

UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 1:16-cr-05- MR-DLH
vs.)
(1) JUSTIN NOJAN SULLIVAN,)
a/k/a TheMujahid,) FACTUAL BASIS
Defendant.)
_____)

NOW COMES the United States of America, by and through Jill Westmoreland Rose, United States Attorney for the Western District of North Carolina, and hereby files this Factual Basis in support of the Plea Agreement filed simultaneously in this matter.

INTRODUCTION

This Factual Basis is intended by the United States and the defendant to admit all the essential elements of the offense to which the defendant is pleading guilty. Unless noted otherwise, this Factual Basis constitutes the defendant's statement of the facts surrounding his offense. This Factual Basis does not attempt to set forth all of the facts known to the United States at this time.

By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea that the defendant will tender pursuant to the Plea Agreement. The parties also agree that this Factual Basis may, but need not, be used by the United States Probation Office and the Court in determining the applicable advisory guideline range under the United States Sentencing Guidelines and whether the sentence agreed in the plea agreement pursuant to Federal Rule of Criminal Procedure (Rule) 11(c)(1)(C) is the appropriate sentence under 18 U.S.C. § 3553(a). Unless the defendant's right to object to a particular fact is explicitly reserved below, he agrees not to object to any fact set forth below being used by the Court or the United States Probation Office to determine the applicable advisory guideline range and whether the sentence agreed in the plea agreement is the appropriate sentence under 18 U.S.C. § 3553(a). The italicized text denotes facts which the defendant does not admit, but the Government is prepared to prove at the defendant's sentencing hearing. The parties' agreement does not preclude either party from hereafter presenting the Court with additional facts which do not contradict facts to which the parties have agreed not to object and which are relevant to the Court's guideline computations, to 18 U.S.C. § 3553 factors, or to the Court's overall sentencing decision.

THE FACTUAL BASIS

At all relevant times:

Justin Nojan Sullivan:

1. Justin Nojan Sullivan (“Sullivan”), defendant herein, was a citizen of the United States, residing on Rose Carswell Road, Morganton, Burke County, North Carolina, within the Western District of North Carolina.
2. No later than September 2014, Sullivan converted to Islam and began downloading speeches and videos by supporters of the Islamic State of Iraq and the Levant (ISIL) from the Internet. ISIL videos downloaded by Sullivan included violent executions of persons ISIL deemed kuffar, or non-believers, including beheadings and immolations. Sullivan openly expressed support for ISIL in his home. By April 2015, Sullivan’s parents with whom he lived became so concerned that his father called 911 and reported to local law enforcement that Sullivan had destroyed items in their home, including religious items such as a Buddha. Sullivan also monitored the actions of the United States military in Iraq and Syria in a journal and advocated violence against the United States in reprisal for these actions. Sullivan communicated with known ISIL members, including Junaid Hussain, and attempted to recruit new ISIL supporters in the United States. Sullivan shared his plan to commit terrorist acts in the United States with Junaid Hussain and others. Sullivan wished to create a new branch of ISIL in the United States, which he would name the Islamic State of North America (ISNA).
3. *On or about December 17, 2014, Sullivan stole a .22 caliber Marlin Model 60W rifle from his father’s locked gun cabinet. While his parents were away, Sullivan went to the nearby home of 74-year old John Bailey Clark (Mr. Clark), where he murdered Mr. Clark in his bed. Sullivan shot three times into Mr. Clark’s head with his father’s .22 caliber rifle. Sullivan then dragged Mr. Clark’s body to the yard beside his home, stripped him naked and buried him in a shallow grave.*

John Bailey Clark:

4. Mr. Clark, who was disabled, lived alone in a small house on Rose Carswell Road, Morganton, North Carolina—a home left to him by his deceased mother. Relatives living nearby would bring Mr. Clark food and water and manage his meager disability income. Mr. Clark was known to his neighbors as a harmless recluse who would walk on Rose Carswell and nearby roads.
5. Mr. Clark’s home was approximately .2 miles from Sullivan’s home on the same side of Rose Carswell Road. From Sullivan’s home, Mr. Clark’s house could be reached in a four to five-minute walk on Rose Carswell Road, or through the woods which stretched behind the Sullivan and Clark residences.
6. Mr. Clark was reported missing on the evening of December 18, 2014, by his sister-in-law who lived nearby. She and her husband, Mr. Clark’s brother, had last seen Mr.

Clark on Wednesday, December 17, 2014. The sister-in-law had come back to Mr. Clark's house on the evening of Thursday, December 18, 2014, to bring him groceries. At that time, she noticed smeared blood on the floor coming from Mr. Clark's bedroom and could not find Mr. Clark. She called 911 to report Mr. Clark missing.

7. Burke County Sheriff's Deputies responded to Mr. Clark's residence and saw a blood trail leading from a bedroom through a side entry to the house. In the side yard, deputies could see that earth had been recently disturbed. Burke County Sheriff Deputies declared the area a crime scene and called the North Carolina State Bureau of Investigations (NC SBI) to assist in their investigation.
8. Special agents from the NC SBI arrived at the Clark home on the evening of Thursday, December 18, 2014 and stayed throughout December 19 and 20, 2014. They immediately began photographing the interior of the Clark residence, including the blood trail leading to Mr. Clark's bedroom, where a chair had been placed under an overhead light fixture in which the bulb had been unscrewed. Mr. Clark's sister-in-law reported that it was unusual for the light to be out as Mr. Clark left it on at all times. SBI agents observed blood on the mattress and pillows where Mr. Clark usually slept. Blood splatter was on objects and the wall under the bed. They also recovered a shell casing from a .22 caliber bullet in the opposite side of the bedroom.
9. In the side yard outside Mr. Clark's house, SBI agents carefully removed a layer of earth with a small trowel and brush until they saw the outline of a human ear. After the medical examiner arrived, SBI agents unearthed Mr. Clark's naked body. They could see that he had been shot in the head. Buttons were found in the grave which was approximately 20 inches deep. Clothing with blood and earth stains was found in a room close to the side entry of the house. Mr. Clark's body was placed in a body bag, sealed with an SBI tag and taken to Burke County Medical Center where it was refrigerated until transported to the Baptist Hospital in Winston-Salem where an autopsy was performed.
10. An autopsy on Mr. Clark's body determined that the cause of death was either of two bullet wounds entering through the right side of his head, near and above the temple. A third bullet entered behind his right ear and exited through his cheek. The medical examiner recovered two bullets consistent with a .22 caliber firearm which were too damaged for a ballistics match. After viewing photographs from the crime scene, the pathologist who conducted the autopsy on Mr. Clark's body opined that they were consistent with the lethal shots having been fired from a short distance above and behind Mr. Clark's head as he lay in his bed, facing away from his assailant. The weapon that fired the bullets recovered from Mr. Clark's body was not found at the crime scene. Other than the fatal bullet wounds, Mr. Clark had been in good health.
11. A canvas of neighbors on Rose Carswell Road was conducted. On Saturday, December 20, 2014, an SBI agent interviewed Sullivan's father at his residence on Rose Carswell Road. Sullivan's father said he and his wife had been out-of-town from Monday (December 15, 2014) through Thursday evening (December 18, 2014). Sullivan's father

did not tell SBI agents that his son, Justin Sullivan, also lived at that address and was home at the time of Mr. Clark's murder.

12. The Burke County Sheriff's Office and SBI quickly exhausted the few leads they had in the investigation. On December 23, 2014, the Burke County Sheriff's Office released a crime stoppers poster with a picture of Mr. Clark, his address and a \$5,000 reward for any information leading to the arrest of the offender in Mr. Clark's murder. Local media published a few details of the murder, including that Mr. Clark had been found in a grave outside his home and that the SBI had recovered a single shell casing from the crime scene.

ISIL and its Leaders:

13. The Islamic State of Iraq and the Levant ("ISIL") is a terrorist organization designated by the United States Secretary of State. ISIL is also known as the Islamic State of Iraq and al-Sham ("ISIS"), the Islamic State of Iraq and Syria ("ISIS"), The Islamic State ("IS"), ad-Dawla al-Islamiyya fi al-'Iraq wa-sh-Sham, Daesh, Dawla al Islamiya, and Al-Furqan Establishment for Media Production.
14. ISIL aggressively occupied territory in Iraq and Syria. In a June 2014 audio recording titled "This is the Promise of Allah," ISIL spokesman Abu Mohammed al-Adnani, declared the establishment of a new global Islamic caliphate with Abu Bakr al-Baghdadi as its leader. ISIL's stated goal was to govern all Muslims worldwide.
15. As part of its territorial and jihadist expansion, ISIL recruited fighters throughout the world, including Western countries. ISIL's success in recruiting across the globe is due to its effective use of the Internet and social media. In some instances, the group relies on individual fighters already in its ranks to connect with and reach out to prospective recruits—primarily through online social media accounts—who are then encouraged to either join the group in its operational territory, or launch attacks in their homeland, wherever that might be.
16. ISIL's media operations are composed of several units. One of the key pillars of ISIL's propaganda is Al Hayat, which is responsible for publishing material in English, French, and other Western languages. Al-Hayat produces ISIL's official English-language magazine known as "Dabiq." This periodical features guidance and instructions for would-be recruits; articles by, and interviews with, ISIS militants and leaders; and other content aimed at radicalizing a predominantly Western, English-speaking audience.
17. Junaid Hussain was a British-born computer hacker who had been convicted for hacking into former Prime Minister Tony Blair's address book, a crime for which he spent six months in prison. Shortly after his release, Hussain was once again arrested by British police on a new charge of violent disorder. While out on bail and awaiting further adjudication, Hussain fled to Syria in 2013, after which he joined ISIL and adopted the kunya or nom de guerre "Abu Hussain Al Britani" (translated "Abu Hussain the Briton"). Utilizing his skills as a hacker and social media operator (primarily via Twitter), Hussain became one of ISIL's most prominent members, responsible for

substantial online recruitment efforts and repeated attempts to inspire terrorist plots in Western countries, including within the United States. Not only did Junaid Hussain urge Westerners to launch attacks in their respective homelands, he also offered technical guidance on how to carry out attacks—often using coded language such as “cake baking” to refer to bomb making. Junaid Hussain also used the name “abuhussain3” on an identified social media platform that he used to further terrorist attacks. On or about August 24, 2015, Hussain was killed in an airstrike in Raqqah, Syria, a city which ISIL claims to be its capital.

Sullivan Plans an Attack in Reprisal for U.S. Airstrikes Against ISIL:

18. On June 6, 2015, an FBI undercover employee (UCE) posing as a person willing to be recruited into ISIL made contact with TheMujahid¹ on the Internet. The UCE said that he was helping ISIL online and spreading ISIL propaganda. Sullivan, a/k/a TheMujahid, directed the UCE to a social media platform that enables text communications (hereinafter “text(s)”). The UCE told Sullivan that he [the UCE] was looking for ways to help ISIL. Sullivan then solicited the UCE to become a member of the ISNA.
19. On June 7, 2015, the UCE told Sullivan he lived in Virginia, to which Sullivan replied he lived in a neighboring state. When the UCE asked Sullivan if he planned to make “hijra.”² Sullivan immediately replied, “We can do jihad fi sabilillah together inshallah.”³ “The war is here ahki.” The UCE asked Sullivan, “What can I do to help.” Sullivan answered “U got a gun and a car?” The following colloquy then occurred between the UCE and Sullivan:

UCE:	I had it in my head that i would travel to be with the brothers
The Mujahid:	u only need 600 dollars ahki for the gun and the bullets
UCE:	i never heard of isna until i met you
TheMujahid:	Airstrikes we must avenge our ikhwan ⁴
UCE:	I know akhi u are right

¹ A “mujahid” is a person who engages in jihad.

² “Hijra” is an Arabic word for migration. In this context, it refers to traveling overseas to engage in jihad.

³ “Jihad fi sabilillah” is an Arabic phrase meaning “just (or righteous) war.” “Inshallah” is Arabic for “God willing.”

⁴ “Ikhwan” refers to “the Brethren.” In this context, “ikhwan” refers to ISIL members overseas.

TheMujahid: And good chance we would be arrested if not they would drop a bomb on us

UCE: arrested if we tried to travel?

TheMujahid: Yes.

In Turkey

maybe not still better to stay here

20. Also, on June 7, 2015, Sullivan explained his vision for ISNA and said that the “war” was in the United States:

TheMujahid: ISNA’s doctrine is Guerilla Warfare in and out we are too valuable to be killed or captured

UCE: 600 is not a lot akhi

Dollars

i was going to save for travel and was told i would need to bring money with me

TheMujahid: Need to get an AR 15 223 with split core ammo

UCE: I know AR15 and 223

what is split core

TheMujahid its fragmenting hollow points deadly.

21. Later in his exchange with the UCE on June 7, 2015, Sullivan told the UCE how and where to buy an AR-15 and possible targets for an attack:

UCE: what sort of place would you buy from?
for an AR15

TheMujahid: No registration
gun show

UCE: do you have gun shows?
oh

TheMujahid: yup
soon

UCE: is it just you and me

TheMujahid: yup

UCE: what sort of place are you thinking
for attack
TheMujahid gun show in manassas VA June 20-21
UCE I saw
TheMujahid Concerts are good

22. Sullivan also tested the UCE's willingness to commit terrorist acts on June 7, 2015:

TheMujahid: Can u kill?
UCE: akhi I have never thought of doing an attack
by myself
akhi after what i have seen in the videos
uploading for the brothers
this is why i was going on hijra
to fight
do you think you can kill?
TheMujahid: Yes
UCE: good akhi
you seem strong in your convictions
TheMujahid I am
UCE how soon will you have an AR 15
TheMujahid about 2 weeks
gun show is same day one in Manassas
UCE: really? good.
TheMujahid: Just kill a few people so that I know u are
truthful
UCE akhi i am going to think very hard
TheMujahid I don't want to meet u then get arrested
UCE so wait
kill people first and then meet?
TheMujahid Yes
UCE I'm pretty sure at the time i kill anyone i
would be shaheed⁵

⁵ "Shaheed" or "shahid" means to be "martyred." In this context, it means to be killed in the course of conducting an attack.

TheMujahid no
people kill people all the time and get away
with it

UCE not with AR 15s
lol

TheMujahid yes they do
just shoot then leave
wear a mask and do it at night

23. As Sullivan then knew there was a gun show planned for the Hickory Metro Convention Center on June 20 – 21, 2015. Sullivan planned to buy an AR-15 at that gun show and had downloaded a coupon for a discounted admission to the show. *Moreover, Sullivan knew he had killed Mr. Clark at night using a mask and had not been arrested.*

24. On June 8, 2015, Sullivan assured the UCE that he was serious about committing terrorist acts on behalf of ISIL and then directed the UCE to YouTube videos for instructions on how to build a homemade suppressor to be used in his attack to kill more people:

UCE you really think we could pull this off and
not be shaheed?

The Mujahid Yes! 😊
We'll be using homemade suppressors in
and out we'll kill around 500 then we'll
leave inshallah

25. On June 9, 2015, Sullivan discussed making a homemade suppressor with the UCE:

UCE i watched those videos last night

TheMujahid Great and?

UCE looks very doable ahki
there are lots of types

TheMujahid Yes would u be able to make one?

UCE I have never done it
but the oil filter looks ok
there are just some parts I would need to buy
like the part that screws on to muzzle

TheMujahid the oil filter doesnt look good I would say
the one made out of a flashlight
We can rob banks too

UCE do you have a link to that one?
nevermind i see it

TheMujahid Just go to YouTube and look up flashlight
suppressor
We'll need a die set to screw it onto the
barrel

26. On June 10, 2015, Sullivan discussed his conversion to Islam approximately one year prior and recommended ISIL videos that he had seen, including “clanging of the swords”—the first ISIL video he had seen—and a new video [at that time] “about Bayji ‘defiant castle of glory.’”⁶ Sullivan told the UCE he could find these videos on a certain Internet site. Sullivan said: “I liked IS from the beginning then I started thinking about death and stuff so I became Muslim.”
27. On June 11, 2015, Sullivan told the UCE about a new ISIL video that had just been released that day: “a year after the conquest of Mosul . . . one of their best u see people assassinating rafidha⁷ with handguns and suppressors in Bagdad.” Sullivan told the UCE “u should really watch the mosul video first it will give you a good idea of what we’ll be doing” and that he could find it on Twitter or on a certain Internet site.
28. Between June 11 and 14, 2015, the UCE told Sullivan he was building a homemade suppressor from a flashlight in response to Sullivan’s earlier request. Earlier, the UCE represented to Sullivan that he worked at an apartment complex and had access to tools and repairmen who could machine suppressor parts. Sullivan encouraged the UCE to quickly finish building the suppressor, writing on June 12, 2015: “I’ll need it before the end of next week.” The UCE sent Sullivan photographs of the suppressor parts at various points of the process.
29. On June 13 and 14, 2015, Sullivan sent the UCE a link to the Mosul video with English subtitles. After the UCE said he had watched the video: Sullivan wrote: “Alhamdulillah.⁸ Akhi do you think you’re ready for jihad fi sabillah?” On June 14, 2015, Sullivan said it had been his plan from the beginning to avenge “satanic” coalition air airstrikes against ISIL: “By killing thousands of kuffar and destroying the country then we will tell the world it will continue unless they stop.”
30. On June 15, 2015, Sullivan wrote the UCE that because of the United States’ military action against ISIL in Iraq and Syria, he would expedite his plan to commit a terrorist attack against a nightclub in North Carolina:

⁶ Bayji is a city in Northern Iraq known for its oil refineries. It was invaded by ISIL on June 11, 2014, and occupied until it was later retaken by Iraqi forces.

⁷ “Rafidha” is an Arabic word meaning “rejectors,” those who reject” or “those who refuse.”

⁸“Alhamdulillah” is an Arabic phrase meaning “All praise be to God.”

TheMujahid 18 airstrikes today
It makes me so angry
Things will have to happened sooner than
planned
Can us come help me next week akhi?
18 or 19 air strikes
Sooner the better

UCE you there?
akhi my phone is going to die
I'm trying to get the brother to do the
threading [referring the suppressor]
come help you with what akhi?
Any why sooner?

TheMujahid Im here now
Help me take revenge

UCE akhi I dont have a weapon yet

TheMujahid They're killing people everyday we cant
delay
I know next week
We will have weapons by then

UCE ok ahki
Let me get this guy to finish for me
We will talk later

TheMujahid U can come on Monday?

UCE let me see akhi
i need to tell people where i am going to be
b/c I supposed to be at work

TheMujahid I probably live about 2.5 hours way
in NC
I could do it on my own though
but 2 people would be better
Not sure yet but on Monday I'll be killing
around 50

35. At about 5:00 PM on June 19, 2015, a U.S. Postal Inspector posing as a mail carrier delivered the Priority Mail package containing the suppressor to a mail box in front of Sullivan's residence. However, Sullivan's mother retrieved and opened the package before Sullivan.
- a. When Sullivan's father questioned Sullivan about the contents of the package, Sullivan became "aggressive."
 - b. Sullivan confirmed by text to the UCE that he had received the suppressor, but that someone else had picked it up. Sullivan wrote: "I have it but people i live with gave me a very hard time, paranoid. They forced me to show them what it is. I put paper in it and said it was a filter. They threatened to call police on me."
 - c. At approximately 5:34 PM, Sullivan's father called 911 and asked to speak with an officer because his son was being aggressive. Sullivan's father reported that Sullivan had previously burnt religious items and had been destructive in the past. The father reported that Sullivan had received a piece of mail and would not show him what it said.
 - d. At approximately 5:40 PM, Sullivan texted the UCE, referring to his parents: "if they don't stop I'll probably have to do something about them then do hijra."
 - e. Sometime after receiving the suppressor, Sullivan took the suppressor and the package in which it was shipped to the crawl space under his house where he had previously hidden the .22 caliber Marlin rifle *used to kill Mr. Clark*, a black ski mask, and a lock pick kit.
 - f. At approximately 6:57 PM, Sullivan wrote the UCE again referring to his parents: "just need to be patient I'm gonna get rid of my problem. Can't be having people calling the police on me."
 - g. Beginning at approximately 8:30 PM, Sullivan texted the UCE that the people living with him "had to go" and asked the UCE to "get rid of them." Sullivan offered the UCE "compensation," by which he meant money or other items of value. Sullivan told the UCE he had planned to do it himself—meaning kill his parents—weeks ago, but did not because it would come back on him. Sullivan told the UCE that next week would be "perfect." He said that his parents would go to the home of an "atheist Buddhist" on Monday [June 22, 2015] and that there would be 3 people there. Sullivan said he wanted the UCE to "kill" them and again said he would compensate the UCE. The UCE asked Sullivan: "is there another way? u couldn't just leave them when they leave?" Sullivan responded: "No."

Sullivan's Arrest and the Search of his Residence:

36. When the UCE received Sullivan's request to kill his parents, FBI agents and local authorities acted immediately to arrest Sullivan and search his home.

- a. FBI agents entered Sullivan's home at about 9:00 PM. Sullivan immediately attempted to delete his communications with the UCE and Junaid Hussain from his cellular telephone. The cell phone was taken into evidence by the arresting agents.
- b. Sullivan was arrested on probable cause which was followed by a complaint and arrest warrant issued by a United States Magistrate Judge.
- c. During a search of Sullivan's home conducted pursuant to a search warrant issued by a United States Magistrate Judge, agents seized \$689 in U.S. currency, a \$1.00 off coupon for admission to any gun show by the sponsors of a gun show, a hand written journal and a laptop computer from Sullivan's bedroom, among other items.
- d. During the search, agents later found a crawl space adjacent to a room in the basement of the house. The crawl space had a dirt floor with a plastic covering. Agents found and seized the suppressor and postal packaging hidden in the crawl space with a .22 Marlin rifle loaded with 14 rounds and a travel bag containing a black ski mask and lock picking tools.

Sullivan's Statements to Federal Agents:

37. As the search of Sullivan's residence was underway on the evening of June 19, 2015, Sullivan was transported to the Burke County Sheriff's office. SULLIVAN was advised of his rights, knowingly and voluntarily waived his right to have an attorney present and agreed to provide truthful answers to the agents' questions. The agents interviewing Sullivan were aware of his communications with the UCE, including Sullivan's claim that he had contact with ISIL and his plans for attacks in the United States. However, they did not yet know the full extent of Sullivan's terrorist activity. Before the interview, federal agents were informed of the unsolved murder of Mr. Clark. Agents wanted to know whether the Clark murder was connected in any way with Sullivan's support of ISIL. During this interview, Sullivan:
 - a. Admitted that used the user name "TheMujahid" to contact members of ISIL on social media with different user names, including "abuhussain3." Sullivan said he was aware that these users represented themselves to be ISIL members operating in Syria.
 - b. Admitted that he confirmed the identity of the people with whom he communicated through on-line research. He said that "abuhussain3" was Junaid Hussain, who had lived in the U.K., had been in jail there, and later moved to Syria.
 - c. Admitted that he talked with a certain ISIL member about weapons and U.S. airstrikes in Syria.
 - d. Admitted that he discussed his impending plans to attack a bar, club, concert or other random locations with abuhussain3 and others. Sullivan intended to

conduct the attacks on the next Sunday or Monday (June 20-21, 2105) because his parents would be away in Georgia.

- e. Admitted that he was planning on attending a gun show in Hickory, North Carolina.
 - f. Denied that he really meant to carry out the attacks.
 - g. Admitted that he told “the guy in Virginia” [the UCE] that he should kill his parents on the next Monday and offered to send the “guy” money and his parents’ location.
 - h. Denied that he really meant to kill his parents.
 - i. Provided FBI agents with the passwords and username to his computer, social media accounts and cellular telephone.
 - j. Denied that he had a rifle.
 - k. Said his parents had told him the “old man” had been killed in December.
 - l. Described “the old man who got killed on his street. [H]e has very long hair and beard, um, yeah, I saw him walking down the street, and I asked my ah parents who that was, and uh they said he’s like a hermit, they said he’s like a hermit.”
 - m. Admitted that he had been by the “old man’s house” [referring to Mr. Clark] while walking his dog, but denied ever having “been out on his property.”
 - n. When asked if he knew the caliber of the gun that had been used to kill the old man, Sullivan replied, “I don’t know the caliber.”
 - o. Denied killing “the old man,” referring to Mr. Clark.
38. Following this first interview, while agents were transporting Sullivan to the Buncombe County jail, Sullivan asked if he could speak with them. The agents replied, “yes” and Sullivan asked them questions about the jail. At the time, other FBI agents were still searching for the suppressor and packaging that Sullivan had received in the mail earlier that day. The agents transporting Sullivan asked him where he [Sullivan] had hidden the suppressor. Sullivan initially lied, telling the agents he had hidden the suppressor on a shelf in the basement laundry room. Sullivan later recanted this statement and told agents the suppressor was under his house in a crawl space with a dirt floor.
39. On June 20, 2015, Sullivan was interviewed again by agents of the FBI in the Buncombe County Jail, Asheville, North Carolina. Sullivan was advised of his rights, knowingly and voluntarily waived his right to have an attorney present and agreed to provide truthful answers to the agents’ questions. Unlike their interview on the prior day, agents were now aware that a .22 caliber rifle, ski mask and lock pick kit had been found hidden in the crawl space of Sullivan’s house.

- a. Sullivan was informed that agents had searched his home and seized certain items of evidence, without specifically stating which items. Sullivan immediately admitted that he had lied to the agents the day before and described where he had hidden the .22 Marlin that he had stolen from his father's gun cabinet.
- b. Sullivan told federal agents he had found the keys to his father's gun cabinet, which he used to steal the .22 Marlin rifle found in the crawl space of his home.
- c. Sullivan admitted he had hidden the black ski mask and lock pick in his crawl space.
- d. The agents asked Sullivan again if he had "any information about [who killed Mr. Clark]." Sullivan replied, "I have no information."

Forensic Examination of Certain Items Seized from Sullivan and His Residence:

Cellular Telephone:

40. A forensic search of the cellphone found in Sullivan's possession at the time of his arrest revealed the following deleted text message between Sullivan, then in Morganton, North Carolina, and **Junaid Hussain** a/k/a "**abbuhussain3**," then in Syria:

TheMujahid: akhi I have good news u there?
abuhussain3: Yes Akhi
abuhussain3: ?
TheMujahid: Very soon carrying out 1st operation of Islamic State in North America
TheMujahid: U will see on news
TheMujahid: I just let u guys know but the public musn't know it was done by IS
TheMujahid: We will announce ISNA later not now
TheMujahid: Insha Allah
abuhussain3: InshAllah akhi
abuhussain3: Can u make a video first?
TheMujahid: Its being done by another mujahid Ill ask him
abuhussain3: Ok InshAllah
abuhussain3: Can I contact him?

TheMujahid: Y akhi?

TheMujahid: Its not an inghimasi ⁹operation we're partners

abuhussain3: **Ok.**

TheMujahid: For major attack we will film not this. Very soon insha Allah

abuhussain3 : **Ok**

Sullivan's Laptop Computer:

41. Forensic analysis was conducted of the laptop computer seized from Sullivan's residence, which revealed the following information found thereon:
 - a. A copy of the ninth issue of Dabiq magazine, which was first issued on or about May 21, 2015, titled "They Plot and Allah Plots." In this publication, the authors ridiculed the U.S.-led coalition assembled to fight ISIL and those who "mock and ridicule...the Prophet Muhammad...under the pretext of defending the idol of 'freedom of speech,' referring to cartoonists who depict the Prophet. The issue asserted that "such brazen attacks on the honor of the Prophet, rather than deterring or disheartening the Muslims, serve as further incitement, spurring them into confronting the forces of kuffar [disbelievers] with whatever means they have available." This installment of the magazine included an article titled, "The Capture of the 4th Regiment Base in Wilayat Shamal Baghdad," which discussed one of ISIL's victories in Northern Baghdad, Iraq. The article further emphasized the role of Westerners in the group's ranks, exemplifying the way in which ISIL exploits such members for further recruitment. This section also included a photo of a German ISIL fighter, as well as his unidentified twin brother, both of whom carried out suicide attacks for ISIL in the Spring of 2015. The defendant's hard drive also contained a separate file with the aforementioned image, labeled "Musab.jpg," in the "Downloads" folder for Windows User "Raiken."¹⁰
 - b. Also downloaded onto Sullivan's computer from the ninth issue of Dabiq was an article titled, "And Allah is the Best of Plotters," including a section labeled, "An Address from the Khalifah On the Last Plot of the Apostates," which centered around an audio message from top ISIL leader, Abu Bakr al-Baghdadi. The magazine proclaimed, "On 25 Rajab 1436, the Khalifah addressed the Ummah¹¹ in a speech titled 'March Forth Whether Light or Heavy' in which he briefly

⁹ "Inghimasi" is a term which may be roughly translated as "suicide fighter."

¹⁰ "Raiken" is one the usernames Sullivan admitted that he used in his interview with FBI agents.

¹¹ "Rajab" is the seventh month of the Muslim year. "Ummah" refers to "the Muslim people."

mentioned the background of a new plot against Islam in the making.” Quoting the leader’s speech, the magazine declared:

It is but the war of the people of faith against the people of kufr, so march forth to your war O Muslims. March forth everywhere, for it is an obligation upon every Muslim who is accountable before Allah ... There is no excuse for any Muslim who is capable of performing hijrah to the Islamic State, or capable of carrying a weapon where he is, for Allah...has commanded him with hijrah and jihād, and has made fighting obligatory upon him. **And we call upon every Muslim in every place to perform hijrah to the Islamic State or fight in his land wherever that may be.** [Emphasis added].

42. In addition to the full issue of Dabiq, Sullivan’s hard drive contained a saved copy of the aforementioned audio release in the “Downloads” folder for Windows user “Raiken.”
43. In addition to text documents, Sullivan’s hard drive contains official ISIL propaganda photos demonstrating the multinational composition of the group’s branch in Iraq. In the “Downloads” folder for Windows user “Raiken” on Sullivan’s preserved hard drive, the defendant saved images published by provincial ISIL media offices in Iraq’s Saladin, Anbar, and North Baghdad. From Saladin, Sullivan saved images featuring German and Tunisian fighters. The former was identified as Abu Muhammad Al Almani, who launched a suicide attack west of Baiji. The latter, called Abu Ahmad Al Tunisi, also carried out his suicide operation west of Baiji. The remaining images solely featured Western foreign fighters, including British national Abu Musa Al Britani, who launched his suicide attack in Anbar’s Ramadi, and German national Abu Musab Al Almani, whose North Baghdad operation was also included in ISIL’s ninth issue of Dabiq magazine. According to file system records maintained on Sullivan’s hard drive, each of these images were last modified just days after their original releases in mid-May 2015.
44. ISIL also routinely releases audio messages which typically feature the group’s top ranking leaders and are produced and distributed by ISIL’s central media arms. Upon detailed review, the “Downloads” folder for Windows user “Raiken” on Sullivan’s hard drive includes an encrypted, compressed RAR file “LoHen_mq.rar.”
 - a. The investigation identified this file as an English-language translation of a speech originally delivered by ISIL leader Abu Bakr al-Baghdadi that was first posted on the Internet on May 26, 2015. The footage, titled “A Video Montage – March Forth Whether Light or Heavy” features “the statement by the Khilafah of the Muslims, Abu Bakr Al-Husayni Al-Qurashi Al-Baghdadi May Allah Protect Him.” It was initially distributed by its creators in high, medium, and low quality versions, all stored in encrypted, compressed .rar files. ISIL’s purpose in releasing this video in encrypted format instead of openly streaming it, such as via YouTube, was to ensure its propaganda reached the intended audience, thereby

safeguarding download links from being disabled by website administrators. In doing so, it requires significant and deliberate effort from the viewer, far beyond that needed to watch streaming videos online.

- b. The 28-character decryption password for the translated audio sermon by al-Baghdadi was distributed separately on an official ISIL English-language blog site.
 - c. A copy of the decryption password for this particular release by Ansar Al Khilafah Media was stored in a text file on Sullivan's computer labeled "pass.txt" saved in the "My Documents" folder for Windows user "Raiken."
 - d. There was also an MP4 copy of the translated al-Baghdadi video from the Windows Desktop of user "Raiken" on the same hard drive.
 - e. At the time of the original release of the Abu Bakr al-Baghdadi recording in May 2015, ISIL issued its own English-language written transcript for the same al-Baghdadi recording in Microsoft Word format. The "My Documents" folder for Windows user "Raiken" also contains a copy of this written transcript, labeled "advice.docx," which was last modified on May 17, 2015. Furthermore, as previously noted, the "Downloads" folder for Windows user "Raiken" contains the ninth issue of Dabiq, which included an article titled "An Address from the Khalifah On the Last Plot of the Apostates" featuring the same al-Baghdadi message. The files on Sullivan's computer confirm that he repeatedly accessed this material under the username "Raiken" account and began doing so as soon as three days following its initial Internet release by ISIL.
45. Sullivan's hard drive also contains a folder titled "Anashid"¹² on the desktop for Windows user "Raiken." Here, there are approximately a dozen files. Most notably are two of the most popular jihadi anasheed songs: "Al Qawlu Sawarim" ("Word is the Word of the Sword") and "Qariban Qariba" ("Soon Soon").
- a. The former, "Word is the Word of the Sword" was saved on Sullivan's hard drive in a file labeled "the word is the word nasheed.mp4" in a folder titled "Anashid" on the desktop of Windows user "Raiken." This file was last modified on April 17, 2015. This nasheed emphasizes violence against enemies.
 - b. A file labeled "Qariban Qariba.mp4" in the "Anashid" folder on the desktop of Windows user "Raiken" features the second nasheed song described above and was last modified on May 02, 2015. This anasheed song was heavily popularized by ISIL and has been featured in the soundtrack of multiple ISIL propaganda films, including (for instance) the February 03, 2015, video titled "Healing the Chests of the Believers," which was released by the group's Al-Furqan media.

¹² "Anasheed" are a form of Islamic vocal songs that reflect on Islamic beliefs, history, religion, and current events. There is a sub-section of anasheed that are focused exclusively on violent jihadi themes.

This video has become infamous for featuring footage of Jordanian pilot, Mu'ath al-Kasasbeh, seen with a black eye and wearing the iconic orange jumpsuit worn by ISIL captives, being burned to death inside a cage as masked and armed fighters surround him and watch. The song begins as one fighter ignites a trail soaked in gasoline leading toward the cage. The volume steadily climbs as al-Kasasbeh is immolated, and again when the information of other pilots is displayed, offering a reward of "100 Gold Dinars" for every person who "kills a Crusader pilot."

- c. When issuing his own terrorist threats online, ISIL recruiter and attack facilitator Junaid Hussain (a.k.a. "Abu Hussain al-Britani"), invoked the title of "Qariban Qariba." The prevalence of this reference across Hussain's many Twitter accounts is exemplified by the sample below:
 - Twitter, July 17, 2015: "the knives have been sharpened, soon we will come to your streets with death and slaughter! #QaribanQariba #Ramadan"
 - Twitter, July 02, 2015: "#WeAreComingToAmerica #QaribanQariba"
 - Twitter, July 05, 2015: "soon we will send our 'drones' to attack you in your lands. #QaribanQariba"
 - Twitter, July 02, 2015: "the spears have been thrown from the khilafah and soon they will reach the lands of the crusaders. #QaribanQariba"

Sullivan's Handwritten Journal

46. In addition to the files on Sullivan's laptop, the personal journal that was seized from Sullivan's bedroom also revealed his interest in ISIL military developments, as well as his general support for the group.
 - a. On May 18, 2015, for example, Sullivan recounted that, "Ramadi was liberated yesterday." ISIL did, in fact, seize Iraq's second-largest city of Ramadi on May 17, 2015. When discussing its seizure of territory, ISIL routinely used the word "liberate." By using the same language as ISIL, Sullivan expressed his support of ISIL's capture of Ramadi.
 - b. Moreover, throughout May and part of June 2015, Sullivan's journal confirms that he followed and analyzed ISIL's movements on the battlefields in Iraq and Syria, demonstrating both his understanding of the situation on the ground as well as support of the group. When speaking of ISIL advancements, Sullivan wrote that the "war is still going well" and repeatedly referred to such outcomes as "victories."

- c. Further indicating his support of ISIL, Sullivan routinely identified the group as “the Khilafah” [Caliphate].
- d. In his May 23, 2015 journal entry, Sullivan proclaimed, “I need that al Shabaab will be giving its bayah to the Islamic State soon. That would also be huge.” Sullivan was referencing al-Qaida’s affiliate in Somalia, al-Shabaab al-Mujahideen, hoping that it would pledge allegiance to ISIL.

The .22 Marlin Rifle, Model 60W from Sullivan’s Crawl Space and the Shell Casing from the Clark Home:

- 47. The .22 Marlin Rifle, Model 60W found in Sullivan’s crawl space and the cartridge shell casing found on the floor of Mr. Clark’s bedroom were analyzed by the Firearms and Toolmarks Unit of the FBI’s Laboratory in Quantico, Virginia. A supervisory FBI Firearms Examiner conducted this analysis. After lightly cleaning and oiling the action on the .22 Marlin rifle, the examiner fired the .22 Marlin rifle and found that it functioned normally. He then created an image of the test-fired cartridge case. Comparing the test-fired cartridge case against that found in Mr. Clark’s bedroom, the examiner concluded the cartridge case found in Mr. Clark’s bedroom was fired from the .22 Marlin found in Sullivan’s crawl space.
- 48. A trace of the .22 Marlin stolen by Sullivan shows that it was manufactured by the Marlin Firearms Company in New Haven, Connecticut, sold to Walmart in Arkansas, who shipped it to California, where it was purchased by Sullivan’s father.
- 49. Sullivan’s father was interviewed by FBI agents on the day of the search of his residence and was shown the .22 Marlin found in the crawl space of his home. Sullivan’s father told FBI agents it was his gun. Sullivan’s father did not give Sullivan permission to remove or possess the .22 Marlin.

Sullivan’s Admission to a Cellmate:

- 50. *Beginning on or about June 26, 2015 and continuing through on or about July 19, 2015, Sullivan was held at the Madison County Detention Facility, where he was placed in the same cell with a certain inmate (hereinafter the “Cellmate”). The Cellmate reported to FBI and NC SBI agents that while he was cellmates with Sullivan, Sullivan became concerned about whether the ballistics tests would associate him with a murder in his neighborhood. Sullivan told his Cellmate that the victim of the murder was an old-man between 74 and 75 years old. The Cellmate then related details concerning the Clark murder and Sullivan’s involvement that were not public and only the perpetrator could have known, including that the exit wound on the victim was approximately the size of a half dollar and had caused damage to the victim’s ear. Sullivan also told his cellmate that he committed the murder while his parents were in Georgia. Sullivan said he thought he was in the clear because the neighborhood was secluded and the victim was a “hermit, he was nobody, he was nothing.” Sullivan told his cellmate that he killed the old man as practice for killing his father, because his father had called the police on him*

for breaking statues. He further told his cellmate that he wanted a silencer because of the loudness of the gun during the murder.

Sullivan's False Statements on June 19 and 20, 2015:

51. *Sullivan was interviewed by FBI agents on June 19 and 20, 2015, regarding his possession of a stolen rifle and knowledge of the circumstances of Mr. Clark's death. Sullivan then well knew his answers to the FBI agents' questions were false in that he had possession of the .22 Marlin hidden under his house and had used it murder Mr. Clark by shooting him through the head in his home.*
52. *Sullivan's statements to federal agents on June 19 and 20, 2015, were material to the following issues in the FBI's investigation: (a) whether Sullivan was in possession of a stolen firearm, (b) whether and when Sullivan developed the intent to provide material support to ISIL, (c) whether Sullivan's statement to the UCE that Sullivan could kill was truthful; (d) whether Sullivan obtained the money he planned to use to purchase an AR-15 by murdering Mr. Clark; (e) whether Sullivan had a basis for telling the UCE that one could kill by "wear[ing] a mask [and] do[ing] it at night; (f) whether SULLIVAN used and exercised control over the crawl space where the silencer and stolen rifle were kept, and (g) whether and when Sullivan intended to carry out violent acts on behalf of ISIL.*
53. *Sullivan's false statements involved terrorism as defined by Title 18, United States Code, Section 2331 and such false statements were made in the course of an interview in a FBI terrorism investigation.*

Sullivan's Offenses Transcending National Boundaries:

54. Sullivan admits that beginning no later than June 6, 2015 and continuing until at least June 19, 2016, he solicited the UCE and planned the commission of mass casualty shooting events on behalf of ISIL in North Carolina and Virginia. As described above, the details of Sullivan's planned series of terrorist attacks were discussed in intimate detail with the UCE. Moreover, as shown in the texts recovered from his cell phone, Sullivan conspired and agreed with Junaid Hussain to commit such attacks on behalf of, and in support of, ISIL and in an effort to change United States policies against ISIL by avenging U.S-coalition airstrikes against ISIL fighters in Iraq and Syria.
55. Sullivan's planned attacks violate both North Carolina and Virginia state laws:
 - a. N.C. General Statute, Section 14-17 states that: (a) "a murder which shall be perpetrated by means of...lying in wait..., or by any other kind of willful, deliberate, and premeditated killing, shall be deemed to be murder in the first degree..." Furthermore, N.C. General Statute, Section 14-32 states that: (a) "any person who assaults another person with a deadly weapon with intent to kill and inflicts serious injury shall be punished as a felon."
 - b. Virginia Code Section 18.2-31 states that: "[t]he following offenses shall constitute capital murder, punishable as a...felony: (7) [t]he willful, deliberate,

and premeditated killing of more than one person as a part of the same act or transaction.” Finally, Virginia Code Section 18.2-51.2 proscribes that: “[i]f any person maliciously shoot[s]...or wound[s] any person or by any means cause him bodily injury, with the intent to maim, disfigure, disable, or kill, he shall be guilty of a...felony if the victim is thereby severely injured and is caused to suffer permanent and significant physical impairment.”

- c. Sullivan planned, intended and agreed with Junaid Hussain and others to buy an AR-15 at a gun show, fit it with the suppressor he solicited the UCE to make from a YouTube video, and shoot to death as many people as possible at a club or concert in North Carolina.
 - d. During his texts to the UCE, Sullivan, knowing the UCE was in Virginia, solicited the UCE to kill so he would know that he could trust the UCE to carry out further terrorist attacks. Thereafter, Sullivan solicited the UCE to carry out terrorist attacks in the Washington, D.C. area and to travel to North Carolina to kill his parents whom he believed had reported his activities to law enforcement.
56. Sullivan took substantial steps towards carrying out these attacks by: (1) recruiting the UCE; (2) obtaining a silencer from the UCE; (3) procuring the money that would have enabled him to purchase the AR-15; (4) trying to obtain a specific type of ammunition that he believed would be the most “deadly”; (5) identifying separate gun shows where he and the UCE could purchase AR-15s; and (6) obtained coupons for the gun shows he planned for himself and the UCE to attend on June 20 or 21, 2015.
57. Sullivan’s conduct transcended national boundaries as established through the deleted chat between Sullivan and Junaid Hussain who Sullivan knew and believed was in Syria at the time the communication occurred. Sullivan communicated and coordinated with Junaid Hussain regarding his attack plans. Files recovered from Sullivan’s laptop and entries in his handwritten journal also show that that Sullivan was in contact with ISIL members in Syria and was planning to commit attacks in the United States in an attempt to influence United States policy against ISIL in Iraq and Syria. Finally, Sullivan admitted to FBI agents that he was communicating with ISIL members overseas.
58. Sullivan committed the following overt acts, among others in furtherance of his conspiracy with Junaid Hussain and other ISIL members:
- a. On a date not later than June 7, 2015, Sullivan conducted research on the type of weapon and ammunition that he would use in the targeted killings and mass shootings, including an AR-15 assault rifle with a firearm silencer, and .223 split core ammunition.
 - b. On or about June 7, 2015, Sullivan attempted to recruit the UCE to join ISIL and participate in planned targeted killings and mass shootings to be conducted on behalf of ISIL.

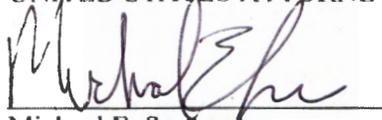
- c. On a date not later than June 7, 2015, Sullivan conducted research about the locations of upcoming gun shows, in North Carolina and Virginia, where he and the UCE could purchase AR-15 assault rifles.
 - d. On or about June 9, 2015, Sullivan discussed making a video for ISIL and told the UCE that he had spoken to someone on the cyber team for ISIL.
 - e. On or about June 10, 2015, Sullivan told the UCE that “a hacker from IS might be able to help” in planning a terrorist attack in the United States.
 - f. On or about June 17, 2015, Sullivan attempted to purchase hollow point ammunition from a local gun dealer to be used with the weapon(s) he intended to purchase.
 - g. On or about June 19, 2015, Sullivan sent the UCE a coupon for reduced admission to a gun show in Virginia.
 - h. On a date not later than June 19, 2015, Sullivan obtained the funds necessary to purchase the AR-15 assault rifle and ammunition.
 - i. On June 19, 2015, Sullivan sent texts to Junaid Hussain on a social media application in which they discussed making a video for later use by ISIL of a terrorist attack in the United States to be committed by Sullivan.
59. Sullivan used a facility of interstate and foreign commerce in furtherance of the offense charged in Count Nine of the Superseding Indictment, namely the internet, which he used to communicate with the UCE, Junaid Hussain, and other ISIL members overseas.

Sullivan’s Knowledge and Intent:

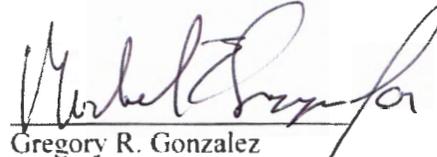
60. At all times during the course of the offense alleged in Count Nine of the Superseding Bill of Indictment and conduct relevant to that offense:
- a. Sullivan acted knowingly and willfully. In this regard, Sullivan admits that contrary to his statements to FBI agents, he truly intended to carry out the acts he planned with UCE. In this regard, Sullivan acted voluntarily and intentionally and with the specific intent to do something he knew federal and state laws prohibit—killing people in North Carolina and Virginia to assist ISIL and to influence and avenge U.S.-coalition airstrikes against ISIL in Iraq and Syria.
 - b. The term “knowingly” as used herein describes Sullivan’s state of mind during the offense conduct, meaning he knew that ISIL was a terrorist organization operating in Iraq and Syria, that Junaid Hussain was an ISIL attack facilitator in Syria, and that his planned attacks transcended United States boundaries.
 - c. Sullivan was conscious and aware of his actions, knew what he was doing and what was happening around him; and did not act out of ignorance, mistake, or accident.

Government Counsel's Signature:

JILL WESTMORELAND ROSE
UNITED STATES ATTORNEY


Michael E. Savage
Assistant United States Attorney

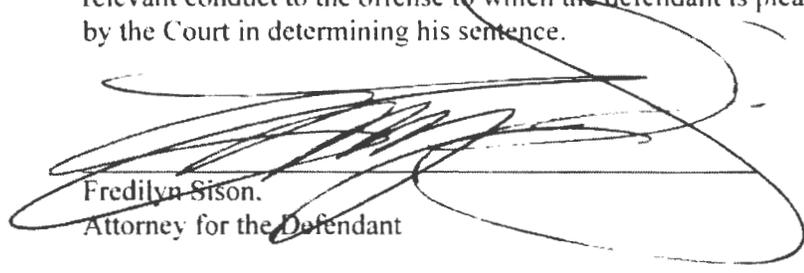
11/10/16


Gregory R. Gonzalez
Trial Attorney
National Security Division

11/10/16

Defendant's Counsel's Signature and Acknowledgment

I have read this Factual Basis, the Superseding Bill of Indictment, and the plea agreement in this case, and have discussed them with the defendant. Based on those discussions, I am satisfied that he understands the Factual Basis, Superseding Bill of Indictment and plea agreement. I hereby certify that the defendant does not dispute this Factual Basis with the exception of those facts which are stated in italics, and understands that it may be used for the purposes stated above. The defendant does not admit to the facts stated in italics, but acknowledges that they are relevant conduct to the offense to which the defendant is pleading guilty and can be considered by the Court in determining his sentence.


Fredilyn Sison,
Attorney for the Defendant

DATED: 11-10-16