

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	*	Case No. 19-CR-117 (JBW)
	*	
	*	Brooklyn, New York
	*	March 7, 2019
v.	*	
	*	
SINMYAH AMERA CEASAR,	*	
	*	
Defendant.	*	
	*	
* * * * *		

TRANSCRIPT OF CRIMINAL CAUSE FOR  
ARRAIGNMENT AND PLEADING  
BEFORE THE HONORABLE ROBERT M. LEVY  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:	JOSHUA G. HAFETZ, ESQ. Asst. United States Attorney United States Attorney's Office 271 Cadman Plaza Brooklyn, NY 11201
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For the Defendant:	SAMUEL JACOBSON, ESQ. Federal Defenders of New York, Inc. One Pierrepont Plaza, 16th Fl. Brooklyn, NY 11201
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1 (Proceedings commenced at 1:22 p.m.)

2 THE CLERK: Criminal cause for arraignment and  
3 pleading, United States vs. Sinmyah Amera Ceasar, case no.  
4 19-CR-117.

5 Counsel, can you state your appearances?

6 MR. HAFETZ: Good afternoon, Your Honor. Josh  
7 Hafetz for the government. I'm joined at counsel table by  
8 Jacqueline Ross of the FBI.

9 THE COURT: Good afternoon.

10 MR. JACOBSON: Good afternoon, Your Honor. Sam  
11 Jacobson, Federal Defenders, on behalf of Ms. Ceasar, who's  
12 present next to me. We're joined by Carina Bruka (ph) a  
13 paralegal in our office.

14 THE COURT: Good afternoon.

15 So could you all come up and approach the bench,  
16 please.

17 (The defendant is sworn.)

18 THE CLERK: Could you please also just state your  
19 name for the record.

20 THE DEFENDANT: Sinmyah Amera Ceasar.

21 THE COURT: All right. Good afternoon.

22 THE DEFENDANT: Good afternoon.

23 THE COURT: All right. And what is Ms. Ceasar  
24 going to do today?

25 MR. JACOBSON: Your Honor, she needs to be

1 arraigned on the information that was filed in this case and  
2 she'd like to waive indictment and proceed before Your Honor  
3 and plead guilty to the sole count in the information.

4 THE COURT: Okay. And there's an agreement as  
5 well?

6 MR. HAFETZ: There is, Your Honor.

7 MR. JACOBSON: There is, Judge.

8 THE COURT: Okay. Great.

9 So why don't we start with the information. Have  
10 you had a chance to read the information?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So I'm just going to advise you you  
13 have the right to remain silent. Anything you say here today  
14 can be used against you.

15 Even if you've made statements to the government,  
16 you don't have to say anything else. And you can consult with  
17 your lawyer at any time if you wish.

18 Do you understand?

19 THE DEFENDANT: Yes.

20 THE COURT: So it's a very short information. I'm  
21 just to read it.

22 It says, "Obstruction of an official proceeding. In  
23 or about and between June, 2018 and July, 2018, both dates  
24 being approximate and inclusive, within the Eastern District  
25 of New York, the defendant, Sinmyah Amera Ceasar, while

1 released under Title 18, United States Code, Chapter 207, did  
2 knowingly, intentionally and corruptly alter, destroy,  
3 mutilate and conceal one or more records, documents and other  
4 objects, to wit, Facebook messages and text messages with the  
5 intent to impair the object's integrity and availability for  
6 use in one or more official proceedings, to wit, A, bail  
7 proceedings in the Eastern District of New York, and B,  
8 sentencing proceedings in the Eastern District of New York.

9 Do you have any questions about the information?

10 THE DEFENDANT: No, sir.

11 THE COURT: And are you satisfied that your client  
12 understands her rights and the information?

13 MR. JACOBSON: Yes.

14 THE COURT: All right. So I also have a here a  
15 waiver of indictment.

16 And do you understand what an indictment is?

17 THE DEFENDANT: Yes.

18 THE COURT: So on this form it appears that there's  
19 a signature above your name.

20 Did you read the waiver form?

21 THE DEFENDANT: Yes.

22 THE COURT: And did you sign it?

23 THE DEFENDANT: Not yet.

24 MR. JACOBSON: You signed the copy.

25 THE COURT: Okay. You signed another copy?

1 THE DEFENDANT: Oh, yes. Yes.

2 THE COURT: Okay. So your copy you need to sign  
3 and this copy -- yeah.

4 And before you signed it, did you discuss it with  
5 your lawyer and discuss with him what it means to waive an  
6 indictment?

7 THE DEFENDANT: Yes.

8 THE COURT: And are you making this decision  
9 voluntarily?

10 THE DEFENDANT: Yes.

11 THE COURT: DO you have any questions about what  
12 you're doing?

13 THE DEFENDANT: No.

14 THE COURT: All right. So, Mr. Jacobson, can you  
15 just explain that it is, without breaching attorney/client  
16 confidentiality, what it is your explained to Ms. Ceasar, the  
17 significance of waiving the indictment is.

18 MR. JACOBSON: That ordinarily she would have the  
19 right to have a grand jury go -- to have the government  
20 before a grand jury to return an indictment and that by  
21 proceeding on the information, she's waiving that right.

22 THE COURT: Okay.

23 MR. JACOBSON: And that the government would have  
24 to show sufficient evidence to return the indictment.

25 THE COURT: And do you feel that she understood

1 your discussions?

2 MR. JACOBSON: Yes, she did.

3 THE COURT: So I'm just going to go through this as  
4 well.

5 So you understand that -- you understand what a  
6 grand jury is.

7 THE DEFENDANT: Yes.

8 THE COURT: So a grand jury is a group of citizens  
9 who are part of an entity that evaluates whether the  
10 government has enough proof to bring criminal charges against  
11 someone for a felony.

12 Do you understand?

13 THE DEFENDANT: Yes.

14 THE COURT: And you have a right, as your lawyer  
15 said, to have the grand jury review this evidence and decide  
16 whether there's probable cause before they bring these formal  
17 criminal charges against you.

18 Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And it's unclear at this -- I mean, the  
21 grand jury could decide not to indict you.

22 You know, we haven't heard what evidence the  
23 government's going to bring. The grand jury hasn't been  
24 empaneled in your case and the grand jury hasn't made a  
25 decision whether or not to indict you.

1                   So it is possible that a grand jury may or may not  
2                   indict you.

3                   Do you understand that?

4                   THE DEFENDANT: Yes.

5                   THE COURT: And it's -- these are serious charges  
6                   that are in the information.

7                   And if you proceed by way of an information, the  
8                   grand jury will not have the opportunity to screen the  
9                   charges and determine if there's probable cause to bring  
10                  them.

11                  Do you understand?

12                  THE DEFENDANT: Yes.

13                  THE COURT: So that's -- and your lawyer explained  
14                  that to you thoroughly, as I hear.

15                  So do you have any questions at all about what  
16                  you're doing?

17                  THE DEFENDANT: No, sir.

18                  THE COURT: And are you voluntarily, as I asked  
19                  before, giving up your right to have a grand jury evaluate  
20                  the evidence and decide whether to bring forth an indictment?

21                  THE DEFENDANT: Yes.

22                  THE COURT: Okay. So I'm going to ask you a lot of  
23                  questions and you will be answering them under oath.

24                  If you make any false statements, you could be  
25                  prosecuted for perjury.

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: If you have any questions at all, feel  
4 free to consult with your lawyer privately, or to ask me, or  
5 both.

6 Okay. So I'm going to ask you, as I said, a number  
7 of questions. The first one is what is your full name?

8 THE DEFENDANT: Sinmyah Amera Ceasar.

9 THE COURT: How old are you?

10 THE DEFENDANT: 24.

11 THE COURT: What's the last level of schooling that  
12 you completed?

13 THE DEFENDANT: I didn't obtain my high school  
14 diploma. I went to 12th grade, but I dropped out before my  
15 senior year.

16 THE COURT: Okay.

17 THE DEFENDANT: Before my senior graduation.  
18 Sorry.

19 THE COURT: Okay. Are you now or have you recently  
20 been under the care of a doctor or a psychiatrist?

21 THE DEFENDANT: Yes, I do see a psychologist.

22 THE COURT: Okay. And I think you're getting some  
23 medical assistance as well?

24 THE DEFENDANT: Yes.

25 THE COURT: And the medical assistance, I know



1 we've talked about it in other proceedings.

2 Are you taking any -- as a result of seeing either  
3 a doctor or a psychiatrist, are you currently taking any  
4 medication?

5 THE DEFENDANT: Yes.

6 THE COURT: In the last 24 hours, have you taken  
7 any medicine or pills?

8 THE DEFENDANT: No. Only for my health, like high  
9 blood pressure and for like my asthma, stuff like that. But  
10 it has nothing to do with mental -- psych meds.

11 THE COURT: Okay. Do for your physical conditions  
12 you've been taking medication --

13 THE DEFENDANT: Yes.

14 THE COURT: And do you take that everyday?

15 THE DEFENDANT: As needed.

16 THE COURT: Have you taken any medication in the  
17 last 24 hours?

18 THE DEFENDANT: No.

19 THE COURT: No. Does the medication you take for  
20 blood pressure and for other physical issues, does that ever  
21 affect your ability to think, or to concentrate, or to pay  
22 attention?

23 THE DEFENDANT: No, sir.

24 THE COURT: And have you taken any psychiatrist  
25 medications?

1 THE DEFENDANT: No.

2 THE COURT: In the past 24 hours, have you taken  
3 any narcotic drugs or alcoholic beverages?

4 THE DEFENDANT: No, sir.

5 THE COURT: Have you ever been hospitalized or  
6 treated for a narcotic addiction?

7 THE DEFENDANT: No.

8 THE COURT: Or alcoholism.

9 THE DEFENDANT: No.

10 THE COURT: For a mental or emotional problem,  
11 other than what you just told me?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. Is your mind clear now?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And do you understand why you're here  
16 and what's happening here today?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. So these are all standard  
19 questions that, obviously, I have to ask.

20 So I'm just going to ask your lawyer a few  
21 questions and then come back to you.

22 Have you discussed this matter fully with your  
23 client?

24 MR. JACOBSON: I have, Your Honor.

25 THE COURT: Does she understand the rights that she

1 would be waiving by pleading guilty?

2 MR. JACOBSON: She does.

3 THE COURT: Is she capable of understanding the  
4 nature of these proceedings?

5 MR. JACOBSON: Yes, she is.

6 THE COURT: Do you have any doubts as to her  
7 competency to plead at this time?

8 MR. JACOBSON: No, Your Honor.

9 THE COURT: In preparing for this plea, have you  
10 advised her of the possible maximum and minimum sentence and  
11 fine?

12 MR. JACOBSON: I have.

13 THE COURT: Have you advised her of other possible  
14 penalties that could be imposed and how it might affect her  
15 in other proceedings she has before the court?

16 MR. JACOBSON: Yes, I have.

17 THE COURT: Have you advised her -- and I know this  
18 may not be applicable, that if she's not a citizen of the  
19 U.S. a guilty plea could result in deportation?

20 MR. JACOBSON: Yes.

21 THE COURT: Have you explained to her how the  
22 sentencing guidelines work and that there's no guarantee at  
23 this time what her sentence will be?

24 MR. JACOBSON: Yes, I did.

25 THE COURT: Do you think that she understood all of

1 your discussions?

2 MR. JACOBSON: I believe so.

3 THE COURT: So you heard what your lawyer said. Do  
4 you agree with what he just said?

5 THE DEFENDANT: Yes.

6 THE COURT: And have you discussed your case with  
7 him fully?

8 THE DEFENDANT: Yes.

9 THE COURT: Are you satisfied to have him represent  
10 you?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. So the next series of questions  
13 has to do with your rights, because when you plead guilty  
14 you're doing it now with a full array of constitutional and  
15 legal rights. Once you plead guilty, you'll be giving up some  
16 of those rights.

17 So the first question is do you understand that  
18 it's your right to plead not guilty if you wish to?

19 THE DEFENDANT: Yes.

20 THE COURT: And if you continue to plead not  
21 guilty, you would have a right under the Constitution and  
22 laws of this country to a speedy and public trial by jury,  
23 with the help of your lawyer, on the charges contained in the  
24 information.

25 Do you understand?

1 THE DEFENDANT: Yes.

2 THE COURT: And if you can't afford to hire an  
3 attorney, the court will make sure that you have an attorney  
4 who's appointed to represent you all the way through trial,  
5 at every stage of this case, including through appeal if you  
6 were convicted.

7 Do you understand?

8 THE DEFENDANT: Yes.

9 THE COURT: And if you decided to go to trial, you  
10 would be presumed innocent. The government would have to  
11 prove your guilt by what's called competent evidence that's  
12 admissible in court and by proof beyond a reasonable doubt.

13 Do you understand?

14 THE DEFENDANT: Yes.

15 THE COURT: Even if you did everything the  
16 government has accused you of, if it can't prove beyond a  
17 reasonable doubt that you're guilty, the jurors would have a  
18 duty to find not guilty.

19 Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. Any questions so far?

22 THE DEFENDANT: No, sir.

23 THE COURT: So if you decided to go to trial, the  
24 government would have to bring its witnesses to court. They  
25 would have to testify. You would be there to listen to them.

1           Your lawyer would have a right to cross examine  
2 them, to object to the government's evidence, to present  
3 evidence in your defense and to subpoena or to call witnesses  
4 to testify on your behalf.

5           Do you understand?

6           THE DEFENDANT: Yes.

7           THE COURT: And if you did go to trial, you would  
8 have a choice whether or not to testify.

9           If you wish to, you could testify in your own  
10 defense, but you don't have to because under the Fifth  
11 Amendment, you have a right to remain silent and not to  
12 incriminate yourself.

13           Do you understand?

14           THE DEFENDANT: Yes.

15           THE COURT: So if you decided to go to trial, but  
16 not to testify, Judge Weinstein, or whoever the judge is  
17 who'll be supervising your case, would instruct the jurors  
18 that they couldn't hold that against you and assume that  
19 you're guilty just because you didn't testify in your  
20 defense.

21           Do you understand?

22           THE DEFENDANT: Yes.

23           THE COURT: All right. Any questions so far?

24           THE DEFENDANT: No.

25           THE COURT: So are you willing to give up your

1 right to a trial, the right to remain to silent, the right to  
2 confront witnesses and the other rights that have just been  
3 discussed?

4 THE DEFENDANT: I do.

5 THE COURT: Okay. So do you have a copy of the  
6 agreement there to follow along?

7 MR. HAFETZ: Your Honor, I apologize for the  
8 interruption.

9 Does Your Honor have a copy of the written consent  
10 to proceed before the magistrate?

11 THE COURT: Oh, you know, that's a good question.

12 I don't think we went through that, did we? And I  
13 don't think I have a -- I do have it. Thank you. Thank you  
14 very much.

15 MR. HAFETZ: You're welcome, Judge.

16 THE COURT: Yes. So this is a consent form. And  
17 in it it says that the defendant and the government are  
18 consenting to have a magistrate judge hear the guilty plea,  
19 and make a recommendation to the district judge.

20 Did you sign this consent?

21 THE DEFENDANT: Yes.

22 THE COURT: You did sign it?

23 THE DEFENDANT: It's on there (indiscernible).

24 THE COURT: And before you signed it, did you  
25 discuss it with your lawyer and understand what you were

1 doing?

2 THE DEFENDANT: Yes.

3 THE COURT: And do you understand that if you wish,  
4 Judge Weinstein would be happy to hear your guilty plea and  
5 to -- would not be upset in any way. It's totally all right  
6 if you'd rather have him hear the plea than me.

7 Do you understand?

8 THE DEFENDANT: I do.

9 THE COURT: Okay. And are you agreeing to have me  
10 hear the plea voluntarily?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you have any questions about what  
13 you're doing?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. Thanks. And thanks for  
16 mentioning that.

17 Okay. All right. So let's take a look at the plea  
18 agreement. It's been marked as Court Exhibit No. 1 and on  
19 the last page there's a signature page and there's a  
20 signature above your name there.

21 Did you sign the plea agreement?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you want to see this copy?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. And before you signed it, did



1 you have a chance to read it carefully and discuss it with  
2 your lawyer?

3 THE DEFENDANT: Yes.

4 THE COURT: Was he able to answer all of your  
5 questions?

6 THE DEFENDANT: Yes.

7 THE COURT: So I'm -- let me ask the government  
8 first, is this the sole agreement between the parties on this  
9 case?

10 MR. HAFETZ: It is, Your Honor.

11 THE COURT: And the defense?

12 MR. JACOBSON: Yes, Your Honor, aside from some  
13 proffer agreements executed between the parties.

14 THE COURT: Okay. All right.

15 So looking at page 1, paragraph 1, says that you'll  
16 waive indictment and plead guilty to the information that we  
17 went through earlier charging you with obstruction of  
18 justice.

19 It says in addition you stipulate and agree that at  
20 your guilty plea you will state that you committed the  
21 obstruction of justice while on release in the Eastern  
22 District of New York, pursuant to the Bail Reform Act, and  
23 that you knowingly made multiple false statements during your  
24 January 2nd, 2019 interview with the government, including  
25 the false statements that are included in Attachment A to the

1 plea agreement.

2 Do you understand that provision?

3 THE DEFENDANT: Yes.

4 THE COURT: So if you plead guilty to this count,  
5 the charge carries with it a minimum of zero years in prison  
6 and a maximum of 20 years.

7 Do you understand?

8 THE DEFENDANT: Yes.

9 THE COURT: And if you are sentenced to prison on  
10 this charge, the maximum period of time you could be placed  
11 on supervised release after you get out of prison is three  
12 years and there is a penalty if you violate any conditions of  
13 your release.

14 And that would be that you could be sentenced back  
15 to prison for up to two years without any credit for the time  
16 you'd been serving in prison on this sentence or on  
17 supervised release.

18 That's on page 2. It's provision B.

19 And do you understand what supervised release is?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. So you'd be released with  
22 conditions. You'd have to follow them and there is, as I  
23 mentioned a serious penalty if you don't follow the  
24 conditions of release.

25 Do you have any questions about that?

1 THE DEFENDANT: No, sir.

2 THE COURT: All right. There's a maximum fine of  
3 \$250,000. There's a fee called a special assessment of \$100  
4 that you would have to pay, and then G says there is also a  
5 penalty of administrative forfeiture, as set forth in  
6 paragraph 8.

7 Paragraph 8 says that you consent to the  
8 administrative forfeiture of all right, title and interest in  
9 the following assets. This is on page 7.

10 It says one silver HD [sic] laptop bearing serial  
11 number 5CG7295MQW, with a power cord, and one J3 Luna Pro  
12 Galaxy Android cellular phone, IMEI number 354308089279698,  
13 with the assigned telephone number of 347-452-5345.

14 Are you familiar with those assets?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. And it says that if you don't  
17 forfeit the assets and execute any document to make that  
18 happen, on timely notice there would be -- this may  
19 constitute a material breach of the agreement.

20 And at that time, if there were such a breach, the  
21 defendant would not be entitled to withdraw the plea, but the  
22 U.S. Attorney's Office may bring additional criminal charges  
23 against you.

24 Do you understand what that provision means?

25 THE DEFENDANT: Yes.

1 THE COURT: Mr. Jacobson, have you gone through  
2 that provision with Ms. Ceasar?

3 MR. JACOBSON: Yes, Your Honor.

4 THE COURT: And are you satisfied she understands  
5 it?

6 MR. JACOBSON: She does.

7 THE COURT: Okay. Now going back to page 2, at the  
8 end of paragraph 1, there's a paragraph that talks about how  
9 sentencing works in this case and the other case that you  
10 have.

11 It says that the sentence imposed for the  
12 obstruction of justice offense, that's the one in this case,  
13 may run consecutively for the sentence imposed for the  
14 material support offense, for which I think you already have  
15 a sentencing date, as defined in paragraph 3.

16 Additionally -- well, first of all, do you  
17 understand what that means, for the sentences to run  
18 consecutively.

19 THE DEFENDANT: No. I don't understand. What is  
20 consecutive?

21 THE COURT: Mr. Jacobson, would you like to explain  
22 it first and then I'll do it?

23 MR. JACOBSON: Sure. If I could have a moment,  
24 Your Honor.

25 (Defendant and counsel confer.)

1 MR. JACOBSON: We're ready to proceed, Judge.  
2 Thank you.

3 THE COURT: Okay. So do you understand what that  
4 means, consecutively, now at this point?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay. So, for example, well, that  
7 paragraph refers to the material support offense and that is  
8 described in paragraph 3, which says that you previously pled  
9 guilty to one count of providing material support to a  
10 foreign terrorist organization in violation of 18 U.S. Code  
11 2339(b) (A) (1).

12 And the government and the defendant will request  
13 that you be sentenced on the material support offense at the  
14 same time as your sentencing for the obstruction of justice  
15 offense.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. And it also says that the  
19 presentence investigation report that was prepared by the  
20 Probation Department for this district determined that your  
21 total offense level for the material support offense is 40  
22 under the guidelines.

23 Do you understand how the guidelines work and what  
24 they mean, or do you want me to go into that?

25 THE DEFENDANT: Well, can you explain that to me?

1 THE COURT: Sure. So let me just talk about  
2 sentencing for just a minute.

3 Do you want to say anything before I do it, or --

4 MR. JACOBSON: No. We've discussed it. I think  
5 she'd like to hear Your Honor's --

6 THE COURT: Okay. Great.

7 All right. So at this point in both of your cases  
8 there's no guarantee what your sentence will be.

9 And the court considers a number of factors in  
10 deciding how to sentence you. One of them is the sentencing  
11 guidelines.

12 So the guidelines are just guides. They're rules  
13 that exist that Judge Weinstein has to refer to. He's going  
14 to calculate what he thinks your guideline range is and then  
15 decide whether he should sentence you within the guidelines,  
16 above the guidelines or below the guidelines.

17 And there's no guarantee at this time what your  
18 guideline range is going to be, or what Judge Weinstein will  
19 decide as far as a sentence goes.

20 But the guidelines are one factor in deciding how  
21 to sentence you. There are other factors, and I'm just going  
22 to read them out to you and if you have any questions, just  
23 let me know. They're not written down there on that page  
24 there. And then we'll get back to the guidelines.

25 So in deciding what sentence to give you, the court

1 has to consider the nature and the circumstances of the  
2 offenses that you're charged with, your history, your  
3 characteristics, what you're like, and then also the need for  
4 the sentence.

5 And that's -- I'm just reading from 3553 of 18 U.S.  
6 Code.

7 The need for the sentence to reflect the  
8 seriousness of the offense, to promote respect for the law,  
9 to provide just punishment, in other words, what's fair.  
10 Provide deterrents to criminal conduct. In other words, to  
11 make sure that it doesn't happen again. To protect the  
12 public from further crimes that you might commit and to  
13 provide you with needed educational or vocational training,  
14 medical care, or other correctional treatment in the most  
15 effective manner. Those are some of the factors that the  
16 court looks at.

17 So they look at your individual characteristics,  
18 what would be fair, and the other things that I just  
19 mentioned.

20 Do you have any questions about that that you'd  
21 like to discuss with your lawyer, or ask me about?

22 THE DEFENDANT: No, I understand.

23 THE COURT: Okay. All right.

24 So getting back to the sentencing guidelines, the  
25 guidelines are just one factor there.

1           So Judge Weinstein's going to calculate your  
2 guideline range and then decide whether to sentence you, as I  
3 said, within the guidelines, above the guidelines or below  
4 the guidelines.

5           And in paragraph 3 you have agreed to the  
6 calculation for the material support offense that is listed  
7 in paragraph 3.

8           And that is that there's a base offense level of  
9 26, there is -- well, actually, let me let the government --  
10 this is the government's --

11           MR. HAFETZ: That's correct, Your Honor.

12           The calculation that she has stipulated to and will  
13 not take a FATICO hearing on it is as follows, for the  
14 material support offense.

15           It's a level 26 base offense level, plus an  
16 enhancement for two points under Section 2M5.5(b)(1)(E) and  
17 then a 12 point enhancement, because the offense was intended  
18 to promote a federal crime of terrorism. And that's pursuant  
19 to Section 3A1.3.

20           And again, that results in a total offense level of  
21 40 for the material support offense.

22           THE COURT: Thank you. And what does it mean, just  
23 for the defendant's sake, that she's not going to seek a  
24 FATICO hearing with respect to any aspect of the calculation?

25           MR. HAFETZ: That she's not going to challenge at



1 sentencing the factual basis, or legal basis, of any of those  
2 enhancements. That's she's agreeing with the government, and  
3 probation, which as I said, or you said, already calculated  
4 that as her offense level. And she's not in any way going to  
5 challenge that offense level.

6 THE COURT: Okay. Do you have any questions about  
7 what was just said?

8 THE DEFENDANT: No.

9 THE COURT: Okay. And then going to the charge in  
10 the information, which is the obstruction of justice charge,  
11 would the government mind placing on the record its  
12 calculation, again, of the guidelines?

13 MR. HAFETZ: Certainly, Your Honor.

14 The total projected calculation for that is I think  
15 contained on page 3 and 4 of the plea agreement, and that's a  
16 30 to 37 month, and that's assuming, again, the defendant  
17 falls within category 1, which I believe she does fall in.

18 So that's a total, again, of 30 to 37 months.

19 THE COURT: Okay.

20 MR. HAFETZ: And, again, Your Honor, the defendant  
21 has also stipulated, as noted on the top of page 4, the same  
22 thing I just said, for the offense level for the material  
23 support.

24 In other words, for the obstruction of just offense  
25 she's stipulating to the guidelines calculation put forward

1 in the plea agreement on page 3, which includes a base level  
2 of 14, an enhancement for the substantial interference with  
3 the administration of justice, which is three points, an  
4 additional two points for the destruction of a significant  
5 volume of records, and another three points because she  
6 committed the offense while on pretrial release.

7 THE COURT: Thank you.

8 So do you have any questions about what's been said  
9 so far?

10 THE DEFENDANT: No, sir.

11 THE COURT: So consecutive sentence would mean that  
12 since you have two charges that you're being sentenced on,  
13 the charges could run one after the other.

14 So let's say, for example -- well, let's take the  
15 level of imprisonment that the obstruction count provides for  
16 under the guideline that's been stipulated to is 30 to 37  
17 months.

18 So let's say Judge Weinstein gave you 30 months on  
19 the obstruction of justice and then turning to the second  
20 one, the material support charge, that carries a range of  
21 imprisonment of up to 292 to 365 months.

22 If Judge Weinstein were to give you 292 months, you  
23 would start serving those -- that term after you finished  
24 serving the term for the obstruction charge.

25 So you'd serve one completely and then serve the

1 other one.

2 Do you understand?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. But, again, there's no guarantee  
5 what Judge Weinstein will do. At this point, it's up to  
6 Judge Weinstein to determine, based on all the factors that  
7 the statute provides for, what the fair sentence would be at  
8 this time.

9 Do you have any questions so far?

10 THE DEFENDANT: No.

11 THE COURT: Okay. So next you've agreed not to  
12 appeal or otherwise challenge in any way your conviction or  
13 your sentence if the court gives you a term of imprisonment  
14 of 365 months or less.

15 Do you understand?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. Do we need to go through the  
18 entire paragraph 6? Would that make sense?

19 MR. HAFETZ: No, Your Honor. There's two things  
20 I'd like to put on the record so that they're just clear for  
21 later.

22 Number one is that as noted in the plea agreement,  
23 that the new appellate waiver number that Your Honor just  
24 described of 365 months or below, supercedes and entirely  
25 replaces anything and any prior agreement between the

1 government and the Unites States.

2 And that was specifically an agreement signed on  
3 February 13th of 2017. That's number one.

4 Number two, before we leave the subject of  
5 punishment, I do think it's important to note, and I  
6 apologize if Your Honor was getting to it, but that the  
7 violation of 18 USC 3147, which the defendant is going to  
8 allocute today, the punishment for that has a maximum term of  
9 ten years in imprisonment, and it must run consecutive to any  
10 other sentence imposed on the defendant.

11 THE COURT: All right.

12 Is there anything else in paragraph 6 that needs to  
13 be placed on the record?

14 MR. JACOBSON: Only one point of clarification. It  
15 must run consecutive to today's count of 18 USC 1512. It  
16 doesn't have to be imposed consecutive to the material  
17 support sentence. I know that's sort of an academic --

18 MR. HAFETZ: That's fine, Judge. I believe the  
19 statutory language is to any other sentence. That's why it's  
20 worded the way it is in the plea agreement, but I'm not going  
21 to contest as a factual matter that that's accurate.

22 THE COURT: Okay. All right.

23 Is there -- getting back to the earlier charge, I  
24 think we've done -- we've gone through all of paragraph 1 and  
25 we've now completed everything in paragraph 2.

1 Is that correct?

2 MR. HAFETZ: Yes, Judge.

3 THE COURT: So do you have any questions about  
4 anything having to do with sentencing at this time?

5 THE DEFENDANT: No.

6 THE COURT: Okay.

7 MR. HAFETZ: Judge, I apologize.

8 Before you move on, I just also just want to make  
9 clear, paragraph 4, because we've talked about each offense  
10 in the stipulation as regards to each offense.

11 She has, the defendant, in the plea agreement,  
12 pursuant to paragraph 4, agreed that under the grouping that  
13 will have to take place, because these are two separate  
14 offenses, that she has stipulated that her total combined  
15 offense level is 40 and she's not going to challenge that  
16 offense level.

17 THE COURT: Yes.

18 MR. HAFETZ: Okay. I just want to make sure she  
19 understands that.

20 THE COURT: Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: I'm going to go through paragraph 4, as  
23 that's next on the list anyway.

24 MR. HAFETZ: Thank you, Judge.

25 THE COURT: So let's turn to page 4, paragraph 4.

1 So pursuant to the grouping analysis, which means the two  
2 charges, the material support offense and the obstruction  
3 offense, the total offense level for the combination of those  
4 two charges is 40.

5 You stipulate or agree that your total combined  
6 offense level is 40 under the guidelines, and this level does  
7 carry with it a range of imprisonment of 292 to 365 months,  
8 assuming that you fall within criminal history category 1.  
9 In addition the sentence imposed pursuant to 3147.

10 Do you have any questions about that? Have you  
11 discussed that with your lawyer?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Any questions?

14 THE DEFENDANT: No.

15 THE COURT: Mr. Jacobson, are you satisfied that  
16 Ms. Ceasar understand this fully?

17 MR. JACOBSON: Yes, Your Honor.

18 THE COURT: Are you satisfied that she understands  
19 every element of the plea agreement?

20 MR. JACOBSON: I am.

21 THE COURT: Okay. Is there anything else in the  
22 plea agreement that either party would like to put on the  
23 record, or ask questions about?

24 MR. HAFETZ: Nothing from the government, Judge. I  
25 think that's clear.

1 MR. JACOBSON: Not from Ms. Ceasar. Thank you.

2 THE COURT: Okay. Is there anything you'd like to  
3 ask your lawyer privately or ask me about your case at this  
4 time?

5 THE DEFENDANT: No.

6 THE COURT: Are you ready to plead?

7 THE DEFENDANT: Yes.

8 THE COURT: Is there any reason why Ms. Ceasar  
9 should not plead guilty to the obstruction offense?

10 MR. JACOBSON: No, Your Honor.

11 THE COURT: As to the offense in the information,  
12 obstruction of an official proceeding, how do you plead;  
13 guilty or not guilty?

14 THE DEFENDANT: Guilty.

15 THE COURT: Are you pleading guilty voluntarily?

16 THE DEFENDANT: Yes.

17 THE COURT: Has anybody forced you or threatened  
18 you to make you agreed to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Has anyone promised you anything that's  
21 not in the plea agreement to make you agree to plead guilty?

22 THE DEFENDANT: No.

23 THE COURT: Has anyone promised you what your  
24 sentence will be?

25 THE DEFENDANT: No.

1 THE COURT: So can you tell me in your own words  
2 what it is that makes you guilty of this charge?

3 THE DEFENDANT: At some point between June, 2018  
4 and July, 2018, when I was out on bail, I knowingly and  
5 intentionally deleted some Facebook messages. I did this  
6 because I did not want Pretrial or the government to find  
7 them.

8 I also had a meeting with the government around  
9 January the 2nd of 2019 and I told them that I had not used  
10 the name Umnatella(ph) when, in fact, I had. I also told  
11 them that I did not create and use email account  
12 ExoticD123@gmail.com when, in fact, I had.

13 THE COURT: Is it satisfactory to the government?  
14 Is there anything -- questions you'd like to ask or to add?

15 MR. HAFETZ: Just in terms of where she committed  
16 these offenses, Your Honor.

17 MR. JACOBSON: We would stipulate that she was  
18 released in the Eastern District of New York, although she  
19 was residing in the Southern District at the time.

20 THE COURT: Okay. Are you challenging venue in any  
21 way?

22 MR. JACOBSON: No, Your Honor.

23 THE COURT: Are you stipulating to venue in this  
24 district?

25 MR. JACOBSON: We are.



1 THE COURT: Okay.

2 MR. HAFETZ: Your Honor, I'd just note for the  
3 record that at the time the defendant deleted the messages  
4 that she's talking about and during that time period she was  
5 -- she was out on bail but also was facing sentencing  
6 proceedings within the Eastern District of New York.

7 MR. JACOBSON: She was aware of that, Your Honor.

8 THE COURT: Yes. Is that correct?

9 THE DEFENDANT: Yes.

10 THE COURT: And you were on pretrial release, as  
11 you mentioned, from the Eastern District of New York, but in  
12 a facility that was outside the district.

13 THE DEFENDANT: Yes.

14 MR. HAFETZ: And the last part, Your Honor, is just  
15 to verify the defendant understood when she committed the  
16 offense of deleting those messages she was aware that she  
17 faced additional punishment, separate from the offense  
18 itself, for committing a violation of her release conditions.

19 MR. JACOBSON: She was aware that she could be  
20 punished for violating her conditions, Your Honor. I don't  
21 know that she was aware specifically of 18 USC 3147, but she  
22 certainly knew that there could be additional punishment for  
23 violating conditions of release.

24 THE COURT: Well, when you were released on  
25 pretrial release, you were told that you had to follow those

1 conditions, and failure to do so could result in revocation  
2 of the bond, as well as punishment for failing to comply with  
3 the conditions of your bond. That's correct, isn't it?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right.

6 MR. HAFETZ: Your Honor, I don't think there would  
7 any objection to stipulating, in fact, that the defendant, in  
8 fact, signed a from as part of her conditions of release,  
9 which stated the sum and substance of 18-3147, which is that  
10 she faced a penalty of up to ten years for committing a  
11 violation while on release. I have a copy of it.

12 MR. JACOBSON: If I could just review it for a  
13 moment, Your Honor.

14 (Pause.)

15 MR. JACOBSON: Thank you, Judge. And we would  
16 stipulate that the parties, in fact, signed that rider to the  
17 bond.

18 THE COURT: Do you recall that?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay.

21 MR. HAFETZ: Judge, I have one more thing. May I  
22 talk to defense counsel for one moment?

23 THE COURT: Yes.

24 (Counsel confer.)

25 MR. JACOBSON: Your Honor, I think the government

1 is requesting some additional allocution on a number of  
2 points.

3 If I could just briefly confer with Ms. Ceasar  
4 before we proceed?

5 THE COURT: Yeah, and before you do that, I just  
6 want to remind you I think this was told when you had your  
7 original plea, but there's no longer parole in the federal  
8 system. We do have parole in the state system, so that if  
9 you're sentenced to prison, there's no early release on  
10 parole. Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay.

13 (Counsel and defendant confer.)

14 MR. JACOBSON: Your Honor, I think we're ready to  
15 proceed.

16 THE COURT: All right.

17 MR. JACOBSON: The government had simply wanted  
18 clarification that the false statements that Ms. Ceasar had  
19 allocuted to were made knowingly and intentionally and I  
20 believe Ms. Ceasar can confirm that, in fact, they were.

21 THE DEFENDANT: The knowingly and intentionally  
22 false statement that I made about -- of me using  
23 Umnatella(ph), I had lied to the government about.

24 THE COURT: I'm sorry. I didn't hear --

25 THE DEFENDANT: Using Umnatella.

1 THE COURT: Yes.

2 THE DEFENDANT: They had asked me if I ever used or  
3 sent any message.

4 THE COURT: Yes.

5 THE DEFENDANT: I used Umnatella and I said I  
6 didn't and I made a false statement to the government.

7 THE COURT: And you knowingly made that false  
8 statement for the purpose --

9 THE DEFENDANT: Yes.

10 THE COURT: -- for the purpose of concealing what  
11 you had done. Is that correct?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Is that what the government  
14 was looking for?

15 MR. HAFETZ: I'd ask for it for both, Judge.  
16 That's what's stipulated to in the Schedule A.

17 That's sort of the point of the whole rider is that  
18 she knowingly admitted and intentionally -- as it read in the  
19 rider, knowingly and intentionally made multiple false  
20 statements during that interview, including, number one and  
21 number two.

22 Number one she just allocuted was knowing and  
23 false. She's yet to allocuted to the second one.

24 THE DEFENDANT: All the false statements I made was  
25 knowingly and intentional.

1 MR. HAFETZ: That's sufficient. Thank you, Judge.

2 THE COURT: And that's in the January, 2019  
3 interview. January 2nd?

4 MR. HAFETZ: January 2nd.

5 THE COURT: Is that correct?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. So just to summarize, under the  
8 obstruction charge, 18 U.S. Code 1512(c), you're telling me  
9 that you destroyed information, in effect, altering,  
10 destroying or concealing it, with the intent of making -- of  
11 concealing from the government the information that was  
12 contained in -- the information that was contained and  
13 specifically preventing that information from being used in a  
14 bail revocation proceeding.

15 MR. JACOBSON: Your Honor, I guess I would use --  
16 I think the word "delete" is more precise here, as opposed to  
17 destroy, because the government was ultimately able to obtain  
18 the information.

19 MR. HAFETZ: I want to clarify that. That's true  
20 in certain cases and in other cases not at all. So delete  
21 and destroy is appropriate.

22 THE COURT: Delete and destroy?

23 MR. HAFETZ: The point is though she deleted and  
24 destroyed the message with the intent, as Your Honor said, to  
25 prevent their use in a bail and sentencing proceeding,

1 correct?

2 THE COURT: Is that what you meant?

3 MR. JACOBSON: I think the thrust of what I was  
4 trying to say is that destroy has a technical legal meaning  
5 here and she's allocuting to the factual basis of what  
6 constitutes that destruction, which is deleting the messages.

7 THE COURT: Right. And concealing. I mean, it  
8 could be -- right. Right. So it's deleting it with the  
9 intent of either destroying or concealing it. Is that  
10 correct?

11 THE DEFENDANT: Yes. I'm sorry.

12 THE COURT: Okay. And the intent was to impair the  
13 availability of that information in any bail revocation  
14 proceeding and in sentencing proceedings in this district?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. Is there anything else that  
17 we've missed?

18 MR. HAFETZ: Not from the government, Judge.

19 MR. JACOBSON: No, Your Honor.

20 THE COURT: All right. So I find that you're been  
21 acting voluntarily, that you fully understand your rights,  
22 the charges against you, the rights you're giving up by  
23 pleading guilty, the consequences of a guilty plea, including  
24 the possible sentence and fine and how a guilty plea on this  
25 obstruction count can and will affect your sentencing in the

1 material support charge; that you understand what a  
2 consecutive sentence is and you understand what you're  
3 stipulating to in the plea agreement.

4 You also understand that there's no guarantee what  
5 your sentence will be at this time.

6 So I, therefore, recommend that the court accept  
7 your plea of guilty to information.

8 Is there anything else we need to do?

9 MR. HAFETZ: No, Judge. Thank you.

10 MR. JACOBSON: No, Your Honor.

11 THE COURT: And so I'm supposed to tell you, Judge  
12 Weinstein's chambers had asked that I consult with you and  
13 set a later sentencing date for these two cases. Any date  
14 you choose would be fine, but Judge Weinstein had issued an  
15 order.

16 Have you seen the order? The recent order?

17 MR. JACOBSON: We have, Your Honor.

18 MR. HAFETZ: We have, Judge.

19 THE COURT: So -- in which he was asking you to  
20 provide expert witnesses and material as to assist with  
21 sentencing.

22 MR. HAFETZ: Correct.

23 THE COURT: In that light, the March 14th date  
24 seems unrealistic.

25 MR. HAFETZ: Agreed.

1 THE COURT: So are you prepared to come up with a  
2 date now, or do you want to meet and consult and get back to  
3 June shortly?

4 MR. JACOBSON: I think the later, Your Honor I  
5 would need to consult with my experts, and co-counsel, and  
6 with the government as well.

7 MR. HAFETZ: That's fine Judge. Thank you.

8 THE COURT: And 10:30 any day except Friday works.  
9 So June said essentially that she'll make it work.

10 MR. JACOBSON: Great.

11 THE COURT: Okay?

12 MR. HAFETZ: Thank you, Judge.

13 MR. JACOBSON: Thank you, Your Honor.

14 THE COURT: Thank you. Good luck.

15 (Proceedings concluded at 2:08 p.m.)

16 I, CHRISTINE FIORE, court-approved transcriber and  
17 certified electronic reporter and transcriber, certify that  
18 the foregoing is a correct transcript from the official  
19 electronic sound recording of the proceedings in the above-  
20 entitled matter.

21  
22 

23 \_\_\_\_\_ April 19, 2019

24 Christine Fiore, CERT

25 Transcriber