

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA

v.

CASE NO. 3:17-cr-249-BJD-JRK

JOSHUA RYNE GOLDBERG

DEFENDANT'S SENTENCING MEMORANDUM

The Defendant, Joshua Ryne Goldberg, by and through counsel, Paul Shorstein, Shorstein, Lasnetski & Gihon, LLC, hereby submits the following Sentencing Memorandum setting forth all factors that the Court should consider in determining the type and length of sentence that is sufficient, but not greater than necessary, to comply with the statutory directives set forth in 18 U.S.C. §3553(a).

BACKGROUND

In 2015, law enforcement officials began investigating a certain online account that was posting threatening and other disturbing comments over the internet. Specifically, some of the internet discussion revolved around a potential attack of a 9/11 event in Kansas City, Missouri. That investigation ultimately led law enforcement officials to the Clay County home of Joshua Goldberg and his family. In the early morning hours of September 10, 2015, FBI agents and other law enforcement officials executed a search warrant inside

the Goldbergs' home. They found Joshua Goldberg inside, as he always was. Joshua gave a statement that lasted a few hours despite not having slept for approximately 24 hours and not having taken his medication. Presumably, because the law enforcement officials found a severely mentally ill young man rather than what they expected as the source of the threatening internet activity, the government sought a criminal complaint (case number 3:15-mj-1170-J-JRK), which was filed on September 10, 2015, rather than more formal charges. That criminal complaint remained pending for more than two years until the existing one count information was filed on December 20, 2017. That information was filed after extensive evaluations of Joshua and prolonged negotiations between the parties that involved multiple branches of the government.

On December 20, 2017, pursuant to a plea agreement (hereinafter, the "Plea Agreement"), Joshua entered a guilty plea to the sole charge of attempting to maliciously damage and destroy a building by means of an explosive in violation of 18 U.S.C. Section 844(i).

The Plea Agreement was the result of a significant amount of documentation and mitigation provided to the government and lengthy discussions and arguments between the parties. The Plea Agreement contains three notable provisions that resulted from those discussions. Paragraph 5 contains a well-negotiated agreement between the parties to jointly recommend a sentence of eight years in prison for Joshua. Paragraph 6 contains a related provision whereby the parties will recommend that Joshua serve his sentence at

FMC Butner where he has resided and been undergoing mental health treatment since January of 2016. Finally, paragraph 7 contains a provision for a recommendation of a lifetime term of supervised release.

The Presentence Investigation Report (hereinafter, the “Report”) indicates that Joshua’s base level is 24 pursuant to USSG Section 2K1.4, and 12 levels are added pursuant to USSG Section 3A1.4(a). After crediting Joshua with acceptance of responsibility, his total offense level is 33. Despite Joshua never coming close to committing a crime of any significance in his past, his criminal history category is VI, which seems to defeat the purpose of having different criminal history categories that are ostensibly designed to factor in a person’s past conduct. As a result, Joshua’s guidelines range is 235 to 240 months in prison because of the twenty year statutory maximum.

Defendant does not have a legally valid objection to the calculations in the Report. Joshua was clearly operating under a diminished mental capacity, but because the case involves a serious threat of violence, USSG Section 5K2.13 would not apply to lower Joshua’s guidelines. However, undersigned counsel finds it notable that Joshua’s exposure under the guidelines explodes as a result of the suggestion of terrorism. His criminal history calculation loses all sense of logic by placing him in the same category as the most unapologetic recidivists. Joshua, on the other hand, almost never leaves his house and is terrified by most human interactions. Most unfortunate, despite the fact that Joshua’s mental illnesses are the most critical and relevant factor in this entire case, he gets no

guidelines reduction at all for his obvious mental incapacity. Under the guidelines, years and years are added when the word “terrorism” enters the equation; not one month is subtracted for a person who has severe mental impairments. This illustrates an issue that will be discussed at length in this memorandum- How do we treat mentally ill people who enter the criminal justice system as a result of their mental illness? Focusing solely on the guidelines and how they are calculated in this case, the answer is- we often do not acknowledge it.

FACTORS THAT MAY WARRANT A DEPARTURE FROM THE
APPLICABLE GUIDELINES

The Eleventh Circuit adopted a two step sentencing procedure in *United States v. Tally*, 431 F.3d 784 (11th Cir. 2005). First, the district court must consult the Guidelines and correctly calculate the applicable range. *Id.* Second, the district court must consider several factors in determining a reasonable sentence. *Id.* Those factors, which are listed in 18 U.S.C. § 3553(a), are:

- (1) The nature and circumstances of the offense and history and characteristics of the defendant.
- (2) The need for the sentence imposed-
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

- (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant;
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
 - (4) the kind of sentence and the sentencing range established for the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines.
 - (5) any pertinent policy statement.
 - (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
 - (7) the need to provide restitution to any victims of the offense.

The Court in *Tally* determined that the sentencing guidelines, although central to the sentencing process, cannot be held, per se, to be reasonable. *Id.*

Application of the relevant 3553(a) Factors

A. The Nature and Circumstances of the Offense and the History and

Characteristics of the Defendant.

Fortunately, the guidelines are only advisory, and the parties spent a lot of time arguing and discussing the case and trying to formulate a result that was fair given all of the circumstances of both Joshua and his online activity. Interestingly, as difficult as parts of this case are, there was no dispute between the parties about what Joshua did. Due to his mental health issues, Joshua's entire existence was online and well documented. The challenge presented to the parties, which is difficult in every such case, was understanding the extent of Joshua's mental problems, understanding how they affect him and determining the best way to address him and his actions in the context of a criminal case, which is an imperfect venue to resolve these issues.

Undersigned counsel believes two things are also not in dispute: 1. Joshua has a long history of significant mental health impairments, and 2. If Joshua did not have these impairments, he would not have committed any crime. So, the questions undersigned counsel has raised from the beginning and continues to ask is: How do we treat the mentally ill in the criminal justice system, and how much should we punish them for conduct that is the direct result of those mental illnesses?

In this case, Joshua was on the internet apparently encouraging another individual, who turned out to be an undercover agent, to place a pressure cooker bomb at a 9/11 memorial event in Kansas City¹. There is also evidence of additional incendiary rhetoric

¹ The Kansas City 9/11 event was actually scheduled to take place on Sunday, September 13, three days after Joshua's arrest.

whereby Joshua was pretending to be a jihadist (using one of his many internet aliases- Australi Witness) and using threatening language to find presumably like minded people. However, as clear as that evidence is on the internet, the context of these postings and Joshua's motives are as complicated as mental health issues can be.

1. Joshua's Background

Joshua has suffered from autism spectrum disorder for years. It is a very complicated condition, particularly when combined with major depression, as in Joshua's case. Joshua's situation is further complicated by the fact that he was misdiagnosed for so long, including the time period when the illegal conduct occurred. However, it is important to try to understand Joshua's condition, limitations and lifestyle to appreciate the context in which his behavior occurred.

Why would a mentally ill 20 year old with a loving family, including a Jewish father, pretend to be an Islamic extremist online and engage with other extremists to discuss potential attacks? While seriously mentally ill, Joshua did not lack self-awareness. He knew at an early age that he would have a very hard time becoming a functioning member of society. He feared becoming a burden to his family for the rest of his life. The evidence, which will be discussed more below, establishes that Joshua devised a plan to address this problem that consumed him and fed his depression.

He planned to discover and acquaint himself with real extremists over the internet, get them to reveal plans of attacks, memorialize them with screenshots, and then expose

them and write about them to become a journalist. While this sounds like a fantastical idea, he actually executed this plan well and received positive feedback from many established journalists. Secondly, many of the internet aliases he created were designed to take radical and provocative positions on the internet to elicit interest among other posters and have the kind of social interaction his medical condition would not allow him to have in real life. Both of these ideas are outside the bounds of what we would consider normal conduct. It is critical to understand and appreciate Joshua's mental health problems to understand why he thought these were good and necessary ideas. It is also important to understand his specific mental health problems to understand that these plans were logical consequences of his particular afflictions and symptoms.

In order to appreciate the context and mitigation involved in this case, it is critical to understand Joshua's family, social and medical background.

a. Family Background

Joshua is the adopted son of Frank and Rebecca Goldberg. He has three siblings. One of them is also adopted. Two of his siblings are in elementary school. One of them is a student at University of South Florida. Frank and Rebecca Goldberg have been married for twenty-nine years. They have lived in the Jacksonville area their entire lives. They are both special education teachers. They are familiar with autism as they teach autistic kids as part of their jobs. Frank Goldberg is Jewish, Rebecca Goldberg is Christian and Joshua is not religious.

b. Joshua's Mental Health Background

1. The Time Period Prior to Joshua's Arrest.

I split this section into two parts because I believe it is important to understand a key difference in Joshua's mental health and diagnoses while participating in the acts documented in the factual basis, and the time period leading up to it, as opposed to his current circumstances and outlook. This is important to appreciate the additional obstacles he was facing at the time of the incident. It is also important, when considering a proper resolution, to understand he is now more likely to be a positive and contributing member of society and less likely to be a problem now that he has been properly diagnosed and treated.

Joshua has had mental health problems since early childhood, for as long as he can remember². Joshua's first mental health evaluation took place when he was seven years old. His treatment was fairly sporadic in his early years, given what we now know about him. He was mostly getting his treatment at Hope Haven Children's Clinic. However, his mental health problems seemed to largely be attributed to a diagnosis of ADHD (a diagnosis from 2002, age 7), oppositional defiant disorder ("ODD") and mood disorder. There is no mention in any records from that time period of a diagnosis of autism or major depression. He was described as immature with low self-esteem.

Joshua was clearly under-diagnosed at this point and did not receive the appropriate treatment as a result. However, the signs of autism were there, and the signs of a mental health problem that might predict the kind of flawed ideation he exhibited with his recent journalism strategy were also present in these early years. The Hope Haven records do

² In this memorandum, I have included certain references from his extensive medical records. I have not included the medical records as exhibits in order to limit the length of this memorandum. Those records will be available at the sentencing hearing. Joshua's medical history is more thoroughly documented in the various forensic evaluation reports which probation will provide to the court.

identify “his bizarre ideation and asocial behavior” that set him apart from his peers who were rejecting him.

While his treatment was somewhat sporadic in his early years and had not identified his true problems, a few observations were consistent. He was clearly depressed and reclusive and had a very difficult time in almost any social situation. He lacked the ability to properly interact with people and in common situations, and he did not mentally process stimuli in a normal manner. However, a diagnosis of, and treatment for, autism was not imminent. Another common and consistent observation documented in his records was that Joshua was not violent and not a danger to others. He was not angry or hostile.

Over the years, his diagnoses included the following: ADHD, ODD, mood disorder, major depressive disorder, OCD, anxiety disorder, schizophrenia and schizoaffective disorder. Again, there was no recognition of his autism. On the contrary, he was misdiagnosed with schizophrenia³. Schizophrenia is a very serious disease that is treated in a certain way with both therapy and medication. In the years leading up to and including the conduct in this case, Joshua’s doctors were under the impression that he was schizophrenic and were treating him accordingly. He was being prescribed 100 mg of Lamotrigine each day. This medication is used to treat symptoms of schizoaffective disorder (along with other afflictions like epilepsy).

For many years, before he was transferred to FMC Butner, Joshua was not taking the proper medication and was not getting the proper treatment. Any evaluation of Joshua’s conduct, intent, state of mind at the time of the crime and outlook for the future should weigh these factors heavily.

One other medical record is critical to appreciating why Joshua created the Australi Witness alias and explaining what his true purpose was for interacting with people under that alias. People with autism obviously have serious mental handicaps that affect them in almost every situation. However, they are not necessarily dumb, and they do not

³ In fact, as the forensic report indicates, he was misdiagnosed with Schizophrenia as a child, and his autism characteristics were misclassified as psychosis.

completely lack self-awareness. Joshua understood years ago that he was not going to be able to function in society as a normal, productive person. His parents and siblings will testify that he was concerned years ago about how he would end up in life. He did not want to be a continuous burden to his family. He just had no idea how he would ever get a normal job and support himself. He could not even attend a normal school.

He mentioned these concerns to his family, but it was such a source of anxiety for him that he actually raised these issues with his doctor as well. His doctor thought it was important enough to include it in his medical records. At his June 2, 2015 visit with Dr. Serge Vilvar at Baptist Behavioral Health, Dr. Vilvar notes that Joshua “does not see how he will get a job and be a functioning person. He does not believe he belongs in society.” Joshua also discussed being sad about the future. The timing of this record is important. Of course, this is not the first time he raised these concerns to someone, but the fact that it is in the medical records here is instructive. In June of 2015, this gives us insight into Joshua’s state of mind, and perhaps his greatest fear. As you will see below, this also takes place in the time period when he had embarked on his plan to uncover terrorists and report about them to gain recognition in the field of journalism. By this time, he had conversed with several members of the media and was using his aliases to find people who would make worthy subjects for articles. It is undeniable that Joshua had discussed a non-criminal motive for his Australi Witness alias, had started implementing that plan and was having some success (as will be further shown below). This was months before the conduct alleged in the information, but squarely within the time period when he was extremely anxious about his future prospects.

2. The Time Period After Joshua’s Arrest.

Shortly after Joshua’s arrest on September 10, 2015, it became clear to all of the parties involved that Joshua was suffering from serious mental health problems and needed to be evaluated. He was initially sent to the Federal Detention Center in Miami for his first

evaluation. In that report⁴, Dr. Lisa Feldman noted that Joshua was not in good shape. He “exhibited incoherent thought process . . . with strained logic.” His thought process was “perseverative and tangential. . . . His judgment as to cause and effect relations was poor.” He exhibited “paranoid delusions.” It is important to understand these observations, not just as recognition that Joshua was sick, but also to appreciate the correlation between his symptoms and his conduct- how his diseases contributed to his conduct and state of mind as they relate to his intent. Dr. Feldman was making these observations just a couple of months after Joshua was arrested..

The initial report maintained the diagnosis that Joshua suffered from unspecified schizophrenia spectrum and other psychotic disorder. His prognosis was poor. While finding him incompetent, she did recommend a more comprehensive psychiatric assessment. As of the end of 2015, Joshua still had not been properly diagnosed.

Joshua received the more thorough evaluation after being transferred to FMC Butner on January 12, 2016. The medical professionals at FMC Butner sent Joshua to the TEACCH Autism Program at the University of North Carolina on April 15, 2016. The resulting report, which is very thorough, finally gave Joshua, his family and the rest of us better insight into Joshua’s mental health problems. The report noted Joshua’s history of deficits since age three, when he started having problems in preschool. He would not interact with the other children, had many tantrums and engaged in odd rituals and habits. This behavior has been a constant for Joshua. However, no history of aggression towards others was reported. Like the June 2, 2015 report from Baptist Behavioral Health, this report also mentioned the issues that prompted Joshua to embark on his plan to become a journalist. The evaluators at TEACCH reported that Joshua had anxiety over the prospects of becoming an adult and how he would fit in. Joshua had been experiencing “a sense of worthlessness or guilty ruminations/preoccupations”. The report noted that such individuals may experience impaired ability to think, concentrate or make decisions.

⁴ The four forensic reports referenced in this memorandum will be provided by the probation officer as part of the Presentence Investigation Report materials.

The doctors concluded that Joshua has had longstanding and severe deficits and needed very substantial supports. In their April 15, 2016 report, at age twenty, now seventeen years after showing his first symptoms, Joshua was finally diagnosed with autism spectrum disorder (along with major depression). This is the disease that seems to be the indicator of why he did what he did with his various aliases on the internet that resulted in his arrest.

With the proper diagnosis, Joshua has remained at FMC Butner to participate in a treatment plan that was designed to address his actual problems. A second forensic report from Dr. Adeirdre Stribling Riley was prepared on May 10, 2016. The report referenced the TEACCH findings and also included a diagnosis of major depressive disorder. Dr. Riley recognized that Joshua had been misdiagnosed, and thereby not properly treated, with schizophrenia in the past. However, the prognosis was upgraded to fair once Joshua's major depression was controlled. This second report also discussed Joshua's symptoms that illuminate his state of mind during the conduct time period. Dr. Riley noted that people with Joshua's newly discovered diagnoses may experience an impaired ability to think, concentrate and make decisions. Dr. Riley concluded that Joshua remained incompetent.

This is a good time to stop and reflect on the context of Joshua's internet activity and any mitigation of his conduct. As stated, Joshua was very sick when he was engaging with people on the internet under various aliases. In fact, the third forensic report notes that Joshua's depression was worse in August of 2015 in the weeks leading up to his arrest. Joshua actually requested an increase in his anti-depression medication at his doctor visit two days before his arrest. Joshua was misdiagnosed with a very serious psychiatric affliction, and his treatment for it was not helping. His medication was useless, possibly making things worse. The federal medical facility doctors describe someone who was clearly not thinking clearly, was operating under bizarre ideations and was not capable of coherent thought.

This is not someone who did something questionable who also has a mental disease.

This is someone whose mental diseases and their symptoms directly correlate with what he was doing.

Dr. Riley's third report was prepared on October 27, 2016. Dr. Riley noted no significant changes in Joshua's overall condition but believed there was a substantial likelihood of improvement with continued treatment.

Dr. Riley's fourth and final report was prepared on March 10, 2017. Dr. Riley noted that a new drug offered marked improvement for Joshua. He was understanding and interacting better. Dr. Riley found a notable improvement in his depressed mood that was being adequately controlled through medication. However, Dr. Riley had reservations about Joshua's continued competency and recommended ongoing treatment with medication and individual psychotherapy. The report also includes recommendations from the TEACCH program to address his autism symptoms.

c. Social Background

Looking at Joshua's social background is also instructive when evaluating his conduct in this case. It also shows why his only source of social interaction was through discussions and arguments over the internet. How his mental diseases have negatively impacted him become painfully obvious when we understand his social history.

As indicated, his mental diseases manifested themselves as soon as he was placed in preschool with other children. According to the report from TEACCH, he was never able to have any true friends. He had one kid in the neighborhood with whom he played video games. That was the closest Joshua ever came to having a real friend. That relationship ended at age ten. His parents placed Joshua into the Boy Scouts, but Joshua was teased and ostracized due to his illnesses. The same things happened in school in his early years. He was bullied and teased constantly. As of fifth grade, Joshua was no longer capable of coping in a traditional school environment. He started attending a virtual school over the internet in fifth grade. He was never able to get back into a traditional school as a regular

student.

Joshua's severe social problems continued to impact him. He almost never left the house. He did not see any reason to do so. He had no meaningful live interaction with anyone outside his family and the occasional trip to a doctor. Obviously, he was not able to maintain a job let alone find anyone who would hire him. His personal hygiene suffered as well, which is well documented in the forensic reports.

It is not an exaggeration to state that, at 20 years old at the time of his arrest, Joshua has never had one real friend. He has never had one meaningful relationship of any kind with a member of the opposite sex. After twenty years, that certainly has a significant impact on a person. This, of course, is one important piece of the puzzle. His autism and depression are other, related pieces. His symptoms of incoherent thought processes, poor judgment, bizarre ideas and poor decision making further indicate he is someone who would come up with strange ideas about how to function in life that may be completely removed from any attempt to incite violence. His self awareness about his future and anxiety over his place in life, when added to this puzzle, suggest that is exactly what he might do. The evidence shows that is what he did.

2. Evidence of Joshua's Intent

At the outset, Joshua created the Australi Witness and related internet aliases to uncover real extremists, find out (and instigate) who might be involved in terrorist activities, expose them and then write about them to become a journalist. As evidence to support this conclusion, not only did he specifically tell doctors and family members that his future functionality was a significant cause of anxiety, his symptoms suggest this plan was consistent with his particular problems. This is also what he told the FBI when they entered his house without warning and took Joshua's statement under extremely unnerving conditions for someone like Joshua. The evidence of his plan and the execution of his plan is abundant.

While it is important to understand Joshua's autism and depression to understand his state of mind, it is also important to understand that those diseases do not necessarily negate intelligence. Joshua is intelligent in certain areas. For example, he is a good and prolific writer. Recognizing this as he and his family did years ago, he thought he might have a chance to become a journalist. He was certainly a good enough writer for some job in the media, and it is a job that he could do from the comfort and security of his own home, a clearly necessary requirement.

According to Joshua, he started researching a career in journalism prior to 2015. He continued to do so as his plan was developing and showing some signs of success. For example, the FBI retrieved a Google search Joshua did on August 14, 2015 where he was looking into a journalism major at USF where his sister was going to college. On the same date, he also searched for college board test accommodations since he would obviously need to be accommodated to apply for any college journalism program.

In order to effectuate his plan, Joshua created many internet aliases that represented a variety of different kinds of people, some of whom were directly contradictory to the others. It is easy to focus on Australi Witness and allege that Joshua was primarily acting as an Islamic extremist on the internet. However, Joshua was many things, and the Islamic extremist alias was just one of his very many aliases. For example, according to one of the forensic reports, Joshua would often spend fourteen to twenty hours each day on the internet discussing movies under some of his aliases. Australi Witness was a small percentage of his time and activity on the internet.

However, Australi Witness was the alias he used to act as an extremist in an effort to get other extremists to expose themselves. But contrary to a real extremist who intended to cause an attack, or who truly believes what an Islamic extremist believes, Joshua told people on the internet what his true intentions were. For example, FBI agents uncovered an internet post on his laptop where he publicly asked the following question:

“I have an active ISIS account on Twitter and it's quite convincing.

I have hundreds of followers and I follow thousands of ISIS accounts. How can I use my ISIS account to cause as much IRL chaos as possible?"

If we are looking for evidence that Joshua was truly someone trying to uncover real extremists while also seeking attention and interaction on the internet (as opposed to intending to actually cause violence), that evidence is right in that post. That is not the post of someone who is secretly trying to incite a real attack and wants to see it through. It is the post of an autistic person suffering from untreated afflictions that result in poor judgment and incoherent thinking.

Other examples of where he disclosed his true purpose are found in different parts of the internet and were seized by the FBI. Earlier in 2015, Joshua was searching the internet for trolling contests.⁵ Trolling can mean different things on the internet, but one common characteristic of trolling attempts is that you post something to get a response, not because you are being sincere. This is perfectly consistent with Joshua's symptoms and lack of social capability. Additionally, similar to the post quoted in the previous paragraph, the FBI also found one of Joshua's posts on Reddit⁶ where Joshua tells people about how he creates these various identities and why he does it. Joshua is exposing his plan to potentially millions of people who visit Reddit each day.

Joshua, as Australi Witness, was quite successful in getting the attention of actual extremists (he believed they were authentic), learning their language and finding out what they do. That was, of course, part one of his plan. As ill-conceived as his plan might have been, he actually made impressive progress given who he truly was. This is important because it encouraged him to continue with his plan. He started this in late 2014 or early 2015. As the post above indicates, he reached a point where he was following many potential extremists and they were following him at various websites. He was also

⁵ "Trolling" is defined as making deliberately offensive or provocative online posts with the aim of upsetting someone or eliciting an angry response from them.

⁶ Reddit is a popular news aggregation and discussion website.

conversing with them on those internet sites.

A. Communications with Actual Journalists

Once he started obtaining the information about extremists that he thought would be the basis for his fledgling journalism career, it was necessary to engage actual journalists to see if they were interested in publishing his inside information. Again, an odd strategy given what we know, but he made exceptional progress in this stage of his plan. The evidence of his progress and the authenticity of his plan is prevalent.

The relevant time period is early to mid 2015, well before Joshua was ever aware the government was looking at him. Joshua was engaging in a variety of conversations on Twitter and by email with actual journalists (copies of some of his communications with journalists by direct messaging and emails are attached as Exhibit 1). He was telling them of his plan, which certainly defies any logic that he actually intended to cause a real attack at that point. He was gauging their interest in the information he believed he had about potential, real attacks. He was soliciting them to see if they might help him publish his articles. The journalists were interested and encouraging.

1. Peter Wallace

Peter Wallace is a journalist in Australia. He has an account on Twitter. Joshua's plan using the Australi Witness alias can be seen by looking at Joshua's private conversation with Mr. Wallace. Joshua would make some provocative posts using the Australi Witness alias somewhere on the internet with the idea that Australi Witness was a real extremist. Joshua would then use one of his other identities to bring attention to Australi Witness. Moon Metropolis was the standard Twitter identity Joshua used to effectuate his plan and expose Australi Witness. In the Twitter conversation Joshua (as Moon Metropolis) had with Mr. Wallace, Joshua asked Mr. Wallace if he had seen Australi

Witness's new threat. Joshua described Australi Witness as a "keyboard jihadist" and directed Mr. Wallace to the various sites where Australi Witness posted. Joshua tried to convince Mr. Wallace that some of Australi Witness's threats might be real. Mr. Wallace indicated he would look at them. This was in early September, 2015.

2. Chiara Zaffino

Chiara Zaffino is a reporter with Ten News Perth in Australia. Joshua had a conversation with her on Twitter that resulted in Ms. Zaffino giving him her email address so he could send her his information. This was in late April, 2015.

3. Alice Pooley

Alice Pooley is a reporter for 9 News Perth in Australia. In a conversation on Twitter, she also gave Joshua her email address so he could send her his information "regarding jihadists in Australia & their plans." After he sent her the email, she was very encouraging. She sent him a message saying, "It looks like you did great work." She referenced an article that had actually published some of Joshua's information. Ms. Pooley requested more information from Joshua. She even suggested a phone conversation. Understandably, Joshua ignored the phone request and continued emailing her.

Those discussions did not amount to much, but they do show that Joshua's plans were getting some traction. Joshua achieved more success with other journalists.

4. Grant Taylor

Grant Taylor is a reporter at Channel 7 in Perth, Australia. Joshua started conversing with him in early 2015. They had an ongoing conversation via direct messages on Twitter in April of 2015. The fact that Joshua intended to expose any seemingly

legitimate terrorist plan of attack is evidenced by these discussions. Joshua asked if Mr. Taylor could get him in touch with the Australian Federal Police so he could report the potential crimes. After reporting the real jihadist activity, Joshua would write about what he learned and publish an article through Mr. Taylor. This is undeniable proof of his plan, which again, while flawed, certainly has some logic to it.

At the beginning of their discussion on April 15, Mr. Taylor confirmed that he spoke with the Australian Federal Police who were interested in Joshua's information. Mr. Taylor asked for information from Joshua, and Joshua indicated he emailed it to Mr. Taylor. Mr. Taylor described Joshua's information as "amazing" in that Joshua was able to get people to admit they were planning jihad. Mr. Taylor later told Joshua, "Cops are very interested in what you sent me."

On April 16, Joshua said he wished he "could have taken more screenshots." Joshua mentioned a few times, including in his statement to the FBI, that part of his plan was to pretend to be a jihadist in discussions with other, real jihadists and get them to admit their plans. He would then take screenshots of their admissions to prove he was legitimate when communicating with journalists. He did exactly that with Mr. Taylor and other journalists.

As the conversation on Twitter with Mr. Taylor continued through April and into May of 2015, Mr. Taylor becomes skeptical of the authenticity of Joshua's information. On April 20, 2015, Joshua leads Mr. Taylor to Australi Witness and Joshua's other alias's posts about Australi Witness.

5. Cyndi Lavrenci

Cyndi Lavrenci is a reporter at Ten News Perth in Australia. Joshua was telling her via direct messaging on Twitter about his discussions with "another jihadist who is providing quite a lot of info" in April of 2015. This person, of course, was Australi Witness, who, of course, was Joshua. Like the others, Ms. Lavrencic engaged with Joshua

and was interested in his information. He was sending her screenshots of jihadists admitting various plans, and she asked for more. Note that Joshua also referred to his “Junaid account” which had the same purpose as his Australi Witness account- to attract real jihadists. However, he told the journalists that the Junaid account was fake and only used as bait.

As with Mr. Taylor, Joshua wanted to make sure the Australian police were aware of the terrorist threats. He asked her, “Are Australian police aware of the detailed new threats posted by Australia Witness? He even posted a video of his friend shooting a rifle.” It is wholly inconsistent to suggest Joshua intended for a terrorist attack to occur when he was telling real journalists about the plans and asking them to inform the police. Ironically, of course, he’s asking these people to inform the police about the allegedly criminal acts and solicitations of his alias, himself. These conversations continued into August, just before the time period referenced in the information.

6. Elise Potaka

Elisa Potaka is a journalist who works for SBS Australia and SBS Viceland. She has also worked for ABC and the BBC. Joshua was communicating with her on Twitter during this same time period. Ms. Potaka figured Joshua out early on, or at least partially, as she saw his inconsistent identities on various parts of the internet. On April 15, 2015, she asked if he was anti-ISIS, and he confirmed that he was. He also disclosed to her parts of his true purpose. He told her, “I am interested in extremists movements. Also, I gathered some information from Junaid’s followers.” Then, he went on to tell her of potential attacks he had uncovered. The following day, Ms. Potaka asked him the critical question, “[W]hat do you hope to do with all of the info u get?” Joshua told her he was sending the information to journalists so it could be used in a story. In other words, Joshua was trying to gain credibility in the field of journalism.

As with many of the other conversations with journalists, the conversation with Ms.

Potaka was steered towards Joshua's alias Australi Witness. Joshua discussed him as if he was a real jihadist making plans over the internet. Joshua went on to tell her about Australi Witness's plans and gave her the accounts of other people who may be real jihadists. Joshua told her on August 31, 2015 about a possible pressure cooker bomb attack in a Midwestern city for 9/11. Joshua posted about the potential Kansas City bombing in other places as Moon Metropolis, but people on the internet did not seem to take it seriously.

Ms. Potaka became skeptical of Joshua over time. Joshua did a good job of learning the vernacular and playing the part of a jihadist, but many people on the internet figured him out. On May 24, 2015, Ms. Potaka confronted Joshua about his real purpose. She asked, "What's [your] actual aim? I mean, [you're] not really a journalist." Joshua responds, "**I'm not 'really' anything. I just wanted to get published.**" This statement, months before the incident referenced in the complaint, provides more insight into what he was doing on the internet.

7. Emails

Joshua obtained the email addresses of many of the journalists mentioned above, along with others such as Rita Panahi and Tom Minear who both work for the Herald Sun in Melbourne, Australia. The emails are additional evidence of Joshua executing his plan to alert journalists of the real jihadist activity he uncovered, provide the information and try to gain acceptance into the journalists' community. He admitted he set up a fake account (Junaid Thorne is the Twitter account that he tells people is fake to attract jihadists. Australi Witness is supposed to be the real jihadist he was able to attract.) to get real jihadists to follow him on Twitter and other sites.

In the emails, he told the journalists of his successes in uncovering real threats and sent them information including many screenshots of admissions and other threatening activity. All of the journalists responded with interest, by email and/or messaging on Twitter.

B. Communications with Media Direct

Media Direct is not a journalist. It is not exactly clear what Media Direct is other than an account on Twitter with whom Joshua communicated as Moon Metropolis. However, his communications with Media Direct are critical to appreciating his claim and understanding the context of his actions. The communications (attached as Exhibit 2) began as private direct messages on Twitter in May of 2015. Joshua was asking Media Direct if he could help Joshua execute his plan- get his articles about real jihadists published. Joshua was willing to provide links to the jihadists and alleged attacks that he uncovered over the prior months if Media Direct could help him get published. Media Direct claimed he could help Joshua get published, and they had a wide range of discussions from there.

Joshua told Media Direct that he had links to “numerous accounts of real ISIS jihadists”. Media Direct quickly accused him of being a “troll.” Joshua essentially confirmed it. Most importantly, Media Direct figured out that Joshua and his jihadists identities were a fraud. On May 29, 2015, Media Direct asked Joshua about Fairfax Media. Joshua previously sent Fairfax Media information about Australi Witness that they published. Media Direct responded, “I do recall the writing about a-witness – yeah. But did they ever actually have direct contact with you? Or the bullshit you I should say”. Joshua answered, “I talked to a few journalists using this account. . . . The jihadist account talked to journalists to, though.”

On May 29, 2015 there is evidence of a person who knew Joshua’s aliases, including Australi Witness, were not real, and Joshua was admitting it.

However, Joshua continued to try and execute his plan with Media Direct by asking him for help in publishing his material. Media Direct was skeptical. Joshua responded, “What if some durkas attack it?” Joshua was suggesting that he could post an article or comment on the internet and then have his aliases make critical comments about the post,

which is a common strategy he used with his aliases to garner attention.

Like Ms. Potaka, on June 8, 2015, Media Direct asked about Joshua's motivation. He already knew Joshua was trying to get published, but Joshua disclosed his other purpose as well: "To cause a bunch of chaos and piss people off." This is not a laudable goal, but it is consistent with an autistic and depressed kid with no other method of social engagement. When Media Direct asked what he was saying to real jihadists, Joshua responds, "I'm just feeding them bullshit."

At the end of May, the discussion with Media Direct took a more threatening turn for Joshua. On May 29, 2015, Media Direct suggested he knew Joshua's true identity. Up to this point, Media Direct knew Joshua's plans and that his aliases were fake, but he did not know who Joshua really was. Nothing more came of this at that time.

The conversation with Media Direct went back to helping Joshua get published with his jihadist information. As with the journalists, Joshua sent Media Direct a list of accounts he believed were true jihadists. Joshua told him he got access to these accounts because he had "fake jihadists accounts."

In July, Media Direct revisited the idea that he could expose Joshua's true identity over the internet. Joshua believed he was lying, but on July 1, 2015, Media Direct posted Joshua's home address in Orange Park and his phone number in a direct message. The following day, Media Direct posted a picture of Joshua and the names of his parents. It cannot be understated how much this terrified, intimidated and rattled Joshua. Joshua did not respond until August 25, well into the time period referenced in the factual basis.

Once Media Direct posted his and his family's personal information, in Joshua's mind, if his true identity was exposed, it would ruin his plan to become a real journalist. This was happening at the worst time, when he was getting plenty of positive feedback from real journalists as the discussions above indicate. That would leave him completely without hope for the future at a time when he was making so much progress in the journalism field. Secondly, Joshua believed he was communicating with real jihadists and ISIS members. If he was exposed and identified publicly, he feared some very dangerous

people might retaliate against him or his family with violence for pretending to be a jihadist. Thirdly, Joshua expressed some concern that Media Direct might turn him in to the government for “**pretending** to be a terrorist”, as he stated in May.

Motivated primarily by the fear of being exposed to actual terrorists, Joshua responded to Media Direct’s implicit threats by putting more energy and authenticity into his Australi Witness and related alias accounts. He wanted to make sure Australi Witness appeared authentic in case Media Direct challenged him. The evidence from the government indicates Australi Witness’ rhetoric during this time seemed to escalate. It is important to understand the context of what was happening with Joshua at this time. He was in fear and not thinking rationally. He was terrified that he would be exposed as Australi Witness, which would be exposed as a fraud, and that would invite serious consequences from very dangerous people. That caused him to do his best to make sure people believed Australi Witness was real, in case Media Direct would tell people he was not. The FBI obviously took notice as evidenced by the undercover agent’s discussions with Australi Witness.

C. Related Internet Searches

The fact that he told so many people and journalists of his plans with his extremist alias suggests there is more to this case than someone looking to incite an attack. Joshua also ran internet searches indicating he wanted to know how to report the potential attack to the police, if it came to that.

Joshua communicated with journalists in Australia who were in contact with the Australian police. He had previously searched on the internet for the Australian Federal Police in March of 2015. The specific search terms were: “terrorism Australia anonymous” and “fbi anonymous tip.” Additionally, on August 14, 2015, the discovery collected by the FBI shows that Joshua searched the internet for the office hours for the Clay County Sheriff’s Office. These searches and the communications with journalists provide multiple

pieces of evidence to support his claim that he intended to notify the authorities if he ever thought a real attack might occur.

3. Joshua's Publications

The first two components of Joshua's plan involved becoming acquainted with actual jihadists and learning their identities and plans. Secondly, he needed to gain the recognition and respect of journalists so he could discuss the information he found and then get his articles about the foiled attacks published. For a kid with severe mental health deficits who almost never left his house, he did remarkably well.

The third part of the plan required Joshua to actually be able to write articles that could be published. Joshua is autistic with major depression. Joshua has the writing skills to get published.

The website Blazingcatfur is a website that posts articles about various world events. It gets almost 7,000 visits per day. The owner of the site offered Joshua the right to post some articles on their site. He had seen other posts Joshua had made and was impressed. Joshua was arrested before he would submit anything to this site.

Thought Catalog is a website that publishes news and articles about a wide variety of topics. The site gets approximately 62 million views around the world each month. Joshua came to know the owner of the site who invited him to submit articles. Joshua published more than a dozen articles on Thought Catalog in 2014 and 2015. He published the articles under his real name. He wrote about politics and current events with an emphasis on issues related to free speech.

Joshua gained the attention and interests of a variety of journalists and news websites. He is a very good and prolific writer. He knows about Islamic extremists and other relevant issues to the extent that he can write quality articles that people want to publish and read. Remove, or mitigate, his mental health deficits, and Joshua could easily be an accomplished writer and/or journalist. Maybe, now that doctors have a better handle

on his condition, he still can be.

4. Joshua's Aliases

Reading the information and factual basis alone, it is easy to look at the Australi Witness alias postings in a vacuum and assume this was a prominent identity and one approaching authenticity. This is particularly true if you just focus on the few weeks preceding his arrest on September 10, 2015, after Media Direct scared him with the threat of public exposure.

However, to avoid false or misleading assumptions about him, it is important to look at the entire picture of Joshua's online existence. Joshua spent fourteen to twenty hours on the internet practically every day. The Australi Witness plan was a small part of his everyday internet activity. Australi Witness was an important alias (it was his ticket to a meaningful future in journalism), but it was just one alias of many.

It is important to understand the breadth of his alias activity on the internet to understand why none of them, including Australi Witness, were sincere. Starting arguments, causing chaos, getting attention- these were his only methods of social interaction and feeling important. He had no ability to get those basic needs in the real world. As a result, he created numerous aliases, many of which were contradictory, to fulfill that basic need. They also show the severity of his autism with which he had yet to be properly diagnosed

The following are examples of some of his aliases on Twitter, Reddit, IMDB, Facebook and other social media websites.

1. Junaid Thorne- an Australian radical Muslim who was used to attract real terrorists. Joshua disclosed to various people that this account was fake and used as bait.
2. Australi Witness- an Australian radical Muslim who was supposed to be a real terrorist. Joshua did not disclose this was fake to anyone until Media Direct discovered it.

3. Moon Metropolis- a fairly normal Twitter account that he used to communicate with journalists and people with whom he discussed his plan to become a journalist. He also used it to attract attention to his other aliases.

4. Amina Blackberry- an African-American conservative woman living in Washington, DC. He used this alias to argue with some of his other aliases and to raise awareness of Australi Witness.

5. Michael Slay- a neo-Nazi calling for the extermination of white people. He used this alias to argue with his other aliases and try to spark conversations.

6. Emily Americana- a Samoan woman in Alaska who does not like fat people or Europeans.

7. Nuke Europe- a European Jewish guy who experienced anti-Semitism throughout Europe.

8. Flappy Bird- a far left woman who promoted gender issues on behalf of women and transgender people.

9. Pretty Cameras- a Taiwanese guy from Vermont who discussed movies on the movie website IMDB. Joshua had several accounts on IMDB that discussed various movies. Most of his time on the internet was related to watching, reading about and discussing movies.

10. Ryoko Tamada- a Japanese girl who has depression and wants to move to the United States.

11. Meta Canadian 420- a Canadian guy who makes fun of people who want to legalize marijuana and discusses other political issues.

12. Mouthful of Grandpa- an Inuit in Greenland who discusses current events all over the world.

13. Island Angel- a Myanmar woman who is the victim of racism in Europe.

14. Dr. Shlomo Goldstein- a parody of Jewish people run by his other alias Michael Slay. This is basically Joshua being an alias pretending to be another alias and imitating what the neo-Nazi alias would say about Jewish people.

15. Dianah Silverstein- a Jewish woman in Israel working in human rights. He used this account to argue with some of his neo-Nazi accounts.

There are many more. Due to Joshua not having access to all of his accounts and passwords, I could not get them all. I did uncover approximately thirty aliases that Joshua was using to further his plan to become a journalist, to discuss movies, to stir up debate and “chaos” on the internet and to have the only sort of meaningful interaction of which he was capable.

None of these aliases are really Joshua Goldberg, except perhaps the ones devoted to movies. Joshua does like movies. None of the non-movie related aliases are any more authentic than the others. They are facades created for specific and well documented purposes.

B. The need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; to afford adequate deterrence to criminal conduct; to protect the public from further crimes of the defendant; and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

The information above provides insight into Joshua’s mental health and the effects his impairments have on all aspects of his life, including his conduct in this case. The above illustrates that there was much more to this case than someone sending links to make a bomb with the corresponding encouragement to effectuate an attack. Joshua clearly had the intention to uncover real jihadist activity with the idea that this inside information could be used to kickstart a journalism career, the only career he could envision for himself. There is an abundance of documentation and feedback from real journalists to support this.

However, Joshua did plead guilty to the crime which requires some level of intent to cause an attack rather than face charges that could put him in prison for the better part of

his life and a trial that would likely have required him to testify in court given the circumstances of a case like this. This from a young man who does not feel like he can go outside and is terrified by the thought of unpredictable social interaction or having to answer a simple question in a classroom environment. The extent of Joshua's criminal liability can only be truly determined by fully understanding Joshua's mental health at the time of these events and how his impairments impacted his state of mind. This, of course, is not possible. It is certainly possible that Joshua (presumably) set things in motion that he did not have the wherewithal to control. It is possible that among the numerous thoughts and ideas that entered his mind on a daily basis over the course of several months was a fatalistic notion that he did not care whether the person with whom he was interacting actually ignited the bomb. It is also possible that he wanted to take things back but did not see a path to do that, and he was arrested before he would make any attempts to reveal his discussions with the undercover agent that presumably would lead to an attack on the 9/11 event in Kansas City. Without being able to pull off the layers that reveal the inner machinations of an autistic and depressed psyche, there is no way to know.

Over time and with the benefit of the kind of proper treatment he was not getting in the past, I do believe Joshua has an appreciation of the impropriety and severity of his conduct and the need for the government to take it seriously. He also came to an understanding of how law enforcement, here and in Australia, was forced to approach these threats and the burden it placed on those entities.

There is no doubt as to the seriousness of Joshua's conduct, and he has a greater appreciation of that now. That being said, the analysis for the 3553(a) factors in this section is different when the crime was committed as a direct result of a person's mental illnesses, especially when those illnesses were not properly diagnosed and treated prior to the relevant conduct. It goes back to the question of how much do you punish a person who committed a crime as a result of his mental illnesses. Do you deter the illegal conduct of the mentally ill, either specifically or generally, by adding more time in prison? What does extended prison time for the mentally ill actually reflect and promote?

CONCLUSION

Of course, these are the difficult questions that the parties confronted. There is no objectively correct answer to those questions, but the hope is the parties can appreciate, acknowledge and account for those issues as they relate to each case with an understanding of the defendant's particular impairments. The guidelines do not do this, but we can. While a defendant's realistic options are limited in a case of this nature, undersigned counsel and defendant entered into the Plea Agreement because we believed the government considered the factors discussed in this memo and the supporting documents and medical records, and through negotiations arrived at a fair resolution of this difficult case. We ask that this Honorable Court follow the recommendations contained in the Plea Agreement.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March ____, 2018, I electronically filed the foregoing with

the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to the following: Kevin C. Frein, Esquire, Assistant U.S. Attorney, United States Attorney's Office, 300 North Hogan Street, Suite 700, Jacksonville, Florida 32202. A copy was also emailed to Ms. Irish Anderson, United States Probation Officer, 300 North Hogan Street, Suite 6350, Jacksonville, FL 32202 at Irish@flmp.uscourts.gov

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