and I live in Jordan. All that I know that he is very good person and he's a gentleman. One thing that happens in our culture when a man wants to get married is that he asks around about the family prior to marriage and before I married Laith's sister I was told that this is a great family, and till this day I am so grateful I married into this family because they are top notch people. Every single one of them, they are the most respectful people you will ever meet. His whole family when I ask about Laith says good positive things about him, that he has a very good heart and he is very good and how he always helps people. I'm sorry I've never met him, but I always contact him on the phone and laith will never do anything bad to anyone Laith now in jail and this is not his place; this is not where he belongs. Please free Laith.

Hi,

I'm Laith Alebbini's Mother,

I raised Laith and I taught him everything. When he was young he has always had a good heart. He helps every one of his family members and they all love and respect him. He always worries about poor people and always felt a sense of obligation to them. I am a mom, and I have so much pain in my heart for what he is going through right now please check his background, check into his life, ask any of his friends and you will know that he is very good person and you will know he is not the person the media is portraying him to be and he is not a bad guy. He will never hate or do something bad to anyone. I know him more than anybody on this earth, and I know my child is not capable of doing what he is being accused of, if he were believe me we will not take this time to write letters or defend him. He has a family now and his family is waiting for him, please let him return to his family... even if it is for this short time. It would mean the world to them and me.

Hi I'm Suzan Alebbini's, Laith Alebbini's sister,

Laith is my oldest brother I love him very much and I absolutely adore him. Once when we were young kids he saw me about to kill a bug, he stopped me and he said to me this is so bad tomorrow the bug will get older and bigger and it will hit you back. He taught me how to be good to others even the smallest of creatures, bugs. I can tell you that throughout his Life he has been a very good man and he has very good heart and it is pure and clean. Maybe that's why he is now in jail...My brother he is innocent of everything and I'm very sure he would never harm a bug in his life. He always loves to help people if he saw a homeless or poor person he will give him whatever he has even if it were very little. He would give him the clothes of his own back. That's just who he is. I know it may not look like it because of the position he is in now but believe me this is Laith. He is a very good person and he always handles his responsibly. Laith now is married and has a beautiful son and his son needs him please let him out to see his son.

AO 91 (Rev. 11/11) Criminal Complaint

FILED
RICHARD W. NAGEL
CLERK OF COURT

UNITED STATES DISTRICT COURT APR 27 AM 9:33

for the
Southern District of Ohio

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
WESTERN DIV. DAYTON

United States of America
v.
LAITH WALEED ALEBBINI

Case No.

3:17mj-177

MICHAEL J. NEWMAN

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of on an exact date that is unknown, but at least by on or about April 26, 2017 in the county of Montgomery in the Southern District of Ohio and elsewhere, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 2339B	Attempt to Provide Material Support and Resources to a Foreign Terrorist Organization

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet.

Michael J. Herwig
Complainant's signature

Michael Herwig, FBI Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 4/27/17

Michael J. Newman
Judge's signature

City and state: Dayton, Ohio

Hon. Michael J. Newman, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Michael Herwig, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of a Complaint charging **LAITH WALEED ALEBBINI (“ALEBBINI”)** with, on an exact date that is unknown, but at least by on or about April 26, 2017, in the Southern District of Ohio and elsewhere, attempting to provide material support and resources to a foreign terrorist organization, in violation of 18 U.S.C. § 2339B.

2. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), and I have been an agent since March 16, 2008. I have been assigned to the Joint Terrorism Task Force since 2008 and have worked cases involving international and domestic terrorism.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause and does not set forth all of my knowledge about this matter.

PROBABLE CAUSE

4. Title 18, United States Code, Section 2339B prohibits, in pertinent part, a person from knowingly providing “material support or resources to a foreign terrorist organization,” or attempting or conspiring to do the same.

5. The term “material support or resources” means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel..., and transportation, except medicine or religious materials.” 18 U.S.C. Section

2339A(b)(1) and Section 2339B(g)(4). Section 2339B(h) provides that “[n]o person may be prosecuted under this section in connection with the term ‘personnel’ unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct that operation of that organization. Individuals who act entirely independent of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization’s direction and control.”

6. On or about October 15, 2004, the United States Secretary of State designated al-Qa’ida in Iraq (“AQI”), then known as Jam’at al Tawhid wa’al-Jihad, as a Foreign Terrorist Organization (“FTO”) under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224.

7. On or about May 15, 2014, the Secretary of State amended the designation of AQI as an FTO under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224 to add the alias Islamic State of Iraq and the Levant (“ISIL”) as its primary name. The Secretary also added the following aliases to the FTO listing: the Islamic State of Iraq and al-Sham (“ISIS”—which is how the FTO will be referenced herein), the Islamic State of Iraq and Syria, ad-Dawla al-Islamiyya fi al-‘Iraq wa-sh-Sham, Daesh, Dawla al Islamiya, and Al-Furqan Establishment for Media Production. On September 21, 2015, the Secretary added the following aliases to the FTO listing: Islamic State, ISIL, and ISIS. To date, ISIS remains a designated FTO.

8. From my participation in the investigation, including my review of FBI reports and recordings, I have learned the following:

- a. **ALEBBINI** is a citizen of the country of Jordan. He is a legal permanent resident of the United States as of April 8, 2014. Immigration records indicate that **ALEBBINI** initially arrived in the United States from Jordan on or about July 24, 2011. He subsequently left the United States, and returned to the United States on or about August 6, 2014, as travel records indicate that **ALEBBINI** arrived on a flight from Amman, Jordan.
- b. An individual identified herein as “Q.A.” also is a citizen of the country of Jordan. He entered the United States on a student visa, which was revoked, and he is currently in the United States illegally.
- c. **ALEBBINI** is related to Q.A. and an individual identified herein as “R.A.,” all three of whom were present in the Dayton, Ohio, area at various times as described below.
- d. On or about January 10, 2017, **ALEBBINI** was arrested for unlawful entry into the Turkish Embassy in Washington, D.C. The charges against **ALEBBINI** subsequently were dismissed. **ALEBBINI** refused to say why he was on the property, but he did say “You are going to regret this” when being escorted off the property.
- e. On or about January 12, 2017, **ALEBBINI** attempted to travel to the country of Turkey via Amsterdam with R.A., but **ALEBBINI** was denied entry by Turkey because his Jordanian passport expired. **ALEBBINI** traveled with only a backpack and did not check luggage. On or about January 15, 2017, **ALEBBINI** returned to the United States.

- f. On or about January 23, 2017, **ALEBBINI** was interviewed by the FBI and the U.S. Secret Service regarding the incident at the Turkish Embassy. During the interview, **ALEBBINI** admitted posting pro-ISIS videos on his Facebook page in the past. **ALEBBINI** stated: “I am the perfect recruit for ISIS.” **ALEBBINI** admitted to supporting ISIS’s desire for a united Middle East, but he said he did not agree with their violence. **ALEBBINI** claimed he wanted to speak with the Turkish Ambassador to discuss the conflict in the Middle East. **ALEBBINI** said the security at the Embassy was very lax, and that “[i]f I had a bomb on me, I swear to God, three embassies would have gone down.”
- g. **ALEBBINI** met a woman from Dayton, Ohio, who he claims to be his spouse (identified herein as “D.E.”). **ALEBBINI** and D.E. claimed to have been married in a private ceremony by a man at a mosque, but it is believed they are not married pursuant to any state law or certificate. On or about March 1, 2017, **ALEBBINI** moved to Dayton, Ohio, in the Southern District of Ohio, to be with D.E. From that point in time to the present, **ALEBBINI** has resided with D.E. in Dayton.
- h. From approximately March 3, 2017, to the present, **ALEBBINI** has had multiple conversations with a Confidential Human Source (“CHS”)¹ in

¹ The CHS is a previously convicted felon. He/she was convicted in this Court for a weapons-related offense, as well as for benefit and wire fraud offenses. He/she has completed his/her sentence and is no longer under court supervision. The CHS hopes to receive immigration-related benefits for his/her cooperation. In this case, the FBI has paid the CHS approximately \$3,500 to date, approximately \$3,000 of which was to reimburse the CHS for a personal trip that the FBI requested the CHS cancel (for

and around Dayton, Ohio. At times, and as described below, Q.A. and/or R.A. were present for the discussions.²

- i. On or about March 7, 2017, the CHS met with **ALEBBINI**, R.A., and Q.A. During the consensually recorded conversation, **ALEBBINI** discussed the Jordanian pilot who was burned to death by ISIS.³ Q.A. stated: “one who burns by fire will be burned by it.” **ALEBBINI** further stated that he watches ISIS videos and said that ISIS follows the “prophet,” which is proven by its success on the battlefield. R.A. expressed similar sentiments.
- j. On or about March 9, 2017, the CHS again met with **ALEBBINI**, R.A., and Q.A. During the consensually recorded conversation, **ALEBBINI** complained about the politics of Jordan and its leaders. **ALEBBINI** stated he followed the news of ISIS through “Amaq” and “Dabiq” magazines online.⁴ R.A. said he read that a person was arrested after booking a one-way ticket to Turkey. R.A. also stated polls show that 98% of the Arab

purposes of this case), and approximately \$500 in reimbursement for other expenses incurred. In total, over the course of his cooperation in all cases, the FBI has paid the CHS approximately \$18,500.

² Most of the conversations summarized below were conducted in the Arabic language. The summaries of, and quotes from, the conversations refer to preliminary translations provided by FBI translators. References to “Dawla,” the “State,” or the “Islamic State” are interpreted as referring to ISIS, which is the FTO defined above.

³ Your affiant is aware that ISIS publicly released a video of a Royal Jordanian Air Force pilot who was captured and burned to death by ISIS members after his aircraft crashed in or around Raqqa, Syria, on December 24, 2014.

⁴ Dabiq Magazine is an online magazine published by ISIS. Amaq is an ISIS media outlet.

world supports ISIS. The group discussed what countries and groups support ISIS and how ISIS is recruiting people and obtaining weapons. At one point, **ALEBBINI** said: “You need a regime like the regime of [ISIS] right now. They come to exterminate the old regime. They don’t leave anyone.” **ALEBBINI** stated his Facebook account was disabled after he posted pro-ISIS videos. **ALEBBINI** said: “Allah willing, when [ISIS] comes, it will cut off the head of King Abdullah. Then it will go to free Palestine. Things will be back to normal.” At **ALEBBINI**’s urging, the four individuals watched a video on YouTube that was titled: “The Islamic State, A to Z in 15 minutes.”

- k. On or about March 12, 2017, the CHS again met with **ALEBBINI**, R.A., and Q.A. During the consensually recorded conversation, **ALEBBINI** stated Jordan would eventually become part of ISIS. Q.A. made a statement regarding a Jordanian soldier who was recently released from prison after murdering 7 Israeli girls in 1997. Q.A. stated: “to Hell with them, let him shoot them,” while R.A. stated the murders were not justified.
- l. On or about March 16, 2017, R.A. traveled from the United States to Amman, Jordan. He purchased a one-way ticket on the same day of his travel. R.A. arrived in Jordan on or about March 17, 2017.
- m. On or about March 19, 2017, the CHS met with **ALEBBINI** and Q.A. During the consensually recorded conversation, the CHS claimed to have legal problems and to be facing deportation. Q.A. stated that the CHS

should go to ISIS. **ALEBBINI** agreed that the right thing was to go to ISIS, even if the CHS did not go there to fight. Q.A. and **ALEBBINI** both spoke of the benefits of living within ISIS's borders, including cheap rent. The CHS said he was not aware of that until he saw the propaganda video. **ALEBBINI** stated he watches ISIS videos all the time and they are the "right group." He further stated he heard that ISIS and Syrian opposition groups were close to the border with Jordan. **ALEBBINI** stated that his father told him that ISIS would enter Jordan soon. When the CHS asked how to get to ISIS, **ALEBBINI** advised that he should travel through Turkey, specifically Gaziantep, a border city in Turkey. **ALEBBINI** further stated to the CHS that ISIS would welcome the CHS and not force him to fight. **ALEBBINI** stated to the CHS that he (**ALEBBINI**) would not tell anyone about their conversation (referring to their March 19, 2017 conversation). **ALEBBINI** also advised that they should hide their phones in another room, or talk in a car without the presence of phones, when they meet to talk about this topic. Later, **ALEBBINI** stated that the right place to be, from a religious point of view, is with ISIS. **ALEBBINI** said that he went to a mosque and found anti-ISIS literature being distributed, and that **ALEBBINI** took the brochures to his car and then threw them in a garbage can.

- n. Later that night, on the evening of March 19, 2017, the CHS again met with **ALEBBINI** and Q.A. at **ALEBBINI**'s residence. During the consensually recorded conversation, **ALEBBINI** and Q.A. suddenly were

cautious about what was discussed in front of the CHS and appeared guarded with the CHS. During the meeting, **ALEBBINI** and Q.A. made statements that were less supportive of ISIS and the idea of traveling to join ISIS.

- o. The CHS later learned that D.E. mistakenly told **ALEBBINI** that the CHS was a U.S. citizen, which made **ALEBBINI** suspicious of the CHS as potentially working with law enforcement.
- p. On March 21, 2017, the CHS met with **ALEBBINI** and Q.A. During the consensually recorded conversation, the CHS confronted them about their suspicions. **ALEBBINI** acknowledged they were mistaken about CHS's citizenship status and apologized to the CHS.
- q. On or about March 22, 2017, the CHS had a consensually recorded phone call with **ALEBBINI**. During the call, **ALEBBINI** turned down an offer to do yard work for the CHS, claimed that he had received his tax return, and stated he would be flying back to Jordan in one week.
- r. On or about March 27, 2017, the CHS met with **ALEBBINI** at **ALEBBINI**'s residence. The conversation was consensually recorded. The CHS had brought a phone to **ALEBBINI** purportedly for the purpose of having **ALEBBINI** deliver the phone to one of the CHS's family members in Jordan. In addition:
 - i. **ALEBBINI** stated R.A. is not staying in Jordan; rather, he was going to get married and then move with his wife. **ALEBBINI** then

stated they were in the “implementation phase” and that his own wife, D.E., knows what is being planned.

- ii. **ALEBBINI** said he will be leaving in one week on a train from Cincinnati to Virginia.
- iii. **ALEBBINI** said: “They want us to fight them. They wish that we come down to the ground. . . The situation is not easy. . . They also thinking that Arabs are sheep and do not realize that is really happening and that the resistance is growing and they are feeding it, and the people want their freedom, and they want one country, and one decision.” He later added, “The best choice is the Islamic State, best choice for the Muslims. The Islamic State and the Mujahid in Syria.” He also decried that there was a heinous war being waged on ISIS.
- iv. **ALEBBINI** also stated that he will throw away his Permanent Resident “Green Card” one day, because he believes he was living amongst apostates who kill Muslims and that it will be used against him on judgment day.
- v. **ALEBBINI** stated he wanted to follow R.A. and there was a good chance that Q.A. would follow too. He said he would go and make sure the “group” is right first, seemingly referring to the prior discussion of ISIS.
- vi. **ALEBBINI** spoke at length about ISIS and the perceived righteousness of ISIS’s activities. **ALEBBINI** then added that he

would rather stay 10 years in prison than 1 year in America. If he became a prisoner, **ALEBBINI** stated he could at least say that he tried to support the cause, but he was prevented from doing so. He further lamented that others are going to fight for ISIS, “while we are sitting here.”

- vii. At the end of the meeting, **ALEBBINI** reiterated that, like he told Q.A., **ALEBBINI** will be the first to go “look for a way and see what the story is. . . If anything happen to me, you see and learn. If nothing happen to me and group turns out to be right, on the phone . . . and then you spread . . . Anticipate that there will be a call.”
- ALEBBINI** stated the CHS should go through Turkey because he has no interest in Amman. **ALEBBINI**, however, stated he will go to Jordan and see family that lives in Irbid, a town that is near an ISIS border. The CHS asked **ALEBBINI** if he is afraid about being questioned when he goes over the border (presumably to ISIS).
- ALEBBINI** said no because “Abu Bakr al-Bhagdadi called.”⁵

- s. On or about March 28, 2017, the CHS and **ALEBBINI** met for breakfast. During the consensually recorded conversation, **ALEBBINI** received a phone call. **ALEBBINI** went outside to speak on the phone.
- ALEBBINI**’s demeanor changed after his return.

⁵ Abu Bakr al-Bhagdadi is the claimed leader of ISIS.

- t. Later that same day (March 28, 2017), the CHS and **ALEBBINI** went fishing. During the consensually recorded conversation, **ALEBBINI** told the CHS that he learned R.A. had been arrested by Jordanian authorities. **ALEBBINI** believed that the arrest occurred because there was a meeting of Middle Eastern leaders in Jordan, so the authorities were arresting a lot of people. **ALEBBINI** also said he believed the Jordanians must have received information about R.A. from the United States, or from videos that R.A. might have watched.
- u. On or about March 29, 2017, **ALEBBINI** met with the CHS for approximately 77 minutes. During the conversation, which was consensually recorded, **ALEBBINI** and the CHS discussed **ALEBBINI**'s travel plans, including his plans to travel by train to Washington, D.C. **ALEBBINI** then intended to travel from Washington, D.C., to Jordan, where he could continue to Syria and fight with ISIS. **ALEBBINI** indicated his plan was to leave at approximately 3:00 a.m. on Friday morning, the context indicating that he was referring to Friday, March 31, 2017. **ALEBBINI** indicated that his family knows that he (**ALEBBINI**) wants to join ISIS, but that his family is against him joining ISIS and, for that reason, took his passport.
- v. **ALEBBINI** indicated that when he joins ISIS, it will be to please God. They ended the conversation with a discussion of **ALEBBINI**'s intentions regarding his travel overseas, with **ALEBBINI** indicating that his intention was to fight with ISIS for the purpose of fighting against the

Syrian leadership. **ALEBBINI** explained: “Our duty is to support the Islamic State. Those are the words, what is your duty? Jihad. A person is supposed to stay away from the people of sins . . . and what happens, happens . . . caught? Let them arrest you, then, let them arrest me. This is the true conversation.”

- w. Consistent with the conversations above, information from Amtrak confirms that **ALEBBINI** obtained a ticket to travel by Amtrak train from Cincinnati, Ohio, to Washington, D.C., departing on March 31, 2017, at approximately 3:30 a.m.
- x. Based on physical surveillance, it is believed that **ALEBBINI** did not leave his residence overnight, and he did not board, or otherwise travel on, the above-mentioned scheduled train.
- y. On or about April 3, 2017, **ALEBBINI** met with the CHS for approximately 40 minutes. Q.A. joined them after the first 20 minutes of the meeting. During the consensually recorded conversation, **ALEBBINI** stated that he got into “100 argument” with his cousins because he told them he “will be going down to Jihad”. The CHS asked **ALEBBINI**: “Okay, what happened to the ticket your brother booked for you?” **ALEBBINI** responded: “We canceled that one. Because I wanted to go there, now the passport is with me.” **ALEBBINI** further stated that he let his cousin know his intentions, so if he is arrested by the Jordanian officials, his family “can see what they can do to take me out.” **ALEBBINI** stated that he told his cousins that “my wife will [be] coming

to Jordan and raise my son there. If I die, she does not want to be divorced in America, she decided to come to Jordan.” **ALEBBINI** stated: “Because. . . to be honest, before I was planning anything, I decided to go fight in Jihad, the same way Umar Ibn al-Khattab did.” **ALEBBINI** instructed the CHS that the best plan for travel is to book a Turkish airline flight to Jordan going through Turkey. Then, during the layover in Turkey, instead of boarding the flight to Jordan, “you take yourself and leave”. **ALEBBINI** later stated: “I do not have money, I swear, from where can I --.” The CHS responded: “I told you we will manage the situation. This is not a problem.” **ALEBBINI** stated: “We will manage the situation, okay, we will manage the situation, that is to say, til now I want to support them....” **ALEBBINI** later stated: “I . . . I was planning if I go there, I do not want to just support fighting the oppressors, we want to fight with weapons, with tongue, and we want to protect the Muslims.” Later during the meeting, an unidentified male—who **ALEBBINI** referred to as his cousin and to whom **ALEBBINI** was communicating with via audio text in the presence of the CHS—could be heard on the phone quoting the ISIS motto “remaining and expanding, God willing”, and saying that he (the unidentified male) will be looking for **ALEBBINI** when he comes and to not fear or hesitate. **ALEBBINI** stated that even if he joins Al-Dawlah (ISIS) and only fires a couple shots before he is killed, it would be good, because he would be inciting the faithful.

- z. On or about April 4, 2017, **ALEBBINI** met with the CHS for approximately 10 minutes. During the consensually recorded conversation, **ALEBBINI** and the CHS discussed airline flights on Turkish Airlines. The CHS asked **ALEBBINI** if he wanted to travel together. **ALEBBINI** stated that he would like to do so, but **ALEBBINI** expressed concern that if they go together, he does not want anything bad to happen to the CHS. **ALEBBINI** went on to state that the CHS could decide, but **ALEBBINI** would be going, with or without the CHS. **ALEBBINI** then asked the CHS for a loan, because he did not have the money for a ticket. **ALEBBINI** stated he had asked his cousin for help the day prior, but his cousin told him to forget about it. **ALEBBINI** stated he would “write a paper,” and if he died, his cousins or his brothers would pay his debt.
- aa. On or about the evening of April 4, 2017, the CHS met with **ALEBBINI** and Q.A. at their residence. During the consensually recorded conversation, the CHS brought up their conversation from earlier in the day and began to ask **ALEBBINI** if he was sure about the plan. **ALEBBINI** changed the subject and stated that R.A.’s family had received news that R.A. would be released soon from jail in Jordan. **ALEBBINI** stated that R.A.’s family had received this information from a high-ranking Intelligence Services officer.
- bb. On or about the evening of April 6, 2017, the CHS met with **ALEBBINI** and Q.A. at their residence. The conversation was consensually recorded.

During a discussion of the Islamic State and the current conflict in the Middle East region, **ALEBBINI** contrasted the defeat in Palestine to the resistance in Mosul and said that the Islamic State has been holding steadfast against attacks from U.S., Russia, Shi'ites, and Arab nations.

Q.A. stated that the Islamic State has not been holding off anyone and asked if the United States is incapable of beating the Islamic State.

ALEBBINI screamed in response, and stated that the United States is incapable and asked who forced the United States to leave Iraq.

ALEBBINI then said that the Islamic State has weapons now and is wreaking havoc, and that the Islamic State has built a complicated tunnel system.

- cc. On or about the evening of April 8, 2017, the CHS met with **ALEBBINI** and Q.A. at their residence. During the consensually recorded conversation, **ALEBBINI** discussed how R.A. was currently in jail in Jordan, and **ALEBBINI** explained that he believed R.A. would tell Jordanian officials that he and **ALEBBINI** had watched videos, got foolish and wanted to go to the Islamic State. **ALEBBINI** added that the Jordanian officials knew that R.A. wanted to go to the Islamic State when R.A. started to ask about the matter of how to get there. Later in the meeting, **ALEBBINI** discussed a statement issued by the Islamic State, addressed to Jordan, vowing to come for King Abdallah, and how the Islamic State beheaded four Syrians who were trained by the Jordanian government. **ALEBBINI** also explained that many Jordanians were

joining the Islamic State and that the Jordanian government would not be able to handle it when its citizens returned to Jordan from Syria. Later in the conversation, Q.A. stated to the CHS, “When Laith and [R.A.] came... go, go, go, go, to be honest I was planning to go with them. I am supposed to go ahead of them. That was the intention. But I divorced and problems happened.”

- dd. On or about the evening of April 18, 2017, the CHS met with **ALEBBINI** and Q.A. During the consensually recorded conversation, **ALEBBINI** stated his father would not purchase a ticket for him to travel to Jordan, and **ALEBBINI** asked whether the CHS would give him money for a ticket. The CHS suggested that **ALEBBINI** get a credit card, or a loan from Q.A. or someone else, and the CHS could pay off the debt after **ALEBBINI** left the United States. **ALEBBINI** discussed the Islamic State and how 4,000 persons from Jordan were fighting with the Islamic State. **ALEBBINI** stated, “My goal is – my goal is not to go just to Al-Dawlah (ISIS). My goal is to be active in Al-Dawlah (ISIS).”
- ee. On or about March 2, 2017, the FBI contacted **ALEBBINI** by phone after learning that **ALEBBINI**’s former residence in Virginia had been vacated. During the phone interview, **ALEBBINI** confirmed that he had moved from Virginia to Dayton, Ohio, and he provided his new address to the FBI. **ALEBBINI** told the FBI that he would be receptive to a follow-up interview, in person, if necessary. The FBI did not thereafter seek to contact **ALEBBINI**; however, on Saturday, April 15, 2017, **ALEBBINI**

contacted the FBI about the status of the FBI's investigation and asked about his ability to travel overseas. The FBI returned **ALEBBINI**'s call and left a voicemail telling **ALEBBINI** that the FBI's investigation did not prohibit **ALEBBINI** from traveling. On or about the evening of April 18, 2017, **ALEBBINI** told the CHS about his contact with the FBI.

- ff. On or about the evening of April 19, 2017, the CHS met with **ALEBBINI**. During the consensually recorded conversation, the CHS asked **ALEBBINI** how much money he needed and **ALEBBINI** stated that he only needed enough for his ticket. With prior approval from the FBI, the CHS stated that he would give the money to D.E. as a bonus.⁶ **ALEBBINI** said he was going to book the cheapest flight and stated that he was ready to travel. **ALEBBINI** indicated that he would book a flight from Cincinnati to Chicago, and then from Chicago to Jordan. **ALEBBINI** stated that if he was unable to get into Turkey, he would go to Jordan, and from there, his father could help him. **ALEBBINI** added that once he entered Jordan, he would not remain in his father's home until he is arrested, instead, he would flee to Sal (a village in northern Jordan). **ALEBBINI** suggested that he might be arrested at the airport.
- gg. On or about April 21, 2017, the CHS met with D.E., who stated that **ALEBBINI**'s family was now unwilling to purchase a ticket for D.E.

⁶ D.E. has been employed at a business operated by the CHS since on or about March 16, 2017. D.E. had been employed by the CHS at the same business in prior years.

With prior approval from the FBI, the CHS discussed with D.E. a bonus of \$1500, to be used to purchase two tickets on Turkish Airlines. The conversation was consensually recorded.

- hh. On or about April 22, 2017, the CHS met again with D.E. and, with prior approval from the FBI, gave D.E. \$1500 (which funds the FBI provided). The CHS cautioned D.E. to not discuss the money with anyone because of what **ALEBBINI** was planning to do (i.e., traveling for the purpose of joining ISIS). D.E. acknowledged this and agreed. The conversation was consensually recorded.
- ii. On or about April 24, 2017, the CHS met again with D.E. During this meeting the CHS gave D.E. her final wages for her work, which included pre-payment for her scheduled hours on April 25, 2017. The CHS also gave D.E. a bonus of \$200, as a going-away bonus for being a good employee. The CHS previously gave similar bonuses to D.E. and other employees in the past.
- jj. On or about April 25, 2017, the CHS met again with D.E. During the meeting, D.E. stated, “And I know whatever happens, I know I say...we’re going together, uh, I don’t know, but I know there are gonna be questions.” D.E. then stated, “When Laith gets, cause he’s not going to Jordan.” D.E. then stated, “If they do though, I know I am supposed to ask for the Embassy, right? Yeah, that’s the first thing I do, if I’m questioned, I will, talk to the Embassy. But if they do, I don’t know nothing, I just, we planned on going together and then he just disappeared.

If I am questioned.” The CHS then stated: “yeah if he gets down in Turkey, what are you going to tell them?” D.E. responded: “Mmm, hmm, that I don’t know, like, we booked the tickets together and you know...” D.E. then stated that she would tell them that he watched YouTube videos. The CHS then asked D.E. if **ALEBBINI** told her to say that. D.E. responded, “mmm, Yes.”

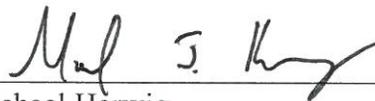
9. On or about April 24, 2017, I received information from the United States Department of Homeland Security showing that tickets have been issued in the name of “Lath Alebbini” and in D.E.’s name for travel as passengers on flights from and to the following locations on the following dates: (1) from Cincinnati-Northern Kentucky International Airport to Chicago O’Hare International Airport on April 26, 2017 (Turkish Airlines Flight 9576 operated by United Airlines under Flight 1560); (2) from Chicago O’Hare International Airport to Ataturk International Airport (Istanbul, Turkey) on April 26, 2017 (Turkish Airlines Flight 6); and (3) from Ataturk International Airport to Queen Alia International Airport (Amman, Jordan) on April 27, 2017 (Turkish Airlines Flight 812). Records indicate that the tickets were purchased using a Visa card under D.E.’s name, and that the purchaser provided a telephone number and email address associated with D.E. in connection with the reservation.

10. On or about April 26, 2017, at approximately 2:00 p.m., **ALEBBINI** and D.E. left their residence and traveled to the Cincinnati/Northern Kentucky International Airport. D.E.’s relative drove them to the airport. **ALEBBINI** and D.E. proceeded to the United Airlines ticket counter, where they obtained their boarding passes. After **ALEBBINI** obtained his boarding passes and walked towards TSA security, law-enforcement officers arrested him. Law-enforcement officers advised **ALEBBINI** of his Miranda rights after his arrest.

11. Law-enforcement officers subsequently sought to interview **ALEBBINI** at FBI's office in Cincinnati. The interview was video and audio recorded. **ALEBBINI** once again was advised of his Miranda rights. **ALEBBINI** expressed an understanding of his rights and agreed to speak with law-enforcement officers. He signed a Miranda-waiver form. During the interview, **ALEBBINI** admitted that he intended to travel to Turkey and then join and fight for ISIS.

12. Based on the foregoing, I believe there is probable cause to believe that on an exact date that is unknown, but at least by on or about April 26, 2017, in the Southern District of Ohio and elsewhere, **ALEBBINI** attempted to provide material support or resources to a foreign terrorist organization, in violation of Title 18, United States Code, Section 2339B.

Respectfully submitted,



Michael Herwig
Special Agent, FBI

Subscribed and sworn to before me on April 27, 2017.



Hon. Michael J. Newman
United States Magistrate Judge