

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF COLORADO  
3 Criminal Action No. 14-cr-163

4 UNITED STATES OF AMERICA,

5                   Plaintiff,

6 vs.

7 SHANNON CONLEY,

8                   Defendant.

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9                   **REPORTER'S TRANSCRIPT**  
10                   SENTENCING HEARING

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11                   Proceedings before the HONORABLE RAYMOND P. MOORE,  
12 Judge, United States District Court for the District of  
13 Colorado, occurring at 1:30 p.m., on the 23d day of January,  
14 2015, in Courtroom A601, United States Courthouse, Denver,  
15 Colorado.

16                   **APPEARANCES**

17                   GREGORY HOLLOWAY, Assistant U.S. Attorney, 1225 17th  
18 Street, Suite 700, Denver, Colorado 80202, appearing for the  
19 Government.

20                   ROBERT PEPIN, Assistant Federal Public Defender, 633  
21 17th Street, 10th Floor, Denver, Colorado 80202, appearing for  
22 the defendant.

23  
24                   TAMMY HOFFSCHILDT, Official Reporter  
25                   901 19th Street, Denver, Colorado 80294  
                  Proceedings Reported by Mechanical Stenography  
                  Transcription Produced via Computer

**P R O C E E D I N G S**

(In open court at 1:30 p.m.)

*THE COURT:* Please be seated. 14-cr-163, United States versus Shannon Maureen Conley.

I will take appearances, please.

*MR. HOLLOWAY:* Good afternoon, Your Honor. Greg Holloway, Assistant United States Attorney on behalf of the United States of America. With me is Task Force Officer Chris Byrne of the Joint Terrorism Task Force.

*THE COURT:* All right. Good afternoon to both of you.

*MR. PEPIN:* Robert Pepin, appearing on behalf of Ms. Conley. She is present, in custody. Your Honor, with me at the Defense Counsel's table is Rivka Morgan-Sherman from my office.

*THE COURT:* Good afternoon to all of you, as well.

Let me touch on three things before we get started in earnest.

First, I have been known to mispronounce John Smith, and I guarantee you I'm going to mispronounce some names here today. To extent that I do so, don't be shy in correcting my pronunciation, and I apologize to anyone whose name I may mispronounce.

Secondly, for the record, I have reviewed all of the information that's been made available to me, and that is a great deal of information. I have reviewed, obviously, the

1 presentence report. I have reviewed the psychiatrist report, I  
2 have reviewed the psychologist's report, I have reviewed the  
3 pleadings and the attachments, the multiple pleadings and  
4 attachments filed by the parties in connection with sentencing  
5 I'm aware of additional matters, by virtue of the Government's  
6 earlier filing in opposition to a bond motion that contained a  
7 number of 302s, and I have reviewed those, as well.

8 Obviously, the charging documents are there. I simply  
9 want you to all know that -- oh, and I have also reviewed the  
10 report from Mr. Elibiary, that was provided late yesterday  
11 afternoon.

12 So I have more information available to me in this  
13 case than in most cases -- most criminal cases that I have  
14 sentenced, and I want you to know that I'm familiar with all of  
15 it.

16 Thirdly, I want to make sure that we keep our eye on  
17 the prize, so to speak. What I mean by that is, this case has  
18 a tendency -- or has developed a tendency, at least outside of  
19 the courtroom, to drift in all kinds of directions as to how  
20 it's described, and there's a little bit of that that's going  
21 on in the courtroom.

22 I feel like I'm standing on a beach in what I think is  
23 the ground covered by the charge, and I turn and look in one  
24 direction and I see Mr. Holloway with his flag walking away  
25 from me, intending to plant his flag somewhere, other than

1 where I'm standing, and I turn and I see Mr. Pepin heading in  
2 the opposite direction with his flag, going in equal distance  
3 from where I am.

4           Let me tell you what I mean by that. For example, and  
5 I am not being critical, I know that it is advocacy and it is  
6 the importance of this case that leads the parties to take the  
7 positions that they take; but, starting with Mr. Holloway, for  
8 example, you took issue with a characterization of the offense  
9 as innocuous, or some words to that offense -- or some words to  
10 that affect, and filed a document in which you said to me that  
11 the defendant's crime is serious. She professed a desire to  
12 support violent jihad. Her crime -- She was openly hostile to  
13 an Aryan Christian church. She practiced shooting. She  
14 displayed a pattern of self-radicalization, things of that  
15 nature. I'm not saying that, for a moment, that's not  
16 relevant. I'm not even going to -- if you perceive that in my  
17 words, you are mistaken; but it is not the crime.

18           This case morphed, twice, and it has taken a bit of a  
19 careful eye to keep track of the changes that have occurred.  
20 The first change that occurred was when it went from a  
21 conspiracy, in the Complaint, under 18 U.S.C. Section 2339B, if  
22 I have got that correct, to 18 U.S.C. Section 371 Conspiracy  
23 which was different. At least to some extent in its elements  
24 and certainly with respect to its exposure.

25           Then, at sentencing, it morphed a second -- excuse me

1 at the Change of Plea it morphed a second time. The second  
2 time it morphed, is that although the information spoke of a  
3 time period from September until the date of her arrest, that  
4 got contracted, severely contracted, and the factual basis was  
5 that her conspiracy with Mr. Mouelhi, is how I'm going to say  
6 it, how you actually say it I have no idea, began in February  
7 of 2014, and persisted for a month or two. And so much of this  
8 activity that's referenced by you, occurs long before that, and  
9 before the conspiracy begins, as the conspiracy is described in  
10 the plea documents, and it is not the crime.

11 Turning to the other direction on the beach. I have  
12 the Defendant saying to me, that -- again and I exaggerate --  
13 but that much of this is not as significant as it may appear.  
14 Her skills enabled her to change bedpans, and that's really,  
15 kind of, what the extent of this conspiracy is; relatively  
16 innocuous conduct.

17 Well, again, it's sort of the flip side of the  
18 Government's version of not keeping an eye, if you would, on  
19 the matters that were agreed to. Because the matters that were  
20 charged in the Information, as well as the matters that were  
21 admitted in the Plea Agreement include the statement that  
22 Ms. Conley was to refine, obtain additional training and skills  
23 in order to provide support and assistance, and to fight,  
24 should it be deemed necessary. And so it is not just bedpans,  
25 either.

1           Enough of that. Let's get down to business. I just  
2 want to make sure that we focus on -- there's a lot of stuff  
3 that's relevant here, but that we correctly describe what it is  
4 that's before me, because that's what I have got to deal with,  
5 not some less significant version of this crime. Not some more  
6 significant version of this crime. This crime. This  
7 defendant. This case.

8           Now, at this time I formally accept the Plea  
9 Agreement, pursuant to which a plea of guilty was made on  
10 September 10, 2014.

11           Mr. Pepin, have you received a copy of the presentence  
12 investigation report prepared in this matter, including all  
13 addenda within the timeframes provided by Rule 32; the last  
14 addenda being one that set forth, for your information, the  
15 standard terms and conditions of supervised release that are  
16 referenced in the Presentence Report, and had sufficient time  
17 to review those matters with Ms. Conley?

18           *MR. PEPIN:* Yes, Your Honor. Thank you.

19           *THE COURT:* And, Mr. Holloway, have you likewise  
20 received and had sufficient time to review these matters?

21           *MR. HOLLOWAY:* Yes, I have, Your Honor.

22           *THE COURT:* In light of the filing yesterday  
23 afternoon, have you had sufficient time to review that matter,  
24 and are you prepared to address it, to the extent it is -- it  
25 becomes an issue?

1           MR. HOLLOWAY: Um, I don't think I have had sufficient  
2 time, but I'm ready to proceed; and by that, I will  
3 specifically address that filing with the Court, and I will  
4 appreciate the Court's indulgence with me in --

5           THE COURT: I intend to be as indulgent as I can be  
6 with both sides today.

7           MR. HOLLOWAY: Fantastic. Thank you, Your Honor.

8           THE COURT: All right.

9           The Government has filed a Motion For Downward  
10 Departure -- I'm sorry. Let me start with this, ECF Number 68,  
11 the Government has filed a Motion Pursuant To Guideline  
12 3E1.1(b) For The Third Level -- or The Third Point For  
13 Acceptance Of Responsibility. That motion is granted,  
14 obviously.

15           There's no dispute or contention here that there's not  
16 been acceptance of responsibility on the part of Ms. Conley,  
17 nor is there any dispute or contention that it has not been  
18 timely.

19           Additionally, the Government has filed a Motion For  
20 Downward Departure Pursuant To Section 5K1.1 Of The Guidelines.  
21 And that's at ECF number 56. It is a restricted document.

22           Mr. Holloway, let me ask you some questions. I don't  
23 intend to delve deeply into this, I also realize that sometimes  
24 I fall into the habit of speaking in the code with which  
25 practitioners are familiar. What I'm talking about is a motion

1 that the Government has filed saying that Ms. Conley has  
2 cooperated with the Government in a manner that is timely and  
3 of substantial assistance to the Government, and based on that  
4 cooperation, the Government has -- is recommending, pursuant to  
5 the guidelines that a 20-percent departure be imposed, and that  
6 I sentence her to no more than 48 months. That is what has  
7 been filed.

8 I'm not going to ask you to put on the record, here  
9 today, the details of that cooperation. I just want you to  
10 confirm for me that what I have just said is true and that is  
11 the position of the Government, that it is, in fact true?

12 *MR. HOLLOWAY:* That is true. To be specific, the  
13 Government has agreed, as a result of her cooperation, to  
14 recommend a sentence of 48 months.

15 *THE COURT:* And is it -- I believe this is also true,  
16 but, again, I just simply want to make sure that my  
17 understanding is not dated. You know, there are cases where,  
18 at least historically, Assistant U.S. Attorneys had a great  
19 deal of discretion, then there were cases where, historically,  
20 where the matters that the U.S. Attorney would do, would have  
21 to be approved by a supervisor or perhaps the U.S. Attorney.  
22 And then there is another class of case where decisions are  
23 approved, and I am not interested in putting names -- spraying  
24 names before the Court, but approved at higher levels at the  
25 Department of Justice in Washington, DC.

1           Is this such an occasion?

2           *MR. HOLLOWAY:* There are aspects of this case that  
3 have required approval by components within the main justice in  
4 Washington, DC.

5           *THE COURT:* Is there any opposition from main justice  
6 to the recommendation that you have made?

7           *MR. HOLLOWAY:* There is not, with regard to the 5K.

8           *THE COURT:* All right. I will grant the motion.

9           *MR. HOLLOWAY:* Thank you.

10          *THE COURT:* Now, where we are is that there are two  
11 motions that the Defendant has filed. That's incorrectly said.  
12 There are two pleadings that the Defendant has filed, that  
13 require some action by the Court, before we can get to the  
14 business at hand, so to speak.

15          The first is, the Defendant has filed a lengthy list  
16 of objections to the PSR, and I want to deal with those in --  
17 well, in order, and we will see, rather -- so let's just --  
18 frankly, Mr. Pepin, I'm comfortable, since I'm going to be  
19 bouncing back and forth with you, if you want to show us how  
20 straight and erect you can stand, I'm more than happy to watch  
21 you, but I'm fine with you responding from a seated position as  
22 long as you can pull that mike over so I can pick you up.

23          *MR. PEPIN:* I can do that.

24          *THE COURT:* The first objection had to do with a  
25 two-point assessment, and to be frank about it, the two-point

1 adjustment, I believe that the probation department's final  
2 guideline offense level was 37.

3 *PROBATION:* That is correct, Your Honor.

4 *THE COURT:* All right. And the parties had estimated  
5 that it would be 35, and the reason for the difference is that  
6 in the applicable guideline, 2M5.3(b)(1), there is a two-point  
7 assessment for if the offense involved, among other listed  
8 item, materials, support or resources with the intent to  
9 acknowledge or reason to believe they were to be used to commit  
10 or assist in the commission of a violent act. And probation  
11 determined that was an appropriate addition.

12 Mr. Pepin, you have objected. In some ways this is a  
13 tempest in a teapot. And what I mean by that is simply that  
14 regardless of whether this is a 35 -- Offense Level 35,  
15 Criminal History Category VI or Offense Level 37, Criminal  
16 History Category VI, both of those guidelines are significantly  
17 above the statutory maximum, and by law, when that occurs, the  
18 statutory maximum in this case, 60 months, become the guideline  
19 range, but the tempest does brew in the teapot, and so if there  
20 is anything more that you want to add, other than what you have  
21 already submitted in writing, I would be happy to hear it?

22 *MR. PEPIN:* Your Honor, we've submitted our argument  
23 in writing, and I am not going to belabor it.

24 *THE COURT:* All right. And I am going to overrule the  
25 objection, again, because I go back and look at the Plea

1 Agreement, and it did agree that the object of the conspiracy  
2 was to provide training and assistance and support.

3           Admittedly, the facts that Mr. Pepin points to, which  
4 is that she was not the most skilled or knowledgeable person,  
5 is well taken, but she did have skills. In fact, you are  
6 required as a CNA to obtain a certification from the state.  
7 She obtained that certification. There are aspects of vital  
8 signs and things of that nature that I would say are beyond  
9 general knowledge, and to the extent that there's a question as  
10 to whether she obtained this information or this training with  
11 the intent to share that's irrelevant. It's a conspiracy to  
12 provide it. It is not the case that the conspiracy requires  
13 that you obtain that which you you desire to share with a  
14 terrorist group during the course of the conspiracy.

15           The conspiracy requires that you attempt to provide  
16 such training and assistance, and to the extent that she never  
17 actually did perform those acts, again, my point is, simply,  
18 that it is conspiracy charged, and the conspiracy is complete  
19 upon the formation of the intent and the agreement, and  
20 therefore the fact that she didn't actually do anything is  
21 legally irrelevant.

22           As a consequence of that, where I think we are is that  
23 we are dealing with the Total Offense Level 37, Criminal  
24 History Category of VI, which results in an imprisonment range  
25 of 60 months, a fine range of \$20,000, \$200,000,

1 supervised-release range of one to three years.

2           There were other objections that are here. The other  
3 objections are largely, I would say, clarifications, and the  
4 provision of additional information for me to consider.

5           *MR. PEPIN:* Yes, Your Honor, I think that's a fair way  
6 to characterize it. There were a number of circumstances where  
7 I felt that the description and the amount of -- of -- and the  
8 amount of information that was provided did not complete the  
9 story, concerning the information that was available, that  
10 would have been gotten from that, and I tried to provide that  
11 through the course of these other comments and clarifications,  
12 including citing to specific areas that I note. Of course  
13 there's been a response by the probation department, a number  
14 of my clarifications have been absorbed into the -- the  
15 probation presentence investigation report now, and where some  
16 may remain, I think that the counterpoints have been made, at  
17 least I hope so, through my response.

18           *THE COURT:* Well, I went through them one at a time  
19 and found that this was a desire, I think, for the most part to  
20 incorporate many of the clarifications into the final  
21 presentence report; two that were intended that didn't quite  
22 get done, relates to your objection, F-3, where you note that  
23 the word "no" should appear between "we" and "longer" in the  
24 fourth line. I knew that when I read it the first time. I  
25 note that probation meant to, by virtue of the addendum, to

1 make that correction, and it just slipped through a crack.

2           Justine, would you just correct that, because it  
3 relates to an incident that I think is important, and so, at  
4 some point prior to this would you insert that word?

5           *PROBATION:* Absolutely, Your Honor.

6           *THE COURT:* The other one that was intended was  
7 your -- in the same subsection, paragraph four, there was a  
8 description -- well, a dispute about whether it should say  
9 Christianity or Catholicism. I understand it said Christianity  
10 and should have said Catholicism. I understand your position.  
11 Probation meant to change it, but I think it still says  
12 Christianity. I can tell you it makes no difference to me, and  
13 I would not rely, for sentencing purposes, on whether a program  
14 that she went to was a Catholic program or a Christian program  
15 and so I note the clarification, am aware of it, but it really  
16 is not something that would be taken into account or affect the  
17 sentence.

18           I'm happy to proceed in either of two ways, I think  
19 that is true, with respect to much of the rest of these things,  
20 several of them have been corrected. There are some, and we  
21 can go through whichever ones you wish to say are still live or  
22 in play.

23           If you wish not to engage in that exercise, because  
24 they are in the nature of clarifications, I would tell you,  
25 that with respect to them, I don't think that there is anything

1 in here where the position taken is not understood by me.

2 In the course of sentencing we will discuss this  
3 notion as to whether she has or has not completely and totally  
4 disavowed her desire to rage jihad, but that aside, I think the  
5 rest of that is not anything I need to rule on, but if you want  
6 me to, I will. So I'm putting it in your hands I suppose.

7 *MR. PEPIN:* And I appreciate that, Your Honor. I  
8 don't know that I need a ruling. What I needed was for there  
9 to be a complete picture, and when I received the report and  
10 saw that there were certain characterizations, many of them  
11 negative, which did not provide the complete picture, I felt  
12 incumbent upon me to make sure, as Ms. Conley's attorney, and  
13 knowing the complete picture, that you knew it too.

14 Now if you have -- if you're aware of those  
15 circumstances, now, as a result of my pleadings, recognize that  
16 there are fuller pictures. If a letter is written, maybe it  
17 should say, all aspects of it, for instance, or it should be a  
18 more complete picture about what it says, or you know a variety  
19 of things, because it was a large presentence investigation  
20 report, but a lot of those materials, hence, my overly  
21 voluminous response. So as long as this --

22 *THE COURT:* Single-spaced to fit within my page  
23 limitations.

24 *MR. PEPIN:* Your Honor, we looked to see whether or  
25 not single- or double-spaced was required and note there was no

1 indication single or double, I understand that may change at  
2 this point --

3 *THE COURT:* I get it. I get it.

4 *MR. PEPIN:* I understand that may change, but that's  
5 exactly right.

6 So in any event, I -- I just want to make sure that  
7 when we're talking about the picture that's painted, and the  
8 Court is working from, that it's complete. If not, I can make  
9 it complete.

10 *THE COURT:* Every single piece of paper that has been  
11 filed has been read word for word, and is rattling around in  
12 that brain of mine somewhere. I have looked at it and  
13 considered everything.

14 The only other thing I want to expressly overrule is  
15 the objection to the justification. I think the probation  
16 department is entitled to have an opinion and I understand the  
17 contrary view. I also want it to be known that, in fact, I  
18 told probation, I don't want some vanilla position for me. The  
19 probation department wants to make recommendations, where one  
20 leg is on one side of the fence, the other leg is on the other  
21 side of the fence, and the picket is an uncomfortable place,  
22 it's not very useful to me.

23 *MR. PEPIN:* May I briefly comment about that, because  
24 I read the probation's response concerning that, and perhaps  
25 it's because in all of those words I jammed in single-spaced, I

1 wasn't as clear as I would have liked to have been.

2 I disagree with the representations, because they were  
3 in -- based upon the incomplete representations throughout the  
4 entire report. That was number one.

5 *THE COURT:* That's right. That was number two I was  
6 dealing with.

7 *MR. PEPIN:* But number two, I was only really  
8 objecting to one word, and that was the reference to a personal  
9 comment by the probation department that she thought that a  
10 particular sentencing range was appropriate. That, I don't  
11 think, and hence my comments about her not being Congress or  
12 the President or the Sentencing Commission, that I don't think  
13 is appropriate, I don't think it fits within the statute,  
14 that's what my objection is. She responded as if I was  
15 referring to the fact that she is not allowed to offer an  
16 opinion at all, which of course she is.

17 So you know, I --

18 *THE COURT:* I understand your position, I overruled  
19 that objection, explicitly. I believe that the recommendation  
20 is just that.

21 You know, the notion that I'm going to be swayed,  
22 against my will or in spite of my will or in any way by what  
23 probation puts forward as a recommendation is a little bit --  
24 actually, a great bit fictional. I consider their view. I  
25 consider the Government's view. I consider the Defense's view.

1 And I consider things that I think are important and nobody has  
2 paid any attention to it. And I understand the position that  
3 you took. I don't think it is contrary to statute. I don't  
4 think the statute says you can only speak in these areas and in  
5 no other, and they made their recommendation, and I overrule  
6 your objection to it.

7 *MR. PEPIN:* Thank you.

8 *THE COURT:* All right. So where that puts us is on  
9 the issue of sentencing directly, and I told you where we are,  
10 in terms of the guidelines, and I have told you that I granted  
11 the Government's 5K Motion.

12 Mr. Holloway, the podium is yours.

13 *MR. HOLLOWAY:* Thank you, Your Honor.

14 I want to begin by explaining to the Court that I'm  
15 going to focus my comments about this on how I view the factors  
16 that we need to consider under Title 18 United States Code  
17 Section 3553(a), because I think that's what the issue is  
18 before the Court, ultimately.

19 The guidelines reach what they reach, which sky rocket  
20 above the statutory maximum. So the fact of the matter is,  
21 we're here to decide the sentence largely based upon the  
22 Court's evaluation of the factors enumerated in Title 18  
23 Section 3553(a), and so, as we all know, it requires analysis  
24 of basically four things. The seriousness of the offense --

25 *THE COURT:* I think it's seven things, but you go

1 right ahead.

2           *MR. HOLLOWAY:* I'm going -- I, unlike, Mr. Pepin, I  
3 try not to single space, and I believe there's --

4           *THE COURT:* Now, now, now, play nice people.

5           *MR. HOLLOWAY:* So I will confine my analysis to those  
6 things, because I think they are relevant.

7           *THE COURT:* Go ahead.

8           *MR. HOLLOWAY:* So first is the seriousness of the  
9 offense, second is to afford deterrence, third is to protect  
10 the public and then there's also the analysis about the various  
11 treatments and medical needs for the defendant.

12           *THE COURT:* And just so that we're on the same page,  
13 okay, it is actually seven factors not five -- not the ones you  
14 are listing. You are focused on one of those seven that tends  
15 to be the one the Government focuses on often, and that one has  
16 many subparts, but there are others. There's the nature and  
17 circumstances --

18           *MR. HOLLOWAY:* Yes.

19           *THE COURT:* -- of the offense and the history  
20 characteristics of the defendant, there's the need for  
21 deterrence --

22           *MR. HOLLOWAY:* Yes.

23           *THE COURT:* -- there are -- there's the need to avoid  
24 unwarranted sentencing disparities. There's the need to  
25 provide restitution, which has no bearing in this case

1 whatsoever. There is consideration of the guidelines, which I  
2 have done. There's consideration of the policy statements,  
3 which I have done. And in terms of unwarranted disparity,  
4 certainly you can address that to the extent that you want to,  
5 but that horse has left the barn. And what I mean by that is  
6 simply this, you know and I know that most of the time this  
7 offense is charged a 2339B.

8 *MR. HOLLOWAY:* Exactly.

9 *THE COURT:* And if charged as such, it has a 15-year  
10 maximum, and contrary to what you put on your criminal  
11 information sheet, it has a lifetime of supervised release, as  
12 a potential exposure. By virtue of the decision to dial it  
13 down into a section 371 conspiracy, it reduces those penalties,  
14 and my guess is, if I was trying to be not disparate to others  
15 similarly sentenced, I can't do it.

16 *MR. HOLLOWAY:* That is correct.

17 *THE COURT:* So you know that is what it is, and we end  
18 up, after all of this discussion, talking about two of the  
19 seven factors. From you I'm going to hear about the second  
20 factor, what I will call the public-interest factors, for  
21 shorthand.

22 *MR. HOLLOWAY:* Certainly.

23 *THE COURT:* And I am sure that for Mr. Pepin I will  
24 hear from the first, the nature and the circumstances of the  
25 offense and history and characteristics of the Defendant. But

1 go ahead. I just want it clear that I will not confine myself  
2 to the box of factors that you started putting me in, because I  
3 think it's too small a box.

4 *MR. HOLLOWAY:* Certainly. I will attempt to expand  
5 the box.

6 *THE COURT:* All right.

7 *MR. HOLLOWAY:* Now, in looking at this offense, and  
8 the seriousness of it, and even the nature and circumstances of  
9 it, I want to indicate, very clearly, that we need to disavow  
10 any notion that the conduct here was not serious, and I am  
11 concerned that the restraint showed by the Government in this  
12 case, somehow has been misinterpreted or misconstrued as an  
13 idea that this is not serious, and nothing could be further  
14 from the truth here. And being mindful of the Court's  
15 instruction, to limit this --

16 *THE COURT:* Not to limit your comments, just to make  
17 sure that we know what the crime is.

18 *MR. HOLLOWAY:* To keep our eye on the ball.

19 *THE COURT:* And what is, perhaps, relevant  
20 considerations, but not necessarily the crime.

21 *MR. HOLLOWAY:* Certainly. To boil it down, in spite  
22 of multiple warnings, this Defendant decided to go and commit a  
23 crime, and she decided to do so and join ISIS.

24 Now, we obviously, even after the defendant has been  
25 arrested, but make no mistake, there is really no limit to the

1 depth of their perverted and moral depravity, and it is,  
2 unfortunately, not beyond our imagination that this offense  
3 relates to the idea that what could have happened was that ISIS  
4 could have taken a disturbed young woman, and used them to  
5 effectuate an attack on the United States. And to avoid, you  
6 know, that scary possibility, is to ignore the fact that this  
7 is a group that beheads journalists and rapes women and  
8 children, and sells them in slavery.

9           *THE COURT:* Let's be clear, as between you and I, we  
10 are both in full agreement that they are violent; that they are  
11 unprincipled; that they practice savagery; and that they hide  
12 it under a patina of religion. But let's also be clear, that  
13 this crime occurred at a point in time, and at the point in  
14 time at which it occurred, much of what we now know about ISIS,  
15 was not necessarily so clear. I'm not saying that everyone  
16 thought that they were, I don't know, a choir group.

17           I am saying that if you wandered around the United  
18 States and said, "Who is ISIS?" What you would hear is, "Roman  
19 goddess," probably more likely than you would have heard, "The  
20 Terrorist Group." Now, they were clearly on the U.S.  
21 Government radar. They were clearly associated with al-Qaida.  
22 All of that is true. I'm not trying to minimize that in any  
23 way, shape or form, but they had not exposed their depravity  
24 quite as much then, as they have now.

25           *MR. HOLLOWAY:* No. And I will admit to the Court, my

1 basis of knowledge was probably far greater than everybody  
2 else's, at that point in time.

3 *THE COURT:* Fair enough. Again, I'm just trying to  
4 keep this --

5 *MR. HOLLOWAY:* I understand.

6 *THE COURT:* -- in the context of what -- how I should  
7 look at it, given the crime that I'm dealing with.

8 *MR. HOLLOWAY:* Very well.

9 And so, understanding that, I want to stress that it's  
10 important not to dismiss this as insignificant.

11 *THE COURT:* You don't have to worry about that.

12 *MR. HOLLOWAY:* Very well. And I also want to be sure  
13 that the restraint that the Government has exercised, and as  
14 the Court has observed, is a function solely based upon the  
15 specific facts of this case, and I made that decision about how  
16 to proceed with the investigation, based on my faith in the  
17 task force officer involved and my reading of the situation we  
18 had at hand.

19 *THE COURT:* Neither you nor the Government is under  
20 charge here.

21 *MR. HOLLOWAY:* I understand that. But what I'm  
22 concerned about is in the variety of pleadings, the impression  
23 has been made that our exercise of that restraint is somehow  
24 some signal that this is not serious, and I want to  
25 emphatically point out that that is simply not true. At least

1 from the analysis that I was engaged in, at the time, and am  
2 still engaged in, now.

3           So this is a first for me, in doing a case where a  
4 defendant, essentially, forced us to arrest them. I mean, we  
5 went to her multiple times in a genuine effort to short circuit  
6 radicalization. And we cautioned her about the illegality of  
7 what she was about to embark on, and in spite of those  
8 repeated warnings, she did it, and the question becomes --

9           *THE COURT:* I believe the comment was, I would rather  
10 go to prison than do nothing, or words to that affect.

11           *MR. HOLLOWAY:* That is correct. And so that's what we  
12 did. And so I think that's important for the Court to  
13 consider. Even after the defendant has been in custody here,  
14 it's been kind of a strange mix of behavior. You know, she  
15 cooperated, she provided us with information, and yet she  
16 demonstrates kind of this -- this odd sort of defiance to  
17 authority or vitriol, even when the process has gone out of its  
18 way to try and demonstrate restraint and -- and -- and be  
19 mindful of specific factual circumstances that we felt were  
20 appropriate to try and take into account.

21           You know, otherwise we would be arguing about a  
22 sentence at 15 years, rather than at five. And so I think  
23 that, you know, it's important for the Court to understand  
24 that, again, the restraint that we attempted to show in this  
25 matter, in no way reflects some idea that we didn't think this

1 was serious.

2           *THE COURT:* I understand.

3           *MR. HOLLOWAY:* Okay. And that brings me to the filing  
4 that occurred quite late yesterday. Setting aside the rather  
5 untimely nature of it, the Government has serious issues with  
6 both this report and its author.

7           In my very limited ability to look into it, the author  
8 completely, completely lacks credibility, and the content of  
9 the report reflects that lack of credibility, as well.

10           Now, the report touts some Homeland Security Committee  
11 and an award from the FBI Citizens Academy, that's akin to me  
12 going out to me going out and buying a Seahawks jersey and  
13 saying I'm going to be the quarterback in the Super Bowl.

14           *THE COURT:* It's a little more than that, but go  
15 ahead.

16           *MR. HOLLOWAY:* Well, you know, without the benefit of  
17 Cross-examination, you know, there are allegations that this  
18 individual is under a -- at least was under a congressional  
19 inquiry about mishandling and disclosing classified documents,  
20 and there are issues people have taken with him about certain  
21 public statements he has made about the inevitability of a  
22 Muslim caliphate that ISIS has used to their benefit.

23           So what I'm saying is there are a number of reasons to  
24 undermine the credibility of the author of this report.

25           *THE COURT:* And let's just stop having private

1 conversations. Certainly there are times when it is  
2 appropriate. There are a number of facts about this case that  
3 I think merit remaining private.

4 *MR. HOLLOWAY:* Very well.

5 *THE COURT:* Particularly, in the timeframe of October  
6 2012; and I know that you're both sufficiently familiar with  
7 the facts to know exactly what I'm talking about.

8 *MR. HOLLOWAY:* True.

9 *THE COURT:* But what we're talking about here is that  
10 Mr. Elibiary, basically, submitted the report, that says that  
11 she's not radicalized and with proper guidance that she moved  
12 away from the self-radicalization to the extent that it never  
13 existed, that with proper mentoring she poses no threat.

14 *MR. HOLLOWAY:* I would say in reviewing the report,  
15 it's replete with factual errors and misstatements. It appears  
16 that he didn't carefully read the discovery. And you know, his  
17 basis also goes into this absurd notion that somehow the FBI's  
18 effort to dissuade her from committing the crime, there were  
19 errors made in that effort because --

20 *THE COURT:* They didn't bring a conservative enough  
21 person to the table.

22 *MR. HOLLOWAY:* Exactly. They weren't radical enough  
23 to convince her not to do it, apparently. Which I'm stunned by  
24 the line where he says, "They erred because they presented her  
25 with a moderate almost passivist version of Islam." That's a

1 direct quote from that report. It's astonishing to me that a  
2 person would opine that by going to her and trying to convince  
3 her not to -- to do the crime, you know, They erred because  
4 they sent Muslims who weren't radical enough.

5           *THE COURT:* Let me tell you, and Mr. Pepin will  
6 obviously speak to this, I have read it, I have considered it,  
7 I have my -- I have a number of questions of my own. They are  
8 different than yours. I'm a little bit disturbed by the notion  
9 of there being people who, because they are of a faith or  
10 community, are better able than anyone else; to say whether  
11 someone is good, bad, up, down, radical or not. I don't care  
12 whether you are talking about a Muslim talking about Muslims or  
13 black talking about black, or a woman talking about a woman.  
14 There's a little bit of that that's a little concerning to me.

15           What's much more concerning to me is that, this is  
16 background that I want to know, that I need to know, before I  
17 would put heavy emphasis on this. When I got this report, I  
18 looked at it and I read it and I said, in short, Who the hell  
19 is this? Because it doesn't -- there's no letterhead. There's  
20 no? Very similar to my question.

21           *THE COURT:* There's no nothing. It just starts  
22 talking, and it isn't until the very end that you see the name,  
23 and as hard as it is to believe, I'm not necessarily the most  
24 informed person with respect to news, and so I saw the name and  
25 it meant nothing to me. So I Googled it, not meaning that I

1 accept anything that's on the Internet as true, it at least  
2 gives me some basis to see what's going on and I saw the things  
3 that you are talking about, which is that there's noise about  
4 him. I'm not going to side in on the political debate that  
5 surrounds him as to whether he is or isn't this, that or the  
6 other. My concerns are different.

7           When Ms. Conley was speaking to the FBI and describing  
8 how she came to her religious understandings, she mentioned  
9 that -- she mentioned al-Awlaki --

10           *MR. HOLLOWAY:* Yes. Anwar al-Awlaki.

11           *THE COURT:* Yes. Was amazing. She also mentioned a  
12 couple of websites that she would use, one of them being, the  
13 way the FBI put it, muslimmatters.com, and that is incorrect.  
14 It's muslimmatters.org, because when you put in dot com it  
15 redirects you to dot org.

16           In my looking at Mr. Elibiary, I found out that  
17 several of his statements, positions, papers, have been put  
18 forward on muslimmatters.org. To be clear, that is not  
19 anything other than a -- to my view -- a mainstream -- I didn't  
20 read everything that's on there. I don't have any expertise in  
21 it, but I saw nothing that suggested it was anything other than  
22 a cite to talk about things that matter to Muslims.

23           But there are things of his that were on there,  
24 including his statement, an article that al-Awlaki should not  
25 be executed or killed by the United States, but should be, in

1 some way captured, and we work out something with the Yemeni  
2 government with regard to him. As well as the fact that ISIS  
3 has grabbed his statement about a caliphate being inevitable.

4           So I'm sitting there and I am saying to myself, I  
5 don't know what to do with this. His words are where she was.  
6 Is this -- is he too close? I don't know the answer. Has she  
7 looked at some of these things, and he is on both sides of the  
8 fence. I don't know the answer. There's more that I don't  
9 know, than I do know. I take it for what it's worth, but  
10 there's a part of me that says, He is not someone to be  
11 dismissed, because after all it does seem as if Homeland  
12 Security and the FBI and others did rely on him, but it is also  
13 the case there's a certain element of nephrology going on here  
14 where it's, sort of, I can feel you, squeeze you, touch you,  
15 tell me whether or not you are a radical or not, and I am not  
16 sure -- well, I am sure -- I'm not willing to defer to anyone,  
17 whether it be that expert or anyone else, that judgment will be  
18 made by me.

19           *MR. HOLLOWAY:* Certainly. I think the Court has more  
20 eloquently honed in on a lot of the concerns that I had when I  
21 read it at the eleventh hour, and the one thing that I want to  
22 make absolutely certain of, is not to serve as some way to  
23 anoint him as some expert, especially given the questions that  
24 are floating around out there, and having him not be subject to  
25 any sort of scrutiny, in terms of Cross-examination or anything

1 like that. And so, you know, that's my read, having received  
2 that report quite late and my view on that. I really agree  
3 with the Court. I don't think he is in a position to opine one  
4 way or the other about this case or about whether or not  
5 anybody is a violent radical extremist. I just don't.  
6 Especially given the apparent lapses in his factual analysis,  
7 and the questions about what sort of bias he may or may not  
8 have, and so that -- that is what I had asked the Court's  
9 indulgence on, that I referred to when the Court inquired of  
10 me.

11 *THE COURT:* I understand.

12 *MR. HOLLOWAY:* Importantly, here, one of the biggest  
13 things that I think needs to be considered are concepts that I  
14 think are interrelated, with regard to deterrence and  
15 protection of public. You know, unfortunately recent history  
16 gives us too many examples of people who, obviously, have  
17 whatever difficulties they have, and then they radicalize to  
18 violence, and we all know that.

19 And as I indicated in my briefing, I think all of us,  
20 at least I do, I try to have, sort of, this basic faith in  
21 human nature that encourages us not to automatically, jump to  
22 these kind of horrific conclusions; right? But that being  
23 said, with the job that I am charged with, the protection of  
24 the public, compels me to take a view that considers those ugly  
25 possibilities, and given the significant amount of attention in

1 this case, I think it is extremely important and significant  
2 for purposes of deterrence to show that while the Government  
3 will appropriately operate with restraint, there is also a  
4 price that needs to be paid when you insist on voicing and  
5 taking action to do these things that are frightening. I mean,  
6 she didn't simply just make statements. She set about to -- to  
7 effectuate those things, and as we told her, it's a crime, and  
8 we were forced to arrest her, and it's an important deterrent  
9 message to send, to give her a sentence of 48 months, to let  
10 others know, who may be contemplating saying outrageous things  
11 from whatever motivation, right?

12 *THE COURT:* No, no, no, no, no. I understand where  
13 you are going, and I will let you get back to it, but in this  
14 country you have the right to express unpopular, ridiculous --

15 *MR. HOLLOWAY:* Exactly.

16 *THE COURT:* -- or other views --

17 *MR. HOLLOWAY:* If the Court would let me finish.

18 *THE COURT:* -- in the area of race and gender and  
19 sexual preference --

20 *MR. HOLLOWAY:* I understand.

21 *THE COURT:* -- religion. These things occur more  
22 often than in other countries.

23 *MR. HOLLOWAY:* No. I understand, and agree  
24 completely. The Court cut me off in saying -- saying these  
25 things and following them, with actions that compel the JTTF to

1 effectuate an arrest.

2           *THE COURT:* I just want to be clear we are on the same  
3 page.

4           *MR. HOLLOWAY:* We are entirely on the same page. And,  
5 in fact, the way that we conducted ourselves in this case  
6 shows, unequivocally, that we are on the same page.

7           We agree. People have a right to say whatever it is  
8 they want to say, within the confines of the law, and when  
9 those statements then move into action, that is harmful, and  
10 that is a crime, then we will be forced to invoke the  
11 apparatus, in order to protect the public, and that's again, I  
12 apologize for not speaking more quickly, perhaps.

13           *THE COURT:* Well, I have a tendency to butt in.

14           *MR. HOLLOWAY:* Well, just trying to ... the other part  
15 of this is what I've explained to the Court, no matter the  
16 motive, right, the significant attention on this poses a danger  
17 that somebody else may say, "Hey, this is a neat way to get my  
18 15 minutes of fame," and it's unacceptable. It's absolutely  
19 unacceptable. Because what Ms. Conley did was a crime, and it  
20 is something that -- that we need to take seriously and we need  
21 to take action, and -- and so the sentence imposed in this case  
22 is important, as a deterrent affect.

23           The other thing that goes hand-in-hand with  
24 deterrence, obviously, is protection of the public, and it's,  
25 something, unfortunately, that we have to struggle with, here,

1 because it's going to be an imperfect process. Especially in  
2 this case, it's going to be imperfect, because there are all  
3 kinds of mixed messages, right? You know, I'm -- I'm charged  
4 with making sure nothing bad happens, and at the same time, we  
5 are all charged with effectuating justice and being fair and  
6 operating with restraint, and we're trying to look at this  
7 Defendant specifically, with whatever issues or problems she  
8 may have or have not, and predict what will happen in the  
9 future.

10 And where I come out on it, as the Court has observed,  
11 I did not come out at a 2339B with a sentence of 15 years, but  
12 at the same time, it does not warrant a sentence of 12 months,  
13 and a day.

14 *THE COURT:* Which basically means --

15 *MR. HOLLOWAY:* Nothing.

16 *THE COURT:* -- out in a couple of weeks.

17 *MR. HOLLOWAY:* Yes.

18 *THE COURT:* I didn't say Nothing. I said, Out in a  
19 couple of weeks.

20 *MR. HOLLOWAY:* Well, that's correct.

21 The difficult thing is that in spite of those efforts,  
22 for whatever reason, Ms. Conley has posed a conundrum, in that  
23 at times she is engaging and intelligent and indeed cooperated,  
24 but then at the same time, demonstrates a defiance towards  
25 authority and a vitriol that demonstrates a lack of respect for

1 the law that we saw when we were trying to say, Hey don't do  
2 this. Don't, please do not do this.

3           *THE COURT:* Let's pull some of the layers off the  
4 onion here. That woman is in need of psychiatric help. I'm  
5 not saying for a moment that she has a psychotic condition.  
6 I'm not saying for a moment that her decisions here were the  
7 direct product of a mental illness. And I think that those are  
8 the conclusions that the doctor's reports say to me. But she  
9 is a bit of a mess, and if you time lined out from 2011, when  
10 she is in the teen police academy, to April of 2014, when she's  
11 under arrest, this is a history of events that would make for a  
12 bad movie, because you would not believe that for -- that  
13 someone would, over the course of six months, have three  
14 different times considered marrying somebody that they only met  
15 over the Internet.

16           *MR. HOLLOWAY:* And the Court is absolutely right, and  
17 I agree.

18           *THE COURT:* And I am just touching on the tip of the  
19 iceberg. So the question to you, is, and you have had the  
20 benefit of seeing the psychological and psychiatrics, and you  
21 know that I'm just touching on the tip of the iceberg, why  
22 shouldn't I take that person and try and help her in the areas  
23 where she needs help, more than put her away for the maximum of  
24 time -- amount of time that the Government wants?

25           *MR. HOLLOWAY:* The Court should incarcerate her for 48

1 months, because that's the place where she can get that  
2 treatment that she needs.

3 *THE COURT:* Come on.

4 *MR. HOLLOWAY:* She has -- she has, on her own, without  
5 that kind of structure, refused to follow recommendations. She  
6 has --

7 *THE COURT:* I --

8 *MR. HOLLOWAY:* -- she refuses to answer to direction.  
9 She has refused to comply her behavior to the law when directly  
10 told. And if I had any confidence that she would follow her  
11 treatment regimen out on her own, I would consider that, but,  
12 you know, I want the Court to understand, I don't reach this  
13 recommendation lightly. And the Government, again, has gone to  
14 great lengths to not only show restraint, but recognize the  
15 difficulties that the Court is asking me to do an analysis of,  
16 and, you know, I won't pretend that I'm a psychiatrist, but --

17 *THE COURT:* And I won't pretend that I send people to  
18 prison so they can receive mental-health treatment, that's not  
19 what it's about.

20 *MR. HOLLOWAY:* No, it's not. It's about mental-health  
21 treatment and deterrence and the nature and circumstances of  
22 the offense and the protection of the public.

23 *THE COURT:* And the other factors.

24 *MR. HOLLOWAY:* And it's all of those things together,  
25 and I -- and you are not going to hear me, on my case, stand

1 here and pretend that it is an easy calculus.

2           *THE COURT:* What am I to do with the psychiatrist  
3 report that says, She is not a terrorist?

4           *MR. HOLLOWAY:* Well, I think the psychiatrist, similar  
5 to the other expert, her area of expertise, with all due  
6 respect to her, I think the report was thorough, and it was  
7 careful, but she is not equipped to determine whether or not a  
8 person is a terrorist.

9           *THE COURT:* And of course, you recognize that my  
10 decision here today is not to decide whether she is a terrorist  
11 or not.

12           *MR. HOLLOWAY:* Exactly. The decision here today is to  
13 determine what sentence provides deterrent, promotes respect  
14 for the law, provides adequate deterrence, factors into account  
15 the nature and circumstances of the offense, and it provides  
16 for the needs of treatment, and again, you won't hear me  
17 pretend that that an easy calculus.

18           *THE COURT:* But it would be a much easier calculus if  
19 she were a terrorist, wouldn't it?

20           *MR. HOLLOWAY:* Well, at this point I don't know --  
21 well, I don't want to, you know, bolster myself too much.  
22 Perhaps I'm better equipped --

23           *THE COURT:* You crossed that line a long time ago.

24           *MR. HOLLOWAY:* Certainly in questioning of whether or  
25 not a psychiatrist can make a determination as to whether or

1 not somebody is a terrorist, they are not equipped to do that.  
2 I know that I have spoken to more terrorists than Dr. Bograd  
3 has, and I have probably spoken to more terrorists than anybody  
4 in this room, but, you know, the jury is still out on  
5 Ms. Conley, and so I don't think that's the proper analysis of  
6 whether or not she is a terrorist.

7           *THE COURT:* I don't think it is either. I mean if --  
8 it is a relevant consideration, but that's not what this is  
9 about. It's not -- it's -- it's not an irrelevant  
10 consideration by any means, but I am not here to decide, You  
11 are a terrorist, You are not a terrorist, I am not here to say,  
12 necessarily, that I know what's going to happen with you, two  
13 years from now, three years from now, four years from now. To  
14 the extent that I'm comfortable making a prediction about that,  
15 it would, obviously, impact which direction I go here, but this  
16 case has a -- as I said at the outset, an ability to kind of  
17 move down the beach in all of these strange directions where  
18 all of a sudden it becomes with a be all and end all of  
19 sentencing of whether or not she is a terrorist. That may be  
20 the be all end all of the headline, but it doesn't have much to  
21 do with what's going on here, except to the extent that it is a  
22 relevant factor, but not a determining factor in all of the  
23 complicated decisions that I have to make in this case.

24           *MR. HOLLOWAY:* I understand that, but I think that the  
25 Court has hit on the determinations that the Government

1 factored when this investigation began. If I didn't weigh  
2 those factors when this whole thing began, again, we would be  
3 standing here, under a violation of Title 18, 2339B, and  
4 arguing about 15 years.

5 *THE COURT:* Which still could have been below the  
6 guideline.

7 *MR. HOLLOWAY:* Yes, it would have. And so, you know,  
8 opining in this particular case about whether or not Ms. Conley  
9 is a terrorist, I think is a red herring. The analysis is the  
10 process of radicalization, that we stopped, that we attempted  
11 to stop earlier before she committed a crime, and that she  
12 insisted on pursuing, and evaluating that behavior through the  
13 lens of the factors that we are required to consider. And as  
14 the Court has pointed out, you know, I have talked about the  
15 ones that -- that the Government believes are critical in that  
16 evaluation, and that is the seriousness of the offense, the  
17 deterrent affect, the sentencing that this Court is going to  
18 engage in, the protection of the public, and the needs of the  
19 Defendant. And in going through that entire calculus, I come  
20 out at 48 months.

21 *THE COURT:* Look, I'm prone to making facial  
22 expressions. In other context I have said that I share  
23 similarities with babies, and that sometimes it's just gas,  
24 but...

25 *MR. HOLLOWAY:* I hope you are not saying I'm gassy.

1           *THE COURT:* But I have also -- well, let's not go  
2 there.

3           I smile because you keep limiting the factors, the  
4 3553(a) factors, to those that you are comfortable with, and  
5 I'm not saying that those factors are not significant factors.  
6 There are others as well.

7           *MR. HOLLOWAY:* If the Court wants to ask me about the  
8 ones I'm uncomfortable with, I'm more than happy to go there.

9           *THE COURT:* What about the nature and characteristics  
10 of the Defendant?

11           *MR. HOLLOWAY:* The nature and characteristics of the  
12 Defendant are encompassed in this analysis that I'm talking to  
13 the Court about, of -- I described it in my pleading as  
14 pathologically --

15           *THE COURT:* History and characteristics maybe the  
16 actual term used, but go ahead.

17           *MR. HOLLOWAY:* And that's also a little difficult  
18 here, Your Honor, because you have wanted to keep us focused  
19 on --

20           *THE COURT:* I understand that, but she is also a  
21 consideration.

22           *MR. HOLLOWAY:* Yes, she is.

23           *THE COURT:* I just don't want it to become improperly  
24 attached to the offense. The offense is a separate  
25 consideration.

1           MR. HOLLOWAY: I understand that.

2           THE COURT: And so I'm asking you -- I mean there  
3 are -- there's strange stuff with her.

4           MR. HOLLOWAY: I described it as oxymoronic, right?  
5 You know, on the one hand she is engaging and intelligent and  
6 on the other I am -- the best way I can describe it is  
7 pathologically naive. The idea that she would go over to Syria  
8 and it would be all moonbeams and gumdrops is -- is absurd, and  
9 so, still to this day, sort of the -- the kind of strange  
10 defiance and sort of vitriol towards the jail guards, vitriol  
11 towards all to this process. But it demonstrates this sort of  
12 odd thing that I find myself in, whereas, on the one hand she  
13 is quite pleasant and cooperative, but on the other hand  
14 expresses things in communications which indicate this defiance  
15 towards authority that I find quite strange, because we have  
16 been trying to give her every benefit of doubt, but yet there's  
17 still this -- this behavior that still prompts a concern  
18 about -- about public safety.

19           I mean I -- you know, I expected far more contrition.  
20 I expected a stronger -- a stronger understanding of the  
21 gravity of the situation, and I don't understand why I don't  
22 see it. And so, yeah, the nature and characteristics of the  
23 Defendant, they do come into play, and you are right, I'm not  
24 as comfortable with that, because I'm not a social worker and I  
25 am not a psychologist, and I try to have empathy. There are

1 many who probably think I don't, but I attempt to exercise an  
2 empathy, or understand, to the extent that I can, you know,  
3 what somebody may or may not do. Unfortunately, I'm stuck with  
4 the facts as I see them, and again my overarching  
5 responsibilities about protecting the public and pursuing  
6 justice. And again, I'm not going to tell the Court it's an  
7 easy analysis.

8           So I'm ready for the next factor that I'm  
9 uncomfortable with.

10           *THE COURT:* Well, I don't know that you're  
11 uncomfortable with anything, because it seems to constantly  
12 turn back to what a wonderful job you have done.

13           *MR. HOLLOWAY:* Well, I hope to. I hope to.

14           *THE COURT:* Well, take that in the spirit in which  
15 it's given. She has no history in the criminal justice system.  
16 This is the first offense.

17           *MR. HOLLOWAY:* I understand.

18           *THE COURT:* She is very young, and to be blunt about  
19 it, you know this, if you don't, when your children reach that  
20 age, you will know this, teenagers make dumb decisions, a lot.

21           *MR. HOLLOWAY:* I think Ms. Conley's parents would  
22 establish that I made that observation myself, already.

23           *THE COURT:* See, it all goes back to you.

24           *MR. HOLLOWAY:* Well, I mean, Hey, I'm a lawyer, I  
25 suppose.

1           *THE COURT:* All right. Fair enough.

2           *MR. HOLLOWAY:* But what I will say, is that ... it  
3 cannot be ignored that there are people who do not have  
4 criminal history who are very young, who have engaged in  
5 behavior, most recently, that is terrifying. The woman being  
6 sought in connection with the shootings in Paris is young, and  
7 has no criminal history.

8           I'm not saying that Ms. Conley is going to do that,  
9 and that's why the Court understands my hesitation, because I  
10 try to be as objective as I can about this, but since the Court  
11 inquired, I'm going to make that observation. And so while I  
12 appreciate, again, she is young, she has no criminal history,  
13 sadly, she was saying and doing all of the things that forced  
14 us to respond, and now, unfortunately, current events have  
15 demonstrated why a response is absolutely necessary. And  
16 again, I'm not going to say it's an easy decision.

17           *THE COURT:* I agree with you on that part. I don't  
18 have any other questions for you.

19           *MR. HOLLOWAY:* Very well. Thank you very much,  
20 Your Honor. I appreciate it.

21           *THE COURT:* Mr. Pepin. And what I think I will do  
22 here is take your comments, sir, and then I will ask Ms. Conley  
23 to join you, and take her comments.

24           *MR. PEPIN:* Thank you, Your Honor, that -- that works  
25 for me. Should I just go ahead and wait for your questions.

1           *THE COURT:* No. You won't have to wait. Just start  
2 going. Let's pretend that I'm going let you talk.

3           *MR. PEPIN:* All right. I have known better than that  
4 for a good long time.

5           So I guess part of the question is, Where to start? I  
6 knew where I was going to start until the exchange with  
7 Mr. Holloway.

8           So I think I will go ahead, for a moment, and touch  
9 bases about this Mr. Elibiary. I hope when my pleadings said I  
10 just received the report, you understood that it was not my  
11 choice to file it then. I apologize.

12           *THE COURT:* I understood that.

13           *MR. PEPIN:* You know, I wasn't going to do this,  
14 generally, but if I could give you a little bit of a structure  
15 as to what it's been like to work with this case. I don't mean  
16 work with -- with Ms. Conley, because that's been a delight.  
17 But to work with this case, because I am an American too. I  
18 have concerns about the public and its protection. I'm worried  
19 about deterrence. I have all of the same problems and concerns  
20 that everybody else does. And I knew from the beginning that  
21 one of the concerns that everyone would have, I mean not only  
22 do I know the sentencing statute, but there's a practical thing  
23 people are going to be concerned about what might happen in the  
24 future. Where is this young woman, really, in terms of -- I  
25 mean, Is she a crazy radical? Is she sort of a radical? Is

1 there such a thing as, I thought of is radicalization  
2 continuum. I don't know. How do I know these things? I don't  
3 think anybody really knows, knows these things. Are there  
4 theories out there? Are there thoughts about how this can be  
5 maybe dealt with? And who might talk to me about it? And,  
6 what about within -- I mean, I didn't know a single thing about  
7 Muslim society, Islam, nothing, not that I know much now, but I  
8 knew nothing.

9           And my attempts to reach out into the local community,  
10 were met with, I just didn't get much in the way of response  
11 and the attempts were many, and they were varied, and including  
12 going to forums and a variety of things.

13           I hoped to get people who could come and talk to  
14 Ms. Conley, because I didn't know where she was in this. I  
15 didn't understand it. I was hearing what she was telling me.  
16 And so we reached out to an area where there was -- we learned  
17 there was someone who had worked with the President's council  
18 on how to address questions like countering violent extremism  
19 which is CVE, which is -- it's the area -- after I learned  
20 something about it, I'm hearing it on the radio too. I have  
21 been hearing interviews by people in the Administration,  
22 Homeland Security people, because there is now and it's a  
23 fledgling still, which I think is still very important here  
24 with regard to Ms. Conley. There is now an attempt, and I  
25 think it's been going on for awhile, but fits and starts, and

1 how do you do it? Where do you do it? To what degree can it  
2 happen? There's this effort, concerted, and I applaud it, and  
3 I think this was part of it, an effort to figure out how to  
4 address these kinds of issues, and of course this stuff has  
5 redoubled since these last horrific bits of information we have  
6 learned about ISIS and the people flocking there, and concerns  
7 about all of that from this country and other countries, and  
8 frankly we were trying to get purchase, how do we find a way to  
9 get some sort of idea? Who can talk to her about where she is  
10 in this. I mean is she -- and this gentleman, Mr. Elibiary had  
11 worked in this area, actually knew at least one of the players  
12 who was involved in this, because of a longstanding connection  
13 with him. Had been involved with teaching the FBI agents. He  
14 made reference in that report to-

15           *THE COURT:* The player you are talking about is the  
16 agent.

17           *MR. PEPIN:* I'm sorry. That's right. The agent who  
18 came up from -- who -- who also -- this is part of what I  
19 learned, part of it talking to him, part of it reading on my  
20 own. The reality is that if you have someone who is  
21 radicalized, whose voice in the ear, whose vacuum in terms of  
22 knowledge, especially a convert, especially somebody who hasn't  
23 had any other real basis within the religion, isn't an  
24 emigrant, who comes here with a family of Muslims, who have  
25 generations of it, that there are these gaps in information, an

1 ability to learn. You don't have to go through a confirmation  
2 process. You don't have to go through some sort of Jewish --  
3 um ... absorption of the religion. You don't have to be  
4 confirmed. You don't have to have the Bar Mitzvah. You don't  
5 have to do any of that stuff. You say, I'm a Muslim, and you  
6 are a Muslim. There's a certain way to say it. It's the right  
7 way. It's one of the pillars of the religion. It's  
8 exceptionally important, but it doesn't take much more than  
9 sitting in front of the computer and reading the words, and  
10 then, without any basis of knowledge you sort of enter that  
11 world.

12           So the world at that point, for Ms. Conley, was filled  
13 by what was going on online, and what is going on online, and I  
14 have listened to some of the tapes, and what you have,  
15 Your Honor, is you have this world where there are people who  
16 know more than you, lots more than you, who are exceptionally  
17 well versed in how to communicate their perspectives, someone  
18 like Anwar al-Awlaki, for instance. He had 13 tapes or disks,  
19 or something, that talked about all of the different aspects of  
20 your life. Didn't even touch on jihad in those areas. All of  
21 these different aspects in your life. He talked about it with  
22 the FBI. Ms. Conley did. She told them that she had received  
23 these 13 disks about him from one of her friends. Those didn't  
24 deal with jihad.

25           Those dealt with, you know, what do you do in a

1 marriage? How do you live your life? How do you dress? How  
2 do you do this? How do you do that? How should you approach  
3 your religion? And it sounded exactly like the kind of guy who  
4 knew what he was talking about, and on top of everything else,  
5 spoke English, sounded like he was from the states? Very easy  
6 to understand. Much different, by the way, than many of the  
7 folks who were doing the teaching and leading the services in  
8 the local mosques, because many of them are, for all practical  
9 purposes, lay people, who have some knowledge, who are helpful,  
10 but they are working three jobs while running -- teaching the  
11 services, these imams.

12           So there's this filling of this vacuum with this  
13 information from someone like Anwar al-Awlaki. And so when he  
14 is then online, after you have already listened to his stuff,  
15 and he is, you know, putting stuff out through Inspire  
16 Magazine, which, I mean, you have seen a little bit about that  
17 in our pleadings, if nothing else, and he is talking about  
18 violent jihad, and he is talking about the necessity to go off  
19 and defend Muslims and what it's going to take, and that  
20 becomes -- that, and then you are talking to people online,  
21 because young folks are always online, always online, and  
22 that's where they are getting so much of their information, and  
23 that's what your base of information is, to have?

24           I mean, it's like you are sitting there in a -- in a  
25 tank, and to have a well-meaning FBI agent come up from Texas

1 for a day, and drop in and say, You shouldn't be looking at  
2 things that way. Here, look at these verses, and then you go  
3 back and you ask the people online about it. This is all stuff  
4 she told the FBI she did. And you ask people online about it,  
5 and they say, That's not how you look it. You look at it  
6 differently.

7           Now, how is it that what Mr. Elibiary is saying is so  
8 crazy that you need to be -- you need to have credibility, to  
9 be someone who can actually break through that tank wall.  
10 What's wrong with that perspective? I'm not saying that  
11 he should -- that you like the report, liked the timing of it,  
12 or anything like that, but the notion that he is -- that what  
13 he is saying is absurd; that somehow or another, sort of,  
14 laughing at the fact you have to be radical enough to be able  
15 to get through. You have to understand it. You have to have  
16 credibility. You have to not necessarily be a Government agent  
17 coming up for a day.

18           *THE COURT:* All right. Let me ask this, because  
19 there's something that you are not saying, and I recognize that  
20 you are not saying it, but, man, you are coming close, and  
21 that's this; there is this perception that if she was, out of  
22 naivety, stupidity, youth, all of the above, some of the above  
23 none of the above, came to believe that her religion said,  
24 "Okay, this is okay," that that means I should treat it more --  
25 I should treat her more favorably, and I'm sitting there and

1 saying, to myself, all right, your -- you may believe that your  
2 religion requires X, there may even be some species of religion  
3 that I'm not familiar with, that require -- that says you  
4 require X, that doesn't change it. The law is the law.

5 *MR. PEPIN:* No. No, Your Honor. And I am sorry --  
6 there is no way in the world I would say --

7 *THE COURT:* I know you are not saying it.

8 *MR. PEPIN:* I'm not trying to suggest it. I'm not.  
9 What I'm saying -- what I'm trying to say it fits in a much  
10 bigger picture, I think; and that is that I'm not afraid to  
11 talk about protecting the public, not supposed to be one of my  
12 areas, but I'm not afraid to talk about it, or how that fits  
13 with the deterrence or how that fits with her history and  
14 characteristics, and the facts and circumstances of this  
15 offense. I think it all fits into the package.

16 I think that one of the things that I keep hearing,  
17 and I don't know in the end maybe you will rely on it to some  
18 degree or another, is that she was told and she did it anyway,  
19 and I know that's against the law, and I understand there need  
20 to be repercussions. Our position is there has been a heck of  
21 a one, whether you let her out at this second or not, but there  
22 needs to be context of what we're looking at, of her history  
23 and who she is.

24 *THE COURT:* It's more than that. It is this strain of  
25 defiance that rolls through her life, I don't see changing yet.

1 It's not just, You were told. It's that you show up for the  
2 first meeting with the FBI, and either are -- decide to wear  
3 this T-shirt or don't remove this T-shirt, that says, Sniper,  
4 don't run. You will die tired. That's defiance. That's  
5 basically saying, I will meet with you, and you are just... go  
6 ahead, but I'm not going to hide what I am, and I don't care  
7 what you think.

8 Her parents tell her, You can't. It's not just the  
9 FBI. The FBI said, No, you can't do this. It's against the  
10 law, in unmistakable terms. I would rather go to prison than  
11 do nothing. Her parents say, You can't go, and it's not just  
12 she sneaks off; it's defiance, I'm going to leave the ticket on  
13 my father's desk so that he can see it. Screw you dad.

14 It's the psychiatrist picks up on it as antiauthority.  
15 There is this strain of defiance that is there, that precedes  
16 the conspiracy, and that to some extent continues now. I don't  
17 care if she doesn't like guards. That's not --

18 *MR. PEPIN:* I hope not.

19 *THE COURT:* That's nothing to me. But there is this  
20 curious, bizarre notion that -- look, I'm not saying that man  
21 is a teddy bear. I'm not even saying he is worthy of being  
22 liked, but when you know that the Government is taping and  
23 listening to everything that you are doing, everything, and  
24 reading every piece of mail, to be basically throwing names,  
25 defiance in his direction, don't need to get into the

1 particulars --

2           *MR. PEPIN:* Do you mind if I address that for just a  
3 minute?

4           *THE COURT:* I sure hope you do, because I'm not  
5 looking at this as necessarily involving this singular simple  
6 way to simplify question of, Is she a terrorist bomber? I  
7 probably could get to the end of that pretty quickly.

8           My question is, is there -- is there -- you are saying  
9 to me now, She is not what she was, and I see character and  
10 traits and things that -- that are on both sides of this and  
11 they concern me.

12           *MR. PEPIN:* Well, what I'm saying -- and I -- you  
13 characterize it correctly, although -- it's not -- it's not  
14 just that she isn't what she was. The things that she believed  
15 and articulated, she doesn't believe now. She has gone  
16 through, in nine and a half months, a growth process.

17           Your Honor, I know that when someone, for instance, is  
18 arrested, it may jolt them into a view. It may wake -- shake  
19 them and wake them up, and that's the way, sometimes, we think  
20 about those kinds of things with kids or with people charged  
21 with things. That's not what happened here.

22           What happened here is that basically some, like a  
23 creator or something reached thumbs under her skin, ripped it  
24 inside and out and left her body and soul wide open, and that's  
25 the change that has happened to her because --

1           *THE COURT:* Go ahead. I understand the emotion. Go  
2 ahead.

3           *MR. PEPIN:* This defiance thing, I understand what you  
4 are saying about the T-shirt and all of that, but here is what  
5 drives me crazy about this, I cannot begin to count, I'm sure  
6 they are countable, the number of hours Shannon Conley sat and  
7 talked to her parents on the phone. Hour after hour, day after  
8 day after day, on the phone, on the little video, I mean  
9 they -- it's all recorded. Every bit of it. Every stinking  
10 word is recorded. Every letter she wrote is recorded. And  
11 there's good things about that, and there's bad things about  
12 that. And the bad things about it are, that you know what if I  
13 am mad at you and go home and talk to my wife about it and use  
14 a name referring to you --

15           *THE COURT:* You may.

16           *MR. PEPIN:* -- you probably would expect it.

17           *THE COURT:* I would.

18           *MR. PEPIN:* And if I were -- if I felt someone had  
19 done something wrong to me or if I'm having a bad today or  
20 something else, and I go back to the office and complain about  
21 it to the person in the office next to me, you would expect it.

22           Shannon Conley is sitting in a jail for months and  
23 months and months and months, and talks to her parents for  
24 months and months and months and months, and writes letters for  
25 months and months and months; lots of them. And during that

1 period of time, there were times when she would be frustrated  
2 or upset and the course of conversation -- with her parents --  
3 would do a thing that apparently she is the only one who isn't  
4 allowed to do; and that is, to use a word or something to refer  
5 to a particular jailer, or to be upset because the prosecutor  
6 didn't -- didn't -- thought she needed to stay in jail instead  
7 of get out on bond.

8 I mean, I'm sorry, but the words that she used, and I  
9 said this in my pleadings, we've all done this for awhile, if  
10 that's the words she used, Holy bajoly. I mean, that's -- it's  
11 practically nothing by comparison. It's not out-and-out  
12 defiance. It's being frustrated; it's being upset; it's not  
13 being happy with a particular situation. The guards have  
14 complete control over your life, and so if she ends up talking  
15 to the people she can talk to about that, because everyone is  
16 listening to exactly what every single word she is saying, then  
17 she gets whacked up the side of the head. It's labeled  
18 defiance. I understand its in context of previous stuff, I get  
19 that, but it's labeled defiance, and it fits the same way with  
20 other aspects of this whole situation.

21 I mean, for instance, I don't know, I mean,  
22 fraternizing with criminals in jail. Getting along with them.  
23 I'm sorry, but please.

24 *THE COURT:* And look, I get that, but you are missing  
25 the point that I'm making, which is, defiance has been a part

1 of her fabric for a long time. And in the context of this  
2 crime, and that degree of the defiance, it is concerning. She  
3 has been defiant before this. She has done things with her  
4 family that showed defiance. This is not the exceptional act;  
5 the aberrational act. This is Shannon being defiant, yet  
6 again. And so why should I believe that this defiance all of a  
7 sudden washed off like dirt from a shower.

8           *MR. PEPIN:* It didn't wash off, Your Honor. It was  
9 yanked off of her. I mean this -- she has -- what has she  
10 experienced before like this? I mean what -- I understand that  
11 there was a time when she had -- I mean there was reference to  
12 a comply, for instance, with the mental health stuff.

13           *THE COURT:* Yeah.

14           *MR. PEPIN:* We all know the influences there. There  
15 were multiple, right? And so you know there's -- there are --  
16 there was no such thing as a Court Order. It was voluntary.  
17 It was all -- all of that stuff. Please --

18           *THE COURT:* The runaway?

19           *MR. PEPIN:* Yeah. I mean there are runaways. I'm not  
20 saying there wasn't defiance. What I'm saying is the place she  
21 is in right now -- I mean the other thing is this, in 43 pages,  
22 that's just Dr. Bograd's part, that's not Dr. Post's part of  
23 the psychological evaluation, in 43 pages, her soul was laid  
24 bare. I mean she got confronted with it right upfront.  
25 Frankly, with a woman that she liked, and dealt with her for a

1 number of hours. And in spite of the fact -- well, I mean  
2 number one, it talks about that report. Talks about defiance  
3 and vulnerability and steps that need to be taken to deal with  
4 it.

5 *THE COURT:* And there's a species of defiance and  
6 manipulation telling people, Don't worry about it. I'm not  
7 going to show my hatred to the psychiatrist.

8 *MR. PEPIN:* But I'm going -- right now I would like to  
9 address that if I can, Your Honor, because let me tell you  
10 where that came from, and I'm, frankly, furious about it.

11 *THE COURT:* All right.

12 *MR. PEPIN:* Here is the situation, the things that  
13 people were looking at, and those multiple things they were  
14 looking at, and the letters and things they were looking at,  
15 they included the reference that Shannon made, to me, going to  
16 her, after I had seen how frustrated she got with the guards  
17 and stuff, and counseling her like I would my 19-year-old  
18 daughter about how, If you are going to be talking to people,  
19 don't let the frustrations of your day, you know, whatever is  
20 upsetting you, get the best of you and you start throwing a  
21 fit. She had gone in and talked to Mr. Holloway and was upset  
22 about her handcuffs and the name on them, kind of gave a little  
23 hissy, I was explaining to her she shouldn't do that. That's  
24 what she was talking about. And frankly, I understand that  
25 everyone -- people are latching on to those things. But that

1 was not her saying I'm going to try and trick the psychologist.  
2 I mean it was not it at all. That's where that came from. I  
3 was the person who said it.

4           *THE COURT:* Okay. What am I to do with this, frankly,  
5 obsession with the military, which no one talks about? And let  
6 me lay it out for you so you know exactly what I'm talking  
7 about, then you can come back at me.

8           *MR. PEPIN:* You bet.

9           *THE COURT:* I look at this, and I say, Hm, one time  
10 she wanted to be a law enforcement person, okay. Kids want to  
11 be all kinds of things. I get that. Then she tried to join  
12 the military, or at least expressed an interest in trying to  
13 join the military. Then that doesn't work, because they, as I  
14 understand, won't let her wear the hijab. Then as a substitute  
15 for that, she joins the Army Explorers, which I tend to agree  
16 with you is sort of Boy Scouts with big ambition, but  
17 nonetheless, it's all that's open to her.

18           Then she ends up wanting to go over to Syria, and  
19 perhaps it's because his interest in jihad is the same as hers.  
20 But in another respect, he is attractive to her, because he is  
21 a soldier.

22           And even now there are these odd, odd comments that  
23 she makes. You sign, Letters Behind Enemy Lines. It's  
24 bizarre. And in one of the letters that you gave me, she said  
25 the following, I love studying religion, language and other

1 cultures. I yearn to travel the world and bring back to my  
2 community ways I have found to improve their lives. I have a  
3 fulfilling interest in teaching what I know. To knowledge  
4 hungry students. And here is the part that I find strange, And  
5 I find the moral integrity of the 40s/50s and military training  
6 comforting.

7           First, the 40s and 50s, I can look at that a couple of  
8 different ways, but make no mistake it was the time of massive  
9 war. It was also a time that makes me scratch my head because  
10 things that she does not believe in, many of them came into  
11 fruition during that time period. For example, there's the  
12 protection of Muslim lands, I think the Shaw of Iraq was  
13 installed in that timeframe. I know that the State of Israel,  
14 about which she has had some comments, was established and  
15 recognized in that timeframe. I could also look at it as the  
16 black and white of Hitler versus the United States, as perhaps  
17 that's what she is talking about; but Military Training  
18 Comforting?

19           MR. PEPIN: Well --

20           THE COURT: You want to tell me what that means?

21           MR. PEPIN: Well, I -- I don't know for sure what that  
22 means, but let me, if I could, you know a little bit about my  
23 background.

24           THE COURT: I do.

25           MR. PEPIN: That is, I mean, I know that you were not

1 raised in a military household, I was. I'm an Army brat, as  
2 you know.

3 *THE COURT:* I'll give you the brat.

4 *MR. PEPIN:* Well, and it fits. And I spent a little  
5 time in the Army myself, respect it, and know -- grew up  
6 constantly -- I mean constantly grew up my entire childhood  
7 with people who knew, loved and believed in the military  
8 culture, the discipline, the order, um, some of them, I  
9 suppose, the whole rah-rah bit. Some of them like the flag.  
10 Some of them just like the uniform. Some of them like to marry  
11 a guy in uniform. My mother was married to a man in a uniform  
12 for the 30 years that he wore it.

13 So I personally don't find this as troubling or  
14 interesting, generally; but I understand that there is this  
15 question as to, How does a girl from the suburbs in Denver,  
16 kind of, get this interest?

17 *THE COURT:* There's other stray pieces. If you  
18 remember in the early days she is wandering -- not wandering  
19 around. She wants to have a -- was it Saudi Arabia? It was  
20 Saudi Army --

21 *MR. PEPIN:* Fatigue shirt or something like that.

22 *THE COURT:* T-shirt or jersey, whatever the  
23 appropriate term is. As you noted I'm not an Army Brat, so I'm  
24 not sure that I necessarily got it. But, you know, look, at  
25 the end of the day, I'm not sitting here making simple

1 decisions of going, Hm, she is a Jihadist. She is a terrorist.  
2 I'm looking at her across a spectrum of time and finding these  
3 things that led her into trouble, and finding that those are  
4 longstanding, deep-rooted things, and why should I just say,  
5 Uh?

6           *MR. PEPIN:* Well, I don't know that you just say, Uh,  
7 Your Honor, but I do think we put it in the context of the  
8 psychiatric report and address the situation that way. If  
9 that -- if that is a concern. I don't know exactly where they  
10 fit. I -- I think that --

11           *THE COURT:* But I can't put it in the context of the  
12 psychiatric report because I'm talking about things that nobody  
13 else talked about.

14           *MR. PEPIN:* Not specifically the military thing,  
15 that's correct. I don't know -- I don't know where you put  
16 that. And -- and I -- there is an order. There is -- the  
17 comfort in the discipline. There is a -- a camaraderie, during  
18 much of her life she didn't have, just because she didn't have  
19 those kinds of relationships with people that you find in the  
20 military, that some people can find nowhere else in their  
21 entire life.

22           There are -- there are set systems for living, and I  
23 mean, you know, you live on bases, and the bases have places  
24 you go to eat and you do whatever. There are all kinds of  
25 things that draw people to these perspectives, not to mention,

1 to some degree, not looking for a guffaw here, but patriotism.  
2 You know, a sense of being a part of something that matters.  
3 And I personally don't find it that unusual. I sure hope it  
4 doesn't mean she gets a jail sentence, or doesn't get a jail  
5 sentence, because of her interest in the military. I know  
6 that's not what you are saying, but I don't -- I don't know.

7           *THE COURT:* What am I to make of this disavowment of  
8 jihad, which, frankly, is more understandable coming from you,  
9 than it is from her. Again, let me explain.

10           It's curious to me that the disavowment, or  
11 disavowing, whichever the appropriate verb, doesn't occur when  
12 she is arrested. And it doesn't occur when she is in Denver  
13 County Jail, in fact, the information that I have is that  
14 someone there goes to mentor her or talk to her about her  
15 religion, and that person then becomes concerned, because what  
16 she wants to talk about is violent jihad, and this woman is  
17 very uncomfortable with it, and then when she leaves Denver  
18 County Jail, other women, Muslim, in Denver, go to the mentor,  
19 and say things like, She was trying to talk them into accepting  
20 her belief.

21           *MR. PEPIN:* I --

22           *THE COURT:* And then I look at this disavowment as  
23 occurring, only when -- because the end of June is not an  
24 irrelevant date, only when the lid is lifted on this case, is  
25 no longer sealed, and now, all of a sudden, people are

1 espousing their dislike for her. Part one.

2           Let me give you part two. Part two is that she tells  
3 Dr. Bograd... give me a second to get this thing to pop up...  
4 that she doesn't believe in offensive jihad. Now she believes  
5 it's defensive. By that, she means an enemy is clearly  
6 defined, enemy, and if that enemy is attacking you physically,  
7 then you can respond in self-defense, and of course that is  
8 meant to be a step back. Certainly was perceived by Dr. Bograd  
9 as a step back from where she was.

10           *MR. PEPIN:* It's a huge step back, absolutely.

11           *THE COURT:* When she was talking to the FBI, quote, it  
12 is okay to attack westerners when engaged in defensive jihad.

13           I'm not even sure what she is saying anymore. I have  
14 never heard jihad as personal self-defense.

15           *MR. PEPIN:* Well that's -- that would be --

16           *THE COURT:* Countries, okay. But, Hey, I don't  
17 believe in offensive jihad, back when she is talking to the FBI  
18 it says, Killing westerners in defensive jihad, and in the  
19 context in which those conversations with the FBI we're talking  
20 about, it was again this notion of protection of Muslim lands,  
21 and if I'm going to sit here and say, Okay, well, what am I to  
22 do with the fact that the United States is currently involved  
23 in Afghanistan and Iraq, and engaging in missions against ISIS  
24 and others. Well, isn't that actual attack? I mean, is this  
25 just gobbledygook or just an attempt to draw lines that are

1 gossamer thin and have no meaning?

2 *MR. PEPIN:* Well, I think, and --

3 *THE COURT:* I will now shut up.

4 *MR. PEPIN:* They are both very different, I think,  
5 things.

6 So, let us -- this is going to require some -- some  
7 background and some history, that you don't know, and so since  
8 you brought it up I'm going to have to go into it.

9 Regarding the incident at the jail, we found, because  
10 I told you we were scrambling like crazy to try to find someone  
11 who would talk to Ms. Conley about Islam. One of the things we  
12 learned is that one of the most underserved populations, in the  
13 local jails anyway, are Muslim women. We found a woman who  
14 was willing to go into the Denver County Jail, and to counsel,  
15 to basically be a -- the -- um -- the religious mentor,  
16 contact, someone --

17 *THE COURT:* I get it.

18 *MR. PEPIN:* Okay. To do this we had to go through the  
19 chaplain at the jail. I have laid out, sort of, the problems  
20 we had dealing with trying to get religious things to her and  
21 all of that, but we went to the chaplain at the jail. He was a  
22 new chaplain. New guy. Good guy. Ms. Morgan-Sherman did a  
23 lot of the work hooking that up, and this woman went to the  
24 jail and started working, meeting with -- met Ms. Conley and  
25 met with a couple of the other women there, as well.

1           Ms. Conley -- I mean, this has to be viewed in the  
2 context of this. Ms. Conley was in jail. She did not -- she  
3 did not the second she was arrested on the tarmac at DIA, jump  
4 back and say, Okay, I reject jihad. I disavow it. That  
5 notion, I mean, that's just silly, because we are talking about  
6 somebody who has had this poured into them, and that's what  
7 their belief system is.

8           *THE COURT:* It's less silly for somebody who has had  
9 these epiphanies multiple times in her life. A priest walks  
10 down the aisle and all of a sudden she has an epiphany where,  
11 immediate change, to Catholicism, which was after she was going  
12 to be a Hasidic Jew, she was going to be a Catholic, now she is  
13 a Muslim, and she had an epiphany -- or at least she was  
14 studying those different religions in sequence, and then she  
15 had an epiphany watching television, for God sakes, and all of  
16 a sudden the skies opened up and God spoke to her. So the  
17 notion that this woman having an epiphany is not as absurd as  
18 the notion of you and I having an epiphany.

19           *MR. PEPIN:* Maybe not. I'm hoping that you don't  
20 believe that there's a likelihood of that, because that would  
21 have been manipulative.

22           *THE COURT:* Oh, I agree.

23           *MR. PEPIN:* Okay. So no one would talk to her about  
24 jihad. She is getting these things stuck in her head and  
25 people wouldn't talk to her about it. There are systems set up

1 in the Islamic communities. It's not someone who can sit there  
2 and tell them this is how you are supposed to approach what  
3 Mr. al-Awlaki is saying. There weren't systems set up for  
4 that, and she was dying to talk about what this stuff was. And  
5 so here this woman came in, who sat down with her, talking  
6 about other aspects, and one day, when the other women had  
7 left, Ms. Conley pulled her aside and said, Can we talk about  
8 jihad? And the woman, imam, got very concerned. She didn't  
9 know what would or would not be something that would be a  
10 problem. This is not something that people in her community  
11 like talking about, which is part of the problem. And so she  
12 went to the chaplain, and when she went to the chaplain, she  
13 said I have got this concern. The chaplain called the FBI.  
14 The FBI did what they are supposed to do, but now they are  
15 going and talking to these people at the jail who are supposed  
16 to be the religious mentors or contacts for Ms. Conley.

17 We talked, Mr. Morgan-Sherman and I -- I'm just --

18 *THE COURT:* No. Just give me one second.

19 *MR. PEPIN:* Okay. Thank you.

20 *THE COURT:* As I said, there's so many pieces of  
21 paper, sometimes takes me a little longer than I want to, to  
22 find where I want to be. Okay go ahead, sir.

23 *MR. PEPIN:* Thank you. So we, after this, of course  
24 we read this, when we got the reports, and we were upset about  
25 it on two levels; one, we were concerned about what may have

1 been said by Ms. Conley; and two, we were concerned, frankly,  
2 that we had sent someone in who ended up reporting stuff to the  
3 FBI that we didn't think really fit in that context.

4           So let me first tell you that that particular  
5 advisory, you may remember when Ms. Conley entered into a plea  
6 there was a woman wearing a hijab, a head scarf. That's who  
7 she was. She came in support of Shannon Conley. That was long  
8 after Ms. Conley was in the county jail. The imam had come --  
9 she came to our office, sat down and talked to us, she said, in  
10 fact, and I am paraphrasing, and Ms. Morgan-Sherman can tell me  
11 if I'm wrong here, but that basically there was no indication  
12 from anyone that Ms. Conley was trying to press with these  
13 other people who are supposed to come to her, she was trying to  
14 press anybody into believing jihad. In fact, she had come to  
15 her and was asking questions about it. It made her feel very  
16 uncomfortable. It wasn't a waving the flag. So, I mean I  
17 understand that that report is there --

18           *THE COURT:* I know what it says, right, which is,  
19 After Conley's transfer, the other Muslim female inmates at  
20 Denver County Jail told the woman that Conley tried to convince  
21 them to agree with Conley's type of Islam.

22           *MR. PEPIN:* That's right, that's what it says and you  
23 know what that meant? What that meant is, she believes you  
24 should pray when you are supposed to pray five times a day.  
25 Not jihad. Your Honor, I'm telling you --

1           *THE COURT:* I am rolling my eyes, because you read  
2 this, the context of this report is about jihad. It's not  
3 about praying five times a day.

4           *MR. PEPIN:* That does not say jihad on there, though,  
5 does it? It does not say it. So what you have is this, in the  
6 community, generally, I mean like the community in jail,  
7 Ms. Conley has repeatedly run into people who say they are  
8 Muslim. Some of them learn to be Muslim in jail and then their  
9 adviser left and went off to wherever else or something like.  
10 Some of them went to -- or just had never, ever participated in  
11 the role. Some of them don't know how to pray, or aren't  
12 praying when they are supposed to, or aren't eating the things  
13 they are supposed, or aren't getting the kosher meals they are  
14 supposed to, and this is an issue with her, and she would talk  
15 to them about it, and that's the kind of information that was  
16 being passed on. It was not jihad, and that's why it doesn't  
17 say jihad, because it wasn't. And that's what imam confirmed  
18 with Ms. Morgan-Sherman and I, in our office, face-to-face.

19           *THE COURT:* Those women told Conley to calm down.

20           *MR. PEPIN:* Quit telling us to pray.

21           *THE COURT:* They would have told her to calm down  
22 because she was talking about praying?

23           *MR. PEPIN:* Yes, absolutely. Quit complaining to us  
24 because we are not getting up and praying at 5 o'clock in the  
25 morning.

1           *THE COURT:* What am I to -- okay. What am I to do  
2 with the fact that there are things about her that make me  
3 think she doesn't get it?

4           *MR. PEPIN:* What would those be, Your Honor?

5           *THE COURT:* She is drawn to attention. She is a,  
6 look-at-me girl. I'm sure you weren't real happy with what  
7 happened yesterday? With the interview that --

8           *MR. PEPIN:* Would you like to hear the story about  
9 that?

10          *THE COURT:* I want to give you that, everything else,  
11 I want to give you the opportunity to respond.

12          *MR. PEPIN:* Absolutely.

13          *THE COURT:* This is what I mean by she doesn't get it.  
14 She writes this letter that you give me that says that -- that  
15 talks about again --

16          *MR. PEPIN:* Is this one of the letters to someone  
17 else?

18          *THE COURT:* It's going to take me a minute. Hold on.  
19 Because I want to get it right. This is the letter that she is  
20 writing to her mother, and she is talking about her career  
21 plans. The first thing I mention, but just mention and say I  
22 didn't overreact to it, I just kind of cocked my head a little  
23 bit saying, really, career plan for 2014 slash 2015, whenever  
24 I get out.

25          *MR. PEPIN:* Yeah.

1           *THE COURT:* 2014, 2015, yeah. You know, I'm going to  
2 presume that I'm going to be released.

3           *MR. PEPIN:* There's no presumption, Your Honor. These  
4 are hopes in trying to plan. We spend, I don't know how much  
5 time on my side of the aisle, and I think on the bench, trying  
6 to convince people that they need to be looking forward in  
7 their lives and try and plan their lives. That document, the  
8 one I think you are referring to, is an exceptional indication  
9 of her attempting to do that. In fact, she may say 14 or 15, I  
10 just really don't get as being a negative.

11           *THE COURT:* What about the letter to her friend? I  
12 have been moved to Jefferson County Jail, in Golden, because  
13 Denver County doesn't want to be liable for me anymore.

14           After my story hit the news, the pod I was in went  
15 ballistic. Half knew me long before the story came out, so  
16 they stood by me and defended me, when the quote, all American,  
17 unquote inmates, shook their fists at the sky and screamed to  
18 the high heavens that terrorism was against the American way  
19 they know and love, dash, roll eyes, dash, the dumbest reason  
20 to dislike someone I have heard yet.

21           Now, you and I both know that the codes and morals and  
22 all of the rest of it in prisons are a little different, but  
23 you're charged with what everybody is calling an act of  
24 terrorism and you mock them? How am I supposed to feel that  
25 she gets it? You mock them, and call it stupid, to not like me

1 because I might be engaged in terrorism. How am I supposed to  
2 feel that she gets it, when she is saying, frankly, stuff that  
3 is so stupid when you know that the FBI and everybody else is  
4 watching and recording everything that's being said, she  
5 doesn't get it. She just doesn't get it. Or I don't get it.

6           *MR. PEPIN:* Boy, Your Honor, I have got to say, of all  
7 of the things I thought you might latch on to, you are right,  
8 never occurred to me that her writing a letter to her friend  
9 and talking about the fact that some inmates that she had known  
10 support -- didn't let the other ones get to her, which we all  
11 know happens in jail all the time, and that they were yelling  
12 and screaming and stuff, and that she had a reaction to that,  
13 that she wrote about in a personal letter to somebody, I just,  
14 I'm sorry, I just don't -- I don't see how that's evidence that  
15 she doesn't get it. I really don't.

16           *THE COURT:* What is the evidence that she does?

17           *MR. PEPIN:* Well, it is -- it is lengthy.

18           *THE COURT:* And --

19           *MR. PEPIN:* Well, it's -- depends upon what you mean  
20 by get it. If her talking about another inmate, I mean -- it  
21 is not -- it is not evidence that she -- somehow evidence that  
22 she doesn't get it. I mean -- can I back up for just a second?  
23 Because somewhere rolling around inside what you are thinking  
24 about has to do with this interview, I'm the look-at-me girl,  
25 and I have got to tell you there's nothing further from the

1 truth, and here's why. Okay. I don't know, did you read the  
2 whole story online?

3 *THE COURT:* No.

4 *MR. PEPIN:* Let me just suggest to you that if you do,  
5 you will see a couple of things. Number one, we have received,  
6 I cannot begin to tell you, the number of requests for  
7 interviews, from --

8 *THE COURT:* I believe you.

9 *MR. PEPIN:* And from places I would have never  
10 thought. Japanese public television is interested in this. I  
11 guess I'm not really sure. You make the list though. They  
12 have included requests from a particular reporter who would --  
13 and I wouldn't talk to her, and she is the one who generated  
14 the thing you saw. I wouldn't talk to her and Ms. Conley  
15 wouldn't talk to her, and her family wouldn't talk to her and  
16 that was communicated to her multiple times.

17 A few months ago -- let me just tell you something  
18 about the screens at the Denver County Jail and how you go  
19 visit if you are doing the Skype thing they have got going on  
20 now. Is you go in and apparently you can sign up and come in  
21 and visit someone, and the person inside doesn't know it's you.  
22 They don't know who it is. So if you schedule something with  
23 your mom and dad to come and see you, then you know that they  
24 are coming. But otherwise, it's just, you get a visit, and you  
25 go and you plop down, and then there it is, a name that pops

1 up, and then boing, a picture. Guess who popped up? It's that  
2 reporter. This is several months ago. It's that reporter.  
3 Ms. Conley shut her down immediately. Didn't hear a word about  
4 it. It just went -- I considered it to be sneaky and trying to  
5 take advantage of a 19-year-old girl. I was furious about it,  
6 and frankly, didn't think that someone would do such a snide  
7 little thing again. But, yesterday I go to see Ms. Conley, and  
8 she says, Guess who popped in this morning? Guess who popped  
9 in? And it was that reporter, again. Bing. And this time  
10 there ends up being a report generated, claiming she granted an  
11 interview, which she hadn't. She had this spring on her this  
12 way. And that she -- the one -- this was a question about the  
13 name that she used, and she told the lady her name, and the  
14 woman asked her about her hair, which at the moment was  
15 plaited, so that it would be curly the next day, and -- and  
16 then that was that. That was that. That was the interview,  
17 that she gave. And then it's full of a bunch of other stuff,  
18 including how one of the things that Ms. Conley said to her  
19 yesterday was, I'm not going to talk to you, I'm feeling too  
20 vulnerable right now, and didn't you get the message the last  
21 time? They actually reported that, which was honest, little  
22 surprising, but honest. That is not Ms. Conley being the  
23 look-at-me girl. I know she was wearing rows --

24           *THE COURT:* Fair enough. Let's not get all incensed  
25 about the fact that I say that she is attracted to attention

1 like a moth to flame. The psychiatrists say that. The  
2 psychologists say that. This person wants attention, and when  
3 you want attention, I don't know where the limits of that  
4 attention-seeking desperation go.

5 *MR. PEPIN:* I understand. It was an example, not the  
6 fact that you say it generally.

7 *THE COURT:* Fair enough. Fair enough.

8 Why does she think Mouelhi is a good man?

9 *MR. PEPIN:* Um --

10 *THE COURT:* Because in the presentence interview, I --  
11 mean look, I have never met the guy. He is not a good man.  
12 Doesn't take a whole lot of reasoning to come to that  
13 conclusion. But I disavow this, I did avow that, but he is a  
14 good man. No, he is not.

15 *MR. PEPIN:* Well, can we go back to -- to what she was  
16 headed, what she was going to do. Okay. And I know there's  
17 all of the rhetoric. And I know there's all of the Jihadist  
18 talk and all of that that occurred during those nine meetings  
19 with the FBI.

20 Among the things that she said to the FBI at that last  
21 meeting, and I have referred to that in my documents, and it's  
22 recorded, it's where I got it, it's recorded, was,  
23 specifically, that, you know, I don't know that much about  
24 ISIS. I'm not that interested in the organization. I'm going  
25 for the man. That's what she said. She was going to go marry

1 this guy. I wouldn't consider -- you can think it's flaky,  
2 because there's been several times, you can think whatever you  
3 want. But that was what she was off to do. That was her  
4 bottom line, was to do that, and if it meant supporting his  
5 cause, fair enough.

6           She had spent time online with this guy. I have  
7 problems with things that he was asked to, like, bring money,  
8 and I know that's against the law. She said no, and he said  
9 fine. You know. She -- they had talked for hours. You know,  
10 communicated for hours, and this was a person who was coming on  
11 to her as -- coming on to her, I suppose, is one way of putting  
12 it, but basically was a person who was someone who she believed  
13 that she could marry and would have consistent beliefs about  
14 Islam with, more than jihad, Islam; being pious, generally.  
15 And that was her belief, and she had, in terms of him  
16 specifically, and what specifically he was doing, I think he  
17 was grooming her, personally. I don't know exactly what for.  
18 I don't know what would have happened to her when she got over  
19 there. It could be that he was the most nefarious human being  
20 on the planet. Could be he is some schmo soldier, in the midst  
21 of, you know, you are going to have your really bad guys, and  
22 halfway decent guys all fighting on the same damn side.

23           I mean, I hate to bring it up, but look at Germany.  
24 There are folks -- it's all bad, but there's your line  
25 soldiers. And so that's her sense, generally, in terms of just

1 as a person, doesn't feel he is a bad person, that's what she  
2 thinks.

3 *THE COURT:* All right. But understand that that ship  
4 doesn't make it all the way across the lake in my view. I  
5 mean, at the end of the day, she has disavowed jihad, he is an  
6 avowed Jihadist. He is part of ISIS. Not the ISIS she knew  
7 then, but the ISIS she knows now, and she calls him a good man.

8 *MR. PEPIN:* Yeah.

9 *THE COURT:* And I sit and I say, What is wrong with  
10 her? Does she get this? And I am not sure that the answer is  
11 yes.

12 *MR. PEPIN:* Well, and I say, Your Honor, that even  
13 those of us with lots of years under our belt, have run into  
14 lots of circumstances where there's somebody who we know and  
15 who we like who has done really bad things, really bad things,  
16 and who the world may feel are horrible, and I just don't know  
17 that it's so simple as saying, Well, she should realize that  
18 he -- that he is a horrible human being, just because he is  
19 necessarily a member -- for all I know the guy is a -- you know  
20 a courier.

21 *THE COURT:* She disavows jihad but doesn't disavow  
22 Jihadists?

23 *MR. PEPIN:* You mean a Jihadist, which is I think --

24 *THE COURT:* That she knew for maybe a month or two on  
25 Skype.

1           *MR. PEPIN:* You -- Your Honor.

2           *THE COURT:* Come on.

3           *MR. PEPIN:* I still haven't bought into the notion of  
4 Internet dating. I mean, come on, I understand, but let's --  
5 there is a -- there's two things going on --

6           *THE COURT:* You are married. You don't need to  
7 understand Internet dating. Go ahead.

8           *MR. PEPIN:* I don't need to.

9           *THE COURT:* You are married.

10          *MR. PEPIN:* I'm certainly married.

11          *THE COURT:* Char would have some objection.

12          *MR. PEPIN:* She would have some objections, but the  
13 concept I'm not sure I understand all that well. But, I think  
14 that what we have is a couple of different aspects here; one,  
15 you and I did not grow up in a system where there was a -- some  
16 sort of arranged marriage, or any sort of marriage or  
17 relationships that really developed outside of knowing someone  
18 personally, and that's different, I'm not going to say for  
19 every Muslim, but it's certainly different in the culture,  
20 generally, that's the first thing.

21                 Second thing is, you know, you have these Skype  
22 relationships, Internet relationships, in-depth ones, people  
23 believe cheating by Tweet, all of these things are concepts  
24 that are out there, and I -- I believe it's too simple to say,  
25 Boy, this sure sounds ridiculous. Is it indicative of a number

1 of things that we hope will be addressed, and that hopefully  
2 this whole experience has helped her to address? But her,  
3 honestly, turning to that psychiatrist and saying, you know,  
4 that man has put me in all of this --

5 *THE COURT:* She said it to the probation --

6 *MR. PEPIN:* I'm sorry. You know, I was there. I --  
7 that's right. She did say that. But, you know, I -- it's -- I  
8 don't see that as a horrible thing. I think it's  
9 understandable.

10 *THE COURT:* I didn't say it's a horrible thing. I  
11 just said it makes me doubt that she gets it.

12 *MR. PEPIN:* I just don't ... I understand you are  
13 saying that. I know it's coming from --

14 *THE COURT:* Look, I want to marry Charlie Manson,  
15 okay. There's someone that actually wants to do that.

16 *MR. PEPIN:* Yes.

17 *THE COURT:* Do I think that person gets his crime?  
18 No. Do I think she gets it? No.

19 *MR. PEPIN:* Your Honor --

20 *THE COURT:* You can't be on both sides of some issues.  
21 There are many issues you can be, as I said, you can have a  
22 picket going where pickets don't normally go, by having one  
23 foot on one side of fence, another foot on the other side of  
24 the fence. But this -- this is a tough one to be on both sides  
25 of.

1           MR. PEPIN: And I do not think -- I just cannot agree  
2 that that is what this says. What this --

3           THE COURT: Alone, perhaps not, but you combine it  
4 with mocking people, who profess, whether it's overdone or not,  
5 to be -- that terrorism is against the American way, and you  
6 go, roll my eyes. And you know that the FBI is looking at  
7 this. How can you tell me she gets it? You say that the  
8 notion -- the evidence that she gets it is long, show it to me.

9           MR. PEPIN: Well here -- here is what I --

10          THE COURT: But.

11          MR. PEPIN: Okay.

12          THE COURT: But this woman here is going to assault me  
13 if I don't give her a break. So let's take 15 minutes, come  
14 back, and you can pick it up there.

15          MR. PEPIN: Thank you, Your Honor.

16          THE COURTROOM DEPUTY: All rise.

17          (Recess at 3:34 p.m.)

18          (In open court at 3:46 p.m.)

19          THE COURT: Please be seated.

20          MR. PEPIN: Your Honor.

21          THE COURT: Floor is yours, and I promise.

22          MR. PEPIN: The floor is mine. I don't know what to  
23 do with it by myself.

24          THE COURT: Well, I was going to say, I promise not to  
25 interrupt, but I'm not sure I can keep that approach, but we

1 will try. Go ahead.

2           *MR. PEPIN:* I'm sorry. I was just looking for  
3 something in the letter you referred to earlier where there's  
4 the reference to the -- half the inmates being --

5           *THE COURT:* Take a minute. It's fine.

6           *MR. PEPIN:* Thank you. I have found that, and I  
7 wanted to make sure that what Ms. Conley told me was -- it was  
8 accurate. I know she believed it to be, but I wanted to make  
9 sure. You used air brackets -- or air quotes, when you  
10 referred to, and I wasn't sure it was actually written down in  
11 that way.

12           *THE COURT:* It was.

13           *MR. PEPIN:* Well, it was, and that's -- so here is the  
14 dynamic, and it's all part of this entire thing about her being  
15 in jail with people who are charged with offenses and the like.  
16 So she was -- they had her in a fairly high-security section in  
17 the jail, half of the people she got along with, and a bunch of  
18 them were as mean as they could be to her, and all of them had  
19 bad records. So basically they had been going out, causing all  
20 kind of offenses. I'm not going to argue about the  
21 seriousness, but talking about drug offenders, sex, drugs and  
22 rock and roll, whatever, and the irony that they would be there  
23 screaming at her about how she was a terrorist, as if they were  
24 some sort of all American group, in quotes, which is how she  
25 wrote it, is what she was referring to, which makes some sense

1 and what you have here is it's this whole dynamic that goes on  
2 in a circumstance like this. I mean, we're talking about  
3 someone whose -- plays in a variety of ways, with regard to  
4 jail, when you have the someone who really doesn't have that as  
5 part of their world. They are cast in a world where that's all  
6 around them. Do you make friends? Do you not make friends?  
7 Do you relate to people? Do you not? I'm not going back into  
8 that whole thing that I got so upset about in my pleadings, but  
9 I -- it is all part of that dynamic. We have people who are  
10 preaching to you, who are out selling drugs and committing  
11 robberies and all of that. And so I think if we're talking  
12 about the question of does she get it and that being  
13 representative of the fact that she didn't, I don't think it  
14 does. I mean, what it does is it's a reflection of the life  
15 she is living in jail, and frankly was learning during that  
16 time.

17 *THE COURT:* "Dumbest reason not to like somebody."  
18 Because they think you are a terrorist. Really?

19 *MR. PEPIN:* And I don't know, Your Honor, we're  
20 talking about -- had she turned 19 yet. She was 18 when she  
21 was arrested, 19 years old, writing to a friend of hers. I  
22 mean I -- I'm sorry, I just -- I'm having the most difficult  
23 time believing that somehow or another that is dispositive or  
24 even --

25 *THE COURT:* I didn't say one thing was dispositive.

1 But what you are saying here is, I feel like I'm watching an  
2 Arthur Murray commercial, and I am dating the hell out of the  
3 myself.

4 *MR. PEPIN:* Holy moly, Your Honor.

5 *THE COURT:* Because the feet, they are a moving  
6 awfully fast. But on the one hand, you know, all the things  
7 that are -- that are problematic, are the problem -- are the  
8 product of something else. It's the Internet, as if you -- as  
9 if I were to Google the word Muslim and the only thing that  
10 pops up is the word jihad.

11 *MR. PEPIN:* I'm not doing that.

12 *THE COURT:* It's, Well, she got tricked by this guy.  
13 Well, she just didn't understand prison. Well, she just didn't  
14 understand the FBI, and then it gets compounded with,  
15 Mr. Elibiary saying, They didn't know what they were doing.  
16 What is it where she gets it, where she says, I screwed up, and  
17 I was wrong; not that I was confused, I was wrong, and it  
18 doesn't matter whether her religion or her religious beliefs  
19 led her to believe that you could support terrorism. You  
20 can't. No reason --

21 *MR. PEPIN:* You mean, other than coming in here and  
22 doing it, because that's what she is here to do. She has pled  
23 guilty.

24 *THE COURT:* We will see.

25 *MR. PEPIN:* And I am telling you, and I will prove it.

1 When the time comes. The proof of the matter is, Your Honor,  
2 you know what we have, I understand she wrote letters, upon  
3 letters, upon letters, upon letters. The FBI read them, read  
4 them, read them. Wrote letters to friends, read them, read  
5 them, read them. She communicated with people that she had  
6 been in jail, read them, read them, read them. There were a  
7 couple of fan mails, she responded to those before she shut  
8 those down, because she didn't think it was appropriate. She  
9 worked through workbooks. Everything that everybody has read,  
10 everything, everything, except, and I just was not anticipating  
11 that her being upset that people were calling her a bunch of  
12 bad names was going to be pivotal.

13 *THE COURT:* You are -- you are twisting the way I view  
14 it.

15 *MR. PEPIN:* I'm not meaning to twist it.

16 *THE COURT:* It's okay. I understand. It's not that  
17 people were calling her bad names, it's that she is mocking the  
18 concept. Quote, All Americans. That's a stupid reason to  
19 dislike me. I mean, you and I may just see this very  
20 differently.

21 *MR. PEPIN:* Well I think so, because people -- like to  
22 think that people might like them, not because they are charged  
23 with terrorism, but because they are a person.

24 *THE COURT:* Show me the thing in all of these hundreds  
25 or whatever letters or comments or tapes that says she gets it.

1           *MR. PEPIN:* Okay. I just ran through a list of all of  
2 the things that everyone has looked at.

3           *THE COURT:* Hm-hm.

4           *MR. PEPIN:* Okay. They reflect a girl who is -- has  
5 absorbed the fact that she has lost her ability to work as a  
6 CNA, and is working hard to figure out what she might do next;  
7 including, outlining her goals, her dreams, the kind of person  
8 that she is, the kinds of things that she wants to pursue and  
9 how she might go about getting there, which frankly, I wish my  
10 19-year-old daughter would sit down and do. She is sitting,  
11 working through macroeconomic books, because she wants to try  
12 and better herself. She is studying Spanish, which  
13 unfortunately is -- some of the people in there happen to speak  
14 Spanish committing crimes, so now she's friends with them and  
15 that's a bad thing.

16           *THE COURT:* I didn't say that.

17           *MR. PEPIN:* I know you didn't say that, somebody else  
18 did.

19           So she is writing these beautiful lengthy discourses  
20 between herself and her mother and her sisters about their  
21 religion, about Christianity and the tenets of their belief,  
22 working through daily lesson plans with them, talking about how  
23 it compares with Islam, and showing, in a respectful and  
24 communicative way, how much she basically cares about what they  
25 think about and here is what my world is.

1           She is -- she writes this -- these letters to Allah,  
2 that are heartbreaking. I just thought they were -- I just  
3 didn't include one to you. They were very -- I gave you  
4 several things. There's only so much you want to have to read.  
5 But this plea for, Please help me understand. I mean, I know I  
6 have done wrong, but please help me understand. She talks  
7 about how she doesn't believe the same way she did in terms of  
8 a violent jihad to the psychologist.

9           *THE COURT:* Yeah. And we have discussed, I don't know  
10 what the heck that means.

11           *MR. PEPIN:* Okay. Well, I will be happy to talk -- in  
12 fact, I want to talk about that a little bit. When I get done  
13 with this little list of mine.

14           *THE COURT:* All right. Fair enough.

15           *MR. PEPIN:* So every -- everyone of these  
16 communications, except for occasionally calling a jailer a bad  
17 name or something, everyone of them is -- is a person who is  
18 completely different totally in the moment, studying trying to  
19 learn, believing things. She changed her name, it was Halima,  
20 this may fit into the pattern --

21           *THE COURT:* Twice.

22           *MR. PEPIN:* To Amatullah, and the reason she did that,  
23 what she told me, it's what she said all along, the Halima who  
24 came in here is not the Amatullah that is here today, because  
25 she went through this -- I described it as violent -- earlier,

1 as her skin being ripped off, turned inside out, that's  
2 exactly --

3 *THE COURT:* She had another name before Halima.

4 *MR. PEPIN:* Shannon.

5 *THE COURT:* There was another one. I think it began  
6 with an F.

7 *MR. HOLLOWAY:* Fatima.

8 *THE COURT:* I think that's it. One second. It's a  
9 minor point.

10 *MR. PEPIN:* And so what? I mean, except for the fact  
11 --

12 *THE COURT:* The reason I bring it up is, don't tell me  
13 changing your name means you get it. She changes her name like  
14 I change my socks.

15 *MR. PEPIN:* I'm not doing that. What I'm saying is  
16 that if you -- we can plow through the correspondence, we can  
17 see the change -- the exchanges. We can understand -- we can  
18 see her lecture other people whom she has been in jail with  
19 about how their lives -- the drinking and stuff they are doing  
20 is not a good way to approach things, and her children should  
21 not be around them. We can see them mention, when they write  
22 something to her, that she wouldn't drink with them.

23 *THE COURT:* I saw those letters.

24 *MR. PEPIN:* So, you know, basically what we're talking  
25 about, is every -- except for the fact that she didn't, for the

1 FBI or whoever edification, when they are looking at stuff, she  
2 did not write in there, Boy I get it. What's happened instead,  
3 is that there an entire package of material of all of this  
4 communication, extraordinary, all of these communications with  
5 her parents, that don't suggest, in any way, violent jihad, and  
6 don't suggest, in any way, anything but a total, and I am going  
7 to use the word, submission, probably get Mr. Holloway's hair  
8 on the back of his neck up but, total submission to this  
9 situation. I don't care if she does get mad at a guard and  
10 call him a name every now and then.

11 *THE COURT:* I don't either.

12 *MR. PEPIN:* So, that's what she has done; she has  
13 totally submitted, and that submission is the getting it. It's  
14 getting it in aces. And the name is simply representative.  
15 But it's an important representation, I think, of an important  
16 situation, concept, and where she is --

17 *THE COURT:* Go ahead.

18 *MR. PEPIN:* -- to the jihad aspect.

19 I do not pretend to understand this in any real  
20 significant way, except as it applies to this particular  
21 discussion, I hope. I don't know if it's really looked at this  
22 way by Muslims, but there are basically two kinds of jihad.  
23 They are discussed in some of these materials, although I don't  
24 think they are really outlined this way.

25 There is the jihad, which is considered the major

1 jihad, and that's the jihad of looking inside, of coming to  
2 terms with things in your relationship with Allah and yourself,  
3 and that is the major jihad. Minor --

4 *THE COURT:* That is my understanding as well.

5 *MR. PEPIN:* Okay. Minor jihad is this -- this -- and  
6 you can characterize it as violent jihad, or sometimes there's  
7 references to defensive jihad, sometimes to offensive jihad,  
8 and radical jihad, and all of that. This other thing that  
9 basically, apparently, has to do with the concept of defending  
10 Muslims against people hurting Muslims. The basic idea being  
11 that. And sometimes it can be other Muslims. I don't know.

12 So the general notion, as I understand, sort of, the  
13 junk that's been put out there, and stuff that was filling  
14 Ms. Conley, was this idea that -- that it's defensive jihad but  
15 you are having to act in an offensive way, and, you know, kind  
16 of this global sort of attack, generally, one way or another,  
17 to be devout; to be a good Muslim. And there are a handful of  
18 ways in which this can happen. It can be that you go to  
19 someplace where Muslims are attacked. There are some angles  
20 that would have to do with you actually attacking anyone who  
21 has ever attacked a Muslim, more radical perspectives. There's  
22 a whole range of things. As Ms. Conley told the FBI, and as  
23 she has told -- well, I think the FBI is what I'm remembering  
24 at the moment.

25 She wasn't looking to really go and hurt anyone. She

1 wanted to act in defensive jihad, because she felt it was  
2 necessary; meaning, to her, that she was -- that she believed  
3 that what she was being told was defensive jihad, was the thing  
4 that she needed to do; meaning, go, be with these people,  
5 support her man, be involved in all of that.

6 Her view now about what defensive jihad is, has  
7 narrowed considerably. It is no longer -- because there are  
8 folks out there that say you need to attack the United States,  
9 because the United States was involved in Iraq or Afghanistan  
10 or the like. She was never that far, and --

11 *THE COURT:* Why are you telling me that? She was  
12 saying you can attack Westerners. It's okay. Frankly, she was  
13 saying things that are disturbing and not related to jihad,  
14 like, Well, I may be able to justify the World Trade Center  
15 because there were houses of usury therein. I'm sorry, it's  
16 not even that her bizarre, violent or defiant comments were all  
17 based in jihad. They weren't.

18 She said with respect to killing -- now, I will give  
19 you this before you even say it, because I know it's going to  
20 cross your mind, with respect to things that some right-wing  
21 Christians believe, which is, that it's okay to attack abortion  
22 doctors. Her view on that was, That's fine. Not because of  
23 jihad. I mean, there are these things, and that's why I said  
24 at the beginning, this isn't really about whether she is a  
25 Jihadist. It's relevant. But the disturbing notions that kind

1 of drip off of her, extend beyond that concept. She seems  
2 drawn to things that are extreme. She likes to shock people.

3 Now, I'm not going to pick on a middle-school kid, but  
4 to some extent, when you are goth, you are looking for a  
5 reaction. Your mother is an educator. You quit high school.  
6 Your father is an atheist, you become as fundamentalist a  
7 religious person as possible. The Faith Bible people are  
8 concerned about you, so I'm going to make them think I'm a  
9 terrorist. The FBI asks you about, Would you do a suicide  
10 bomb? And you go, Very unlikely. I mean, these are things  
11 that are troubling and they are not all tied to jihad. They  
12 are all part of her.

13 *MR. PEPIN:* So I think that takes us right back to  
14 where you were discussing things with Mr. Holloway, and that  
15 is, So really is the solution to send her to prison? And this  
16 is just in terms of that particular perspective.

17 *THE COURT:* Right.

18 *MR. PEPIN:* My response, and I'm sure it doesn't  
19 surprise anybody, is Absolutely not. I mean, you have got a  
20 concern about her being vulnerable. About her being someone  
21 who is susceptible to influences of whatever flavor, and we  
22 keep her in prison. Doesn't make the slightest bit of sense to  
23 me. There is -- you are absolutely right, I don't have to say  
24 it, but I'm going to, the idea of sending someone to B.O.P. to  
25 get mental-health treatment is laughable, and so if the concern

1 is, and you make valid points about the various things that  
2 say -- that say opposition or the like. But do those translate  
3 into her needing, her now, without getting to deterrence or  
4 protection, but her needing to be put into prison? I think the  
5 answer is, No. If you think -- if we think those things are  
6 troubling enough to bear mention, to say that they play a part  
7 in this, then mental health is where it should be, and the fact  
8 is, had she decided -- I mean, if -- if she hadn't latched on  
9 to this, and walked around being goth, or saying, Hey, look at  
10 me, or being whatever religion, opposed to her dad, or all of  
11 that, if she hadn't agreed to meet with the FBI, which she did  
12 openly, maybe that's part of this demonstrative stuff we are  
13 talk about, we wouldn't be here, because no one would know.  
14 She wouldn't have committed this thing, or we wouldn't know  
15 about it.

16           And so I, in terms of addressing her needs and what  
17 needs to happen, undeniably she has been punished. She has  
18 been punished in aces for her, in this set of circumstances.  
19 It has ripped her inside and out, and I -- this -- I don't get  
20 that she-doesn't-get-it thing. I mean, oppositional? Perhaps.  
21 Demonstrative? Perhaps.

22           *THE COURT:* Oddly, I don't get that you don't get it.

23           *MR. PEPIN:* Well, I'm not terribly surprised, but how  
24 someone can -- can -- most of us don't bear record, unless we  
25 are writing a diary of the person who they are. The person

1 they are trying to be. And the kinds of things that they are  
2 going through. And she has and mailed them to the FBI for all  
3 practical purposes, at least knowing they were there. Sending  
4 them off to her parents. We are not talking about a couple of  
5 notes that say a couple of things. We are talking about a  
6 dialectic with her family about religion in a respectful way.  
7 We're talking about her really trying to move forward in a way  
8 that improves her, and those kinds of things, I think, scream  
9 that she gets it, and that's how I see it, and if you don't I  
10 appreciate that.

11 *THE COURT:* Deterrence.

12 *MR. PEPIN:* I'm sorry.

13 *THE COURT:* What I call the public-interest factors.  
14 Deterrence, that whole other side of the equation.

15 *MR. PEPIN:* Yes. Well, so with regard to the  
16 questions of the deterrence, I mean, obviously there's two, get  
17 your minor deterrence, major.

18 *THE COURT:* Yeah. Okay. I'm getting tired too. Go  
19 ahead.

20 *MR. PEPIN:* There is, of course, whether or not she  
21 has been deterred. I think she has been punished. I think she  
22 has been deterred. She isn't going to make the stupid mistake,  
23 again, and she will comply with whatever the Court wants to,  
24 when she is in the community.

25 *THE COURT:* Despite the fact that she is defiant as

1 hell?

2           *MR. PEPIN:* Despite the fact she is defiant. Yes. I  
3 mean, really, she has never had this kind of clamp on her.

4           *THE COURT:* I agree with that.

5           *MR. PEPIN:* And there's --

6           *THE COURT:* But frankly, most people would wet  
7 themselves if the FBI knocks on your door. Not go up to them  
8 with a T-shirt.

9           *MR. PEPIN:* Okay. That may very well be.

10           *THE COURT:* But the big issue is -- is the deterrence,  
11 as to others.

12           *MR. PEPIN:* As to others.

13           *MR. PEPIN:* So let's -- let's, if we can, I will try  
14 and frame it to some degree in the way I would like to, and you  
15 may have your way with it. You will have your way with it, if  
16 you want. Of course I'm not just giving you permission to.

17           *THE COURT:* You are a little defiant too, huh? It's  
18 okay.

19           *MR. PEPIN:* I have worked with a few defiant people  
20 over the years.

21           *THE COURT:* Okay. I understand. Go ahead.

22           *MR. PEPIN:* The people who are going to be deterred by  
23 whatever happens in this courtroom and whatever is said about  
24 Shannon Conley are not going to be ISIS fighters who are  
25 already over there doing whatever, or the big bad terrorists.

1 The ones who, instead of really were thinking more along the  
2 line of humanitarian situations, and thinking about trying to  
3 help people and believing in just generally that sort of world,  
4 the ones who have been taking care of old people's bedpans and  
5 bedsheets, those people are not going to be deterred by what we  
6 do here.

7           The people who are deterred, who have the potential to  
8 be deterred are the ones like Shannon Conley. Are the ones who  
9 will look up and they will see what this has done to her. They  
10 will know that she spent time in jail; that a Court has clamped  
11 down on her and controlled her; that it -- that it changed her  
12 entire life; that she ended up with -- when I say that I know  
13 she was about ready to go overseas.

14           *THE COURT:* My only comment is, in this respect, look,  
15 if we were looking at 15 years, I don't know that there's a  
16 scenario where I will say, with the strange things that are  
17 going on in her background, that 15 years make as lot of sense.  
18 But one of the things that would have been a whole lot better,  
19 was the -- potential for lifetime supervised release. I'm not  
20 saying I wanted her on lifetime, but I'm pretty much boxed in  
21 now to three years. So yeah, okay. I can control her for  
22 three years, and I wish I had more options.

23           *MR. PEPIN:* If -- I guess what concerns me about this  
24 is I understand control over her for three years out of jail.  
25 But if the concept we are wrestling here is, Do I need to keep

1 her in jail for a total of four years, then give her another  
2 three years, because the public needs to be protected from her,  
3 I hope that is not where you are headed.

4           *THE COURT:* No, that's not where I'm headed. Where  
5 I'm headed if you are going to say the fact that I have got my  
6 control on her is going to deter other people from doing  
7 things, it would be a lot more deterrence if that control  
8 extended further in time than simply three years. It doesn't.

9           *MR. PEPIN:* I see. I see. Although, you know, we --  
10 as I say, it's going to be people like Shannon Conley, who this  
11 deters, if anyone, and it is -- it speaks to what -- the  
12 sentence that we ask for speaks to one punishment, because she  
13 has been punished. We have dealt with sentences that have gone  
14 lifetime and wrestled even with death along the way. To her,  
15 this nine and a half months has been hell, and it has -- and  
16 every day beyond is going to be that way. And it is difficult  
17 for her, and she struggles with it, and it is -- anyone sitting  
18 in her position, looking over and saying, Should I make this  
19 choice? Should I go and try and marry this guy, with all of  
20 her kind of, again, similarly situated person, they are going  
21 to be deterred. They see what has happened her. She has been  
22 the object of derision. She has... you know, what she also has  
23 been, and what I ask this Court to continue, is that she has  
24 been the object of some mercy. That, you know, we appreciate  
25 what the Government has done. We know it, we appreciate it. I

1 have told Mr. Holloway numerous times, and Mr. Byrne, I feel  
2 exactly the same way. I know they were trying to help her, and  
3 we appreciate the fact that they have given her a sentence that  
4 is -- the range that is lower.

5           People looking out over, you know, seeing someone in  
6 her situation is going to look close. They are going to see  
7 the five years as a potential range. They are going to see the  
8 fact that she was put into custody and away from anything that  
9 was familiar, and that she has got a felony that's going to  
10 whack her for the rest of her life, and follow her in one way  
11 or another. She lost her CNA license. And that people talk  
12 about her in the media, and that, you know, punch her up on the  
13 blog, and see what kind of stuff you get, because it's pretty  
14 nasty, and -- and -- the Blogosphere, I should say.

15           So what I'm asking you to do, Your Honor, I would like  
16 to see us put her in a situation where what we're saying to  
17 everyone is that we're walking her back off the edge, and it's  
18 a nasty edge, and she is saved, frankly, from that, and thank  
19 God she is, but us bringing her back and us doing everything to  
20 move her into a situation where she can now move forward,  
21 that -- that's a beacon.

22           *THE COURT:* That's a hell of a pivot, but it doesn't  
23 have much to do with deterring others.

24           *MR. PEPIN:* Oh, Your Honor, I think it does.

25           *THE COURT:* Pivoting from, Let's put our arms

1 around -- from my question, which is, What is it that others  
2 will think that will cause them to stop their commission of  
3 felonies? And the answer is, They will do it because we  
4 embraced Shannon?

5           *MR. PEPIN:* No. As a matter of fact, there are two  
6 elements here, and the first what I said -- the first part that  
7 I said was that she has received a sentence; that she has been  
8 held in jail; that for someone who is 19 with no kind of record  
9 like that, it changed everything about her world. You know,  
10 she has, may not seem like much to us, she is wearing a hijab  
11 in here now. She doesn't to get wear one in jail. It's  
12 embarrassing to her. It's frustrating. It's not something she  
13 is comfortable with.

14           *THE COURT:* You are asking me to give her a  
15 misdemeanor sentence.

16           *MR. PEPIN:* I'm not asking -- if I was asking you to  
17 give her a misdemeanor sentence, and only that, there wouldn't  
18 be one available for this felony of a year and a month. There  
19 is.

20           *THE COURT:* We are quibbling. You are asking me for a  
21 year and a day, which amounts to ten months, which amounts to  
22 her getting out, right away.

23           *MR. PEPIN:* Well, it does. That's exactly right.

24           *THE COURT:* That's basically what I mean when I say  
25 you are asking me for a misdemeanor sentence.

1           *MR. PEPIN:* You know, misdemeanor sentences are  
2 misdemeanor sentences, but sometimes they are felony  
3 sentences -- people get probation for felonies.

4           *THE COURT:* I understand that. I'm looking at this  
5 from the concept of other people looking at this. The concept  
6 of deterrence. Go ahead --

7           *MR. PEPIN:* Does it have to be the amount of time that  
8 necessarily says that? The fact that she has -- the fact that  
9 she has been placed in jail, which she has been, has been in  
10 jail, which she has been, has -- has her life impacted forever,  
11 which it will be, has lost her specific livelihood, which she  
12 has, been the subject of intense media scrutiny, which will not  
13 help her walking down the street or trying to get a job or  
14 whatever, which it has. I know that's not -- we are talking  
15 about basic impacts of this kind of conviction, and what the  
16 world will see, and that's what the world will see. And if you  
17 give her another, I mean, I don't know, give her 48 months,  
18 that plops her into a prison for 48 months, with no  
19 mental-health treatment, and I guess a sign to someone that  
20 maybe it would be a bit worse if you go. I mean if you decide  
21 you are going to go with this. But a year and a day does the  
22 trick.

23           And I think there's a second part of it too,  
24 Your Honor, and I absolutely do believe that the fact that we  
25 embrace Shannon Conley is a deterrent, and here is why I say

1 so. I think what it says to the world and to these people who  
2 are out there maybe thinking along those lines, is that we  
3 really, really want them to be part of us again. To come back  
4 into us again. That we embrace them. That we are a beacon,  
5 and not a sword. We have had enough swords. I mean you hear  
6 about it all the time. I think that I ask you to recognize  
7 that what has happened to her has been punishment, significant  
8 punishment, and I believe the world will see.

9           *THE COURT:* Let me hear from her. Yes. Ms. Conley,  
10 would you go to the podium, please. I know it is difficult to  
11 sit and listen to yourself be talked about, and I do not take  
12 lightly the stress that that causes, and the pain.

13           This is your opportunity to tell me anything you want.  
14 I will consider it, whether it be in connection with the crime,  
15 the sentence, your life, or anything else. I welcome your  
16 comments.

17           *THE DEFENDANT:* Okay. Your Honor, nine and a half  
18 months ago I attempted travel to Syria in order to marry a man  
19 I knew was a member of ISIS. Though far from my priority, ISIS  
20 was described to me as a jihad group comprised of Muslims who  
21 were fighting to protect Muslims in Syria, who were being  
22 murdered by the thousands. I was content with this  
23 description, didn't research further.

24           I agreed to continue with the plans in marriage and  
25 pledged my support to his cause. When I first desired to study

1 jihad, I journeyed to find the viewpoints of a wide variety of  
2 of participants; Westerners, Modern Muslims and Mujahideen  
3 Muslims; those Muslims involved in jihad? Looking back I think  
4 I should have included those of the victims, as well.

5 Literature on Western views and Mujahideen was  
6 abundant, but I found the responses of the Modern Muslim  
7 community sparse and frequently tainted by a tone of fear.  
8 Fear of being persecuted for their views. I mistook careful  
9 stepping for cowardice, and quickly closed my ears to the  
10 modern argument and therefore the arguments later made by  
11 Agents Khomssi and Hafiz, both Modern Muslims. Had I given  
12 heed to their words, I would have had to face renewed inner  
13 struggle between what I believed and what I have been taught,  
14 and risk breaking commitments I had already made with the man  
15 from ISIS. I did not want to face this difficult decision, so  
16 I chose to ignore it and continue on my way. This was unwise,  
17 and I have since changed my position.

18 Now I strive to know all of the viewpoints on jihad,  
19 power to ability no longer a factor in my search. It was after  
20 my arrest that I learned the truth about the ISIS I had been  
21 taught to respect. I was horrified as I watched on the news my  
22 fellow Muslims murdering people irrespective of their faith,  
23 kidnapping journalists with no intent of seeking a peaceful  
24 resolution, and marking homes of Christians with the arabic  
25 letter known, threatening them to convert or risk death.

1           Though my views on jihad have never been popular, I  
2 hadn't thought Mujahideen would ever commit these acts while  
3 still believing they were acting in the name of Islam. It is  
4 my view that they are doing exactly the opposite, and are  
5 shedding the innocent blood of thousands. I'm glad I have  
6 learned of the true identity here instead of on the front  
7 lines. I'm sincerely grateful to the FBI for keeping me from  
8 traveling to Syria and for potentially saving my life. But  
9 that is not the only thing I learned while incarcerated. I  
10 have learned much more.

11           There are two general areas I can tell you about.  
12 First, and most important, is that of my journey in Islam. In  
13 the Muslim community when a religious claim is made, it is  
14 usually backed up by a hierarchy of four sources. First -- the  
15 first is the Quran; second, the life and sayings of the prophet  
16 peace be upon him; the third is the lives and sayings of the  
17 companions of the prophet, peace be upon him; and lastly are the  
18 opinions of the scholars.

19           Before my incarceration, I would research only the  
20 opinions of the scholars, and assumed that their evidence was  
21 sound. But since my incarceration, I have had the chance to  
22 read the entire Quran, from cover to cover, which I hadn't done  
23 before, and come to the conclusion that the scholars I was  
24 listening to distorted parts of the Quran to their favor, and  
25 it was idiotic to think that was an impossible situation to

1 come by.

2 I'm truly embarrassed that I had not researched Islam  
3 and jihad using this hierarchy of authority. I think had I  
4 done so, my response when confronted with radical jihad would  
5 have been different, and I wouldn't be here before you today.

6 I disavow these radical views I have come to know, and  
7 I now believe in the true Islam where peace is encouraged  
8 instead of violence.

9 The second general area I have learned about is that  
10 of humanity and existence in a community that is contrary to my  
11 lifestyle. For the last nine and a half months I have been  
12 forced to live with people of every religion and every walk of  
13 life. I have learned that these folks do not aspire to  
14 mediocrity, and are not inherently evil because of their denial  
15 of Islam. In fact, I have learned the opposite. Most women I  
16 have met in jail ardently plan to live life better, just as I  
17 do. I have learned mercy from these people who have known  
18 cruelty, and I have learned patience and love from --

19 *THE COURT:* Take your time.

20 *MR. PEPIN:* Want to sit down for a second?

21 She needs to sit down.

22 *THE COURT:* I was going to say, let her sit if she  
23 wishes to.

24 *THE DEFENDANT:* I have learned mercy from these people  
25 who have known cruelty, and I have learned patience and love

1 from those who have persevered through decades of hard life.  
2 The folks I have been taught to hate are now humanized. I do  
3 not now nor have I ever had any desire to hurt them, even  
4 though I was committed to the idea of jihad, I never wanted to  
5 hurt anyone. It was all about defending Muslims.

6 I would like to use the lessons I have learned while  
7 incarcerated to better the lives of the folks like the inmates  
8 I have described. But the point is that I will move on from  
9 this experience and will use it to the advantage of those I'm  
10 around.

11 This life-altering experience has also forced me to  
12 reflect on my character defects, including ignorance and  
13 personal arrogance in my belief system. I realize I have  
14 merely just begun a lifelong process of expanding my  
15 perspective. I'm deeply humbled by this opportunity to grow,  
16 and would like to include the lessons of respect, tolerance and  
17 coexistence I have learned in my future efforts of being a  
18 catalyst for positive change in my community.

19 Your Honor, though I have start -- though I started my  
20 incarceration hateful, naive and inexperienced, I have learned  
21 from this time in jail and have since grown in my faith and  
22 perspective, and I intend to grow further still. I do not  
23 believe I'm a threat to society, and would appreciate the  
24 opportunity to prove it.

25 I intend to move forward in a positive way. I intend

1 to do good. I ask that you allow me to begin to move forward,  
2 and to begin to close this chapter of my life. Thank you for  
3 your time.

4 *THE COURT:* All right. You want a chair? Let's do  
5 this from the table. You don't want anything, do you?

6 *MR. HOLLOWAY:* No, Your Honor.

7 *THE COURT:* In fashioning a sentence here today, I  
8 have considered the wealth of materials before me. Some of  
9 which I have touched upon. Regardless of whether touched upon  
10 it or not, they have been considered, and considered fully,  
11 including the presentence report, all matters related to that  
12 report filed by the Defendant and the Government, the  
13 statements and arguments of counsel for the parties here today,  
14 and the statement of the defendant.

15 I'm mindful of the fact that I am required by law to  
16 impose a sentence sufficient but not greater than necessary to  
17 achieve all of the purposes of sentencing as described in 18  
18 U.S.C. Section 3553(a)(2).

19 In fashioning such a sentence, I have considered both  
20 individually and as a whole all of the 3553(a) factors which  
21 must be considered in determining a sentence. Specifically  
22 including those that have been addressed with counsel, those  
23 that have been addressed in the writings of counsel and those  
24 that have been addressed by me in discussion or argument with  
25 counsel here today.

1           Ms. Conley, what I do is I tell you what I'm going to  
2 do and why, and then I get into the more technical language in  
3 imposing a sentence.

4           This is anything but an easy case. There are, and  
5 we've just kind of touched on them and moved along. Things in  
6 your background that are -- that are clear to me that show that  
7 there are mental-health issues that need to be addressed. I  
8 find it unfortunate and sad that, as far as I can tell, I can't  
9 find a friend that you have had or a relationship with people  
10 that seems age appropriate to me.

11           Going back, whether we're talking about the October  
12 events of 2012, the December events of 2012, the Egyptian  
13 tutor, even the congregate friend is significantly older than  
14 you, and I grant you that that is isolating. I know that you  
15 are young. I know that you are naive. I know that you are  
16 uncomfortable with yourself. I recognize this is a first  
17 offense and, that you do have family that even now supports you  
18 greatly. And I recognize that this conduct occurred in the  
19 turmoil of that timeframe, and all of that cuts in your favor.

20           What cuts against you is that I heard what you have  
21 said, I have heard what Mr. Pepin has said. I don't know  
22 what's been crystallized in your mind with regard to broader  
23 issues than jihad, because as I said, not all of the offensive  
24 positions that you have taken were grounded in jihad. It was  
25 grounded in insult to religion, and I have no idea where you

1 stand on that topic, and I don't mean to minimize it, but the  
2 events in France indicate that it doesn't necessarily have to  
3 grow from a Jihadist fountain, that insult also leads to  
4 violence in certain people, and I have less than a clear  
5 conviction in my mind that you know where you stand on things  
6 today.

7 I have talked about other aspects, and what I have  
8 tried to do is not look at you at a single moment in time. I  
9 have tried to look at you across a spectrum of time, and see  
10 whether or not the things that I think contributed to your  
11 conduct continue to and exist or are recognized or are still  
12 there.

13 We -- I hate the term Get It, and Mr. Pepin and I have  
14 gone around and around and around with regard to that. I'm  
15 still not sure you get it. It gets put too simply into the box  
16 of jihad. It is a much bigger issue than that. It gets  
17 explained away as it's just romance. As if that were an  
18 explanation. And it diminishes the role of women, and it also  
19 diminishes the seriousness of simple support.

20 It's as if loving a dangerous person and saying, I  
21 support you, it's okay, is somehow not or in some way less  
22 serious than being the actor. It's as if, I didn't do it. I  
23 simply support the person who did it. That there's some major  
24 distinction between those, and there is not.

25 You can say that you were attracted to this man for

1 love, and I don't understand, anymore than Mr. Pepin, love  
2 coming through the Internet, but the point is, it doesn't  
3 matter whether you loved him. It doesn't matter whether you  
4 wanted to marry him. It doesn't matter whether you were  
5 attracted to him because of his Jihadist views, and I believe  
6 that you were, and it doesn't matter whether you believe that  
7 your religion required you to do this.

8           The point, the It, in this discussion is, you can't do  
9 it, and your rationalizations don't take issue with the fact  
10 that you can't do it. If your religion, as you fervently  
11 requires you to do it, you still can't do it. And when you are  
12 told not once, but twice, it's tricky, it's a very difficult.

13           The other issue is, as I said, I look at the crime,  
14 and I am not going to let people moonwalk backwards away from  
15 their admissions. You also said you would fight, if necessary.  
16 And that raises the seriousness of this to an enormous degree.  
17 But the thing that really cuts against you is the  
18 public-interest factors.

19           I know that everything that has been said on your  
20 behalf is true. Truly believed. But I cannot give you what's  
21 been asked and say to people that you can -- this defiance to  
22 law enforcement. I have to give consideration to the  
23 seriousness to this offense, and I don't think amounts to a  
24 misdemeanor sentence comes close. And when I judge the  
25 seriousness of the offense, I don't judge it in terms of

1 bedpans and Boy Scouts and some of the other things that are  
2 tossed around. The offense, the actual offense is actually  
3 worth 15 years in prison, and lifetime supervision, and  
4 Congress does not impose lifetime supervised release with  
5 respect to any old crime. It is an indication, which I see and  
6 must take seriously, that this is not a serious offense, but an  
7 extremely serious offense, and I have to send a message, that  
8 deters others.

9           Now whether it works, I can't say. But the notion  
10 that I need only be concerned with the lovesick or those that  
11 want to engage in marriage and relationships, those are the  
12 ones I need to be concerned about, I reject that. The message  
13 must be broader, and I intend to sentence you to the 48 months  
14 that the Government has asked for.

15           I intend to impose a standard conditions of supervised  
16 release, with one exception, that being standard condition  
17 number four, because I don't think it makes any sense to talk  
18 about ordering you to support your dependents when you  
19 currently have none. I intend to impose the conditions of  
20 supervised release that have been included in addendum,  
21 modifying one of them a little bit. And I want to talk about  
22 that. A couple of things, there. The one I'm choosing to  
23 modify is the one that said, All of your computer use has to be  
24 controlled by the probation department; that's a pipe dream.  
25 I'm going to prohibit you from certain associations whether

1 that be over the Internet or no. I'm going to require a  
2 hundred hours of community service, and I want to be clear with  
3 the probation department what my thinking with respect to that  
4 is. I'm not doing that in order to punish you, and I am not  
5 doing that -- I'm doing that for a very special reason. I want  
6 you with regular people, because I don't think you have spent  
7 much time, for one reason or another, whether it be the fault  
8 of the things you have done, things others have done, or a  
9 combination, you have ended up almost like a kid in a bubble,  
10 and I want to tear the bubble apart, and what I want probation  
11 to do is put you places where you are meeting with and  
12 interacting with ordinary regular people. I don't want  
13 community service where she is licking stamps in some back room  
14 or something silly like that.

15           The other thing that you may scratch your head about  
16 is that I am going to prohibit any possession of any degree of  
17 black powder or explosive material. When you say Why, I'm not  
18 a Jihadist? And my answer to that is, You walk into a Jewish  
19 neighborhood, you go into a bookstore, you buy a book on how to  
20 make bombs, it's not funny. And I am not going to take a  
21 chance with you. So any record you want to make by way of  
22 objection to what I have proposed?

23           *MR. HOLLOWAY:* No, Your Honor. Thank you.

24           *THE COURT:* Any record you wish to make by way of  
25 objection to what I have proposed?

1           *MR. PEPIN:* No. I have made my arguments, Your Honor.

2           *THE COURT:* Pursuant to the Sentencing Reform Act of  
3 1984, it is the judgment of the Court that the defendant,  
4 Shannon Maureen Conley, is hereby committed to the custody of  
5 the bureau of prisons to be imprisoned for a term of 48 months.

6           Upon release from imprisonment the Defendant shall be  
7 placed on supervised release for a term of three years. Within  
8 72 hours of release from the custody of the bureau of prisons,  
9 she shall report in person to the probation office in the  
10 district to which she is released.

11           While on supervised release the Defendant shall not  
12 commit another federal, state or local crime; shall not possess  
13 a firearm as defined in 18 U.S.C. Section 921; shall comply  
14 with the standard conditions that have been adopted by this  
15 Court, all of which I have individually reviewed, and each of  
16 which I find to be related to the factors for sentencing set  
17 forth in 18 U.S.C. Section 3553.

18           The defendant shall not unlawfully possess a  
19 controlled substance. She she refrain from any unlawful use of  
20 a controlled substance. She shall submit to one drug test  
21 within 15 days of placement on supervision and two periodic  
22 tests thereafter.

23           The defendant shall cooperate in the collection of DNA  
24 as directed by the probation officer. I find that the  
25 following special conditions of supervised release are

1 determined to be reasonably related to the factors enumerated  
2 in 18 U.S.C. Section 3553(a) and 18 U.S.C. Section 3583(d).

3 Further, based on the nature and the circumstances of  
4 the offense, the history and characteristics of this particular  
5 defendant, the following conditions do not constitute a greater  
6 deprivation of liberty than reasonably necessary to accomplish  
7 the goals of sentencing.

8 One, the Defendant shall participate in and  
9 successfully complete a program of mental-health treatment as  
10 approved by the probation officer until such time as she is  
11 released from the program by the probation officer. She shall  
12 pay for the costs of treatment as directed by the probation  
13 officer.

14 Two, the Defendant shall remain medication compliant,  
15 and shall take all medications that are prescribed by her  
16 treating psychiatrist or mental-health professional. The  
17 Defendant shall cooperate with random blood tests as requested  
18 by the treating psychiatrist and/or supervising probation  
19 officer to ensure that a therapeutic level of her prescribed  
20 medications is maintained.

21 Three, and I am needing to switch -- hold on one  
22 minute. Three, the defendant is prohibited from any  
23 communication with any individual who's known to be associated  
24 with ISIS, al-Qaida or any other terrorist organization.

25 Additionally, she shall not access or review magazine,

1 publications or websites which are primarily associated with  
2 terrorist organizations, specifically and including Inspire  
3 Magazine, and The Preachings of Anwar al-Awlaki.

4 Four, the Defendant shall not possess any quantity of  
5 black powder or any explosive material.

6 Five, the defendant shall not obtain or possess any  
7 passport or international travel documents. Any existing  
8 passport or international travel documents the defendant has  
9 shall be surrendered to the supervising probation officer  
10 within 72 hours upon her release from custody.

11 Six, the Defendant shall perform 100 hours of  
12 community service as directed by the probation officer. Both  
13 the type of work and the agency where the Defendant performs  
14 her community service shall be approved by the probation  
15 officer.

16 And this is an instruction rather than a condition, I  
17 do not want this to be associated with the homeless.

18 *PROBATION:* Do you want to add that, Your Honor --

19 *THE COURT:* Add it.

20 *PROBATION:* Okay. Thank you.

21 *THE COURT:* Seven, the defendant shall submit her  
22 person, property, house, residence and papers and computers and  
23 any other electronics or data communications, storage devices  
24 or media or office to a search conducted by the United States  
25 Probation Officer. Failure to submit to such a search may be

1 grounds for revocation of release. The defendant shall warn  
2 any other occupants of the premises that they may be subject to  
3 search pursuant to such condition; the premises, not the other  
4 occupants. An officer may conduct a search pursuant to this  
5 condition only when reasonable suspicion exists that the  
6 defendant has violated a condition of her supervision, and that  
7 the areas to be searched contain evidence of this violation.  
8 Any search must be conducted at a reasonable time and in a  
9 reasonable manner.

10 The defendant shall pay a special assessment of \$100  
11 which is due and payable immediately. I find that she does not  
12 have the ability to pay the fine, and so the Court will waive  
13 the imposition of a fine in this case.

14 The Defendant is advised of the right to appeal the  
15 sentence. If the Defendant desires to appeal, a Notice of  
16 Appeal must be filed with the Clerk of the Court within 14 days  
17 after entry of judgment or the right to appeal will be lost.

18 If the Defendant is unable to afford an attorney for  
19 an appeal, the Court will appoint one to represent her. If she  
20 so requests, the Clerk of the Court must immediately prepare  
21 and file a Notice of Appeal on her behalf.

22 I also recommend that the bureau of prisons designate  
23 a facility that is closest to the District of Colorado and  
24 consistent with any security requirements that they may have.  
25 And it is ordered that Ms. Conley is remanded to the custody of

1 the United States Marshal.

2 Is there anything further on behalf of the United  
3 States?

4 *MR. HOLLOWAY:* No. Thank you, Your Honor.

5 *THE COURT:* Or on behalf of, Ms. Conley?

6 *MR. PEPIN:* No, Your Honor.

7 *THE COURT:* We will be in recess.

8 *THE COURTROOM DEPUTY:* All rise. Court is in recess.

9 (Recess at 4:42 p.m.)

10 REPORTER'S CERTIFICATE

11

12 I certify that the foregoing is a correct transcript from  
13 the record of proceedings in the above-entitled matter.

13

14 Dated at Denver, Colorado, this 18th day of March, 2015.

15 s/Tammy Hoffschildt

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Tammy Hoffschildt, FCRR RMR, CRR

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