

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**SEBASTIAN GREGERSON A/K/A  
ABDURRAHMAN BIN MIKAAYL,**

Defendant.

**HONORABLE ARTHUR J. TARNOW**

**No. 16-20552 and 17-20235**

**SENTENCING HEARING**

**Wednesday, August 30, 2017**

Appearances:

FOR THE PLAINTIFF:

CATHLEEN CORKEN, ESQ.

FOR THE DEFENDANT:

DAVID THOLEN, ESQ.

- - -

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**I N D E X**

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1 Detroit, Michigan

2 Wednesday, August 30, 2017

3 3:00 p.m.

4 - - -

5 **THE COURT CLERK:** Calling case number 17-20235, and  
6 case number 16-20552, United States of America versus Sebastian  
7 Gregerson. Will counsel please identify themselves for the  
8 record?

9 **MS. CORKEN:** Good afternoon, your Honor Cathleen  
10 Corken on behalf of the United States.

11 **MR. THOLEN:** Good afternoon, your Honor. May it  
12 please the Court, David Tholen on behalf of Mr. Gregerson, your  
13 Honor.

14 **THE COURT:** Good afternoon, all.

15 **MR. THOLEN:** Good afternoon, Judge.

16 **THE COURT:** Bring your client to the lecturn, please.  
17 You remember you are still under oath.

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** And you still have a Fifth Amendment  
20 right to remain silent. Do you understand that?

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** And you are in jail now. In the last 12  
23 hours, have you had any -- let me go back a step. And you  
24 choose to answer my questions?

25 **THE DEFENDANT:** Yes.

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1           **THE COURT:** Okay. In the last 12 hours have you had  
2 any alcohol, prescription drugs, or other drugs that would make  
3 it hard for you to understand what is happening now?

4           **THE DEFENDANT:** No.

5           **THE COURT:** Do you understand?

6           **THE DEFENDANT:** Yes.

7           **THE COURT:** What is the procedure today?

8           **THE DEFENDANT:** It's a sentencing Hearing.

9           **THE COURT:** Okay. And let me explain how this is  
10 going to work in terms of presentation. Ultimately, you have  
11 the final word. You have the right of allocution, it's called,  
12 and you can choose to say whatever you want related to the  
13 possible sentence. But before we get to that point I'm going  
14 to talk to your lawyers, to your lawyer, and to the Government  
15 lawyer about the Presentence Report. Now, have you read the  
16 Presentence Report?

17           **THE DEFENDANT:** Yes.

18           **THE COURT:** Have you gone through it with your  
19 attorney?

20           **THE DEFENDANT:** Yes, several times.

21           **THE COURT:** Are you satisfied with your attorney?

22           **THE DEFENDANT:** Yes.

23           **THE COURT:** Okay. And I note there was some  
24 objections and that is one of the things I will talk to your  
25 attorney about. But do you have any questions about what is

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1 going to happen today other than what the ultimate sentence is?

2 **THE DEFENDANT:** No.

3 **THE COURT:** Okay. So I am going to talk, as I said,  
4 to the attorneys first about the Presentence Report to make  
5 sure that we are in agreement as to what the calculations are  
6 and should be. And then I will ask the Government for their  
7 recommendation as to the appropriate sentence. And I note that  
8 the Government has already filed a Sentencing Memorandum  
9 indicating what their recommendation is, but I want to put that  
10 on the record, not quite in so much detail. And then I will  
11 ask your attorney for his recommendation. And I note the same  
12 thing, that he has already filed in both cases. You realize  
13 there are two case here?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** And both have filed in both cases  
16 memoranda as to what your sentence should be. And after I am  
17 done listening to them it will be your turn and you will have  
18 your right of allocution.

19 Anything else, Mr. Tholen, before I get to the sentence --  
20 the Presentence Report?

21 **MR. THOLEN:** I filed objections that relate to  
22 arguments or information the Government intends to rely on in  
23 its argument so I can address it now or we could address it at  
24 that point. It doesn't relate to the Presentence Report.

25 **THE COURT:** Okay. We can discuss it before the

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1 Government gives their recommendation but after the Government  
2 talks about the Presentence Report. The Presentence Report  
3 computes a Category One, Level 21. Are the people in agreement  
4 with that?

5 **MR. THOLEN:** We are, your Honor.

6 **THE COURT:** Government?

7 **MS. CORKEN:** Yes, your Honor.

8 **THE COURT:** I didn't hear you.

9 **MS. CORKEN:** Yes, your Honor.

10 **THE COURT:** Okay. And that according to the  
11 sentencing guideline manual presents a guideline range, an  
12 advisory guideline range of 37 to 46 months, is that correct?

13 **MR. THOLEN:** That's correct, your Honor.

14 **MS. CORKEN:** That's correct, your Honor.

15 **THE COURT:** Okay. And that range applies to both  
16 cases, correct?

17 **MR. THOLEN:** Incorrect, Judge.

18 **THE COURT:** What does it apply to?

19 **MR. THOLEN:** It applies to the destructive device  
20 Counts.

21 **THE COURT:** Yes. Okay.

22 **MR. THOLEN:** In the other case the guidelines are  
23 lower. I believe they are six months to 12 months for the  
24 straw purchase of the firearm, the case that was removed here.

25 **THE COURT:** I'm corrected. Thank you. That was out

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1 of Virginia.

2 **MR. THOLEN:** Yes.

3 **THE COURT:** Okay. Do you agree with that?

4 **MS. CORKEN:** Your Honor, yes, that is how the parties  
5 calculated the guidelines with respect to the Virginia case.

6 **THE COURT:** Okay. And one of you refresh my  
7 recollection as to what the Rule 11 range was?

8 **MR. THOLEN:** The Rule 11 range, your Honor, for the  
9 destructive device case was a guideline range of 37 to 46  
10 months. However, there was a provision that the Government  
11 reserved the right to argue for an upward departure or variance  
12 up to 60 months. Also under the agreement, defense could not  
13 argue for a sentence below 37 months.

14 With respect to the straw purchase, the firearm case, the  
15 guidelines were 6 to 12 months and the Government agreed to not  
16 object or contest to a concurrent sentence in that case to  
17 whatever the Court would impose in the destructive device case.

18 **THE COURT:** Is that your recollection, counsel?

19 **MS. CORKEN:** Yes, your Honor.

20 **THE COURT:** Okay. So now we are all on the same  
21 page. Now would be appropriate to talk about your objections,  
22 Mr. Tholen.

23 **MR. THOLEN:** Yes, your Honor. The objections are not  
24 to any of the calculations in the Presentence Report. They  
25 are -- they relate to solely to what I believe are fuller

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1 discussions of the recordings between Mr. Gregerson and the  
2 undercover FBI employee. And I guess I want to make it clear.  
3 I think the context and completeness is important and so my  
4 objection -- or it may have been formed as a correction when I  
5 filed these with the Probation Department originally -- was  
6 that I was not objecting to the statement that Probation had in  
7 the various paragraphs of the Presentence Report, but that I  
8 thought that the additional information I was adding should be  
9 added to that to have a complete picture. Probation responded  
10 not that I was incorrect, but that they felt that the report is  
11 written effectively, complied with the information that the  
12 Government had provided it and so it was not inclined to add my  
13 information, if you will, or the defendant's objection  
14 information to the various paragraphs.

15 **THE COURT:** Okay. Now, the Government also has  
16 objections or are these responses to the defendant's  
17 objections?

18 **MS. CORKEN:** Yes, your Honor. Your Honor, with  
19 response to the defendant's corrections or objections, the  
20 defendant has submitted a Presentence Report Addendum to the  
21 Court. I believe the defense submitted that under seal. And,  
22 in effect, it just repeats what the Probation Department has  
23 already included in their addendum to the Presentence Report.

24 **THE COURT:** So you have no objection to it being  
25 added as an Addendum?

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1           **MS. CORKEN:** I think it's redundant. If we want to  
2 be redundant, that's fine. It's already there. And would you  
3 like me to address our own objections, your Honor?

4           **THE COURT:** Well, does that satisfy you, Mr. Tholen,  
5 and your client?

6           **MR. THOLEN:** Your Honor, if I had my way I think that  
7 the paragraphs would be modified to include both parts of the  
8 information. I do wholeheartedly agree that this information  
9 is part of the Addendum. And just for the Court's edification,  
10 it was filed under seal because, of course, the Addendum to the  
11 Presentence Report is not a public document which is not on the  
12 docket. And so for me to advance this position before your  
13 Honor it had to be filed under seal because this information  
14 the Government had as part of sensitive discovery. But I do  
15 agree it is word for word the same information that is in the  
16 Addendum to the Presentence Report right now.

17           **THE COURT:** Okay. Now will you answer my question?

18           **MR. THOLEN:** Which was, am I satisfied with that?

19           **THE COURT:** Yes. Not if you are satisfied -- well,  
20 yes if you are satisfied in terms of your position being known  
21 and if it was completely redundant did you want it there or  
22 not? Your choice.

23           **MR. THOLEN:** I certainly want it to stay in the  
24 Addendum. The Court certainly has the ability to require  
25 rewriting of the report or make a finding that the Addendum is

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1 appropriate. And I don't want to put words in the Court's  
2 mouth, but if the Court is suggesting that because it's in the  
3 Addendum it's already in the record, I certainly understand  
4 that ruling.

5 **THE COURT:** Well, you got it. That is the ruling.

6 **MR. THOLEN:** I understand that, Judge.

7 **THE COURT:** All right.

8 **MR. THOLEN:** And I have no other objections to the  
9 Presentence Report. I don't know if the Government does or  
10 not.

11 **THE COURT:** Now, the Government has some corrections?

12 **MS. CORKEN:** Yes, your Honor. With respect to the  
13 Government's suggested corrections, we are not pressing on  
14 those that the Probation Department decided not to adopt. We  
15 did have some objections. There were a few that we did  
16 withdraw, one, in particular, after the Probation Department  
17 submitted its latest Addendum making it clear that the  
18 defendant's false statement with respect to the straw purchase  
19 was made before he entered his guilty plea. So we have two  
20 objections that are outstanding.

21 **THE COURT:** Tell me the numbers, please.

22 **MS. CORKEN:** Sure. It's Government's objection  
23 number three which is to page 23 of the report. Paragraph --

24 **THE COURT:** Hang on, please.

25 **MS. CORKEN:** Sure. Paragraph 109, your Honor.

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1           **THE COURT:** Let's do objection number three.

2           **MS. CORKEN:** Okay. So, your Honor, the report  
3 provides that the sentence within the guideline range would  
4 protect the public from further crimes of the defendant. And  
5 it's certainly the case at least with respect to the grenade  
6 matter that the Government's view is that a sentencing  
7 guideline -- a sentence within the guidelines would not protect  
8 the public. In all honesty, I am a little bit -- I have a  
9 question with respect to how this is phrased in the Presentence  
10 Report because the Presentence Report covers two cases. And  
11 the sentence is a sentence within the sentence guideline range  
12 that would protect the public. If the Probation Department  
13 means that a sentence within the guideline range for each of  
14 the cases in the aggregate or consecutively would protect the  
15 public then that is something that the Government would agree  
16 with. But with respect to -- if they are just talking about --

17           **THE COURT:** Isn't part of your Rule 11 Agreement to  
18 agree they be concurrent?

19           **MS. CORKEN:** I do, your Honor.

20           **THE COURT:** Okay.

21           **MS. CORKEN:** I do. I don't believe that what I am  
22 saying is contrary to what we have agreed to. I think the  
23 question is, does the Government object to a sentence that  
24 indicates that a sentence within the guideline range, if  
25 Probation Department is just talking about the grenade case,

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1 that that would protect public, that that is not, obviously,  
2 our position. It's just not clear from the report whether  
3 since the report does address two cases --

4 **THE COURT:** What is the defense response?

5 **MR. THOLEN:** The defense response is this sounds like  
6 the Government's argument for an upward variance which -- I  
7 understand the Government doesn't like the way the Presentence  
8 Report came out and they are still entitled to make their  
9 objections and ask this Court to impose a sentence within or  
10 above the guideline range. But this doesn't --

11 **THE COURT:** To what extent?

12 **MR. THOLEN:** Pardon, Judge?

13 **THE COURT:** The Rule Eleven, as I understand it, puts  
14 a limit as to what they can ask for an upward variance. And  
15 that is how many months?

16 **MR. THOLEN:** 14 months up to 60 months.

17 **THE COURT:** Go on.

18 **MR. THOLEN:** One, I disagree with the Government's  
19 reading on that paragraph on page 22, at least the paragraph  
20 after it, 110, the Probation Department identifies two separate  
21 ranges for both cases. And then the Probation Department  
22 indicates that is a sentence within the guideline range would  
23 be appropriate to effectively achieve the goals of sentence.  
24 We accept that statement by the Probation Department. I  
25 understand the Government does not accept that statement. But

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1 that is not a factual issue. I think that is a legal ruling  
2 for the Court to make.

3 **THE COURT:** All right. The Government's objection is  
4 noted and I'm not going to change anything. What is your next  
5 objection, please?

6 **MS. CORKEN:** Your Honor, we had one final objection  
7 and that was to paragraph -- page 23, paragraph 112 which  
8 provides -- which is discussing the factor under 3553(a)(6) of  
9 a sentence that needs to avoid unwarranted sentencing  
10 disparities among defendants with similar records who have been  
11 found guilty of similar conduct. And then the Presentence  
12 Report notes that throughout this court, sentences for  
13 defendants with similar records that were found guilty of  
14 similar conduct have generally fallen --

15 **THE COURT:** Please slow down and use the microphone  
16 in front of you.

17 **MS. CORKEN:** Yes, your Honor. I apologize. Your  
18 Honor, the Presentence Report indicates that defendants who  
19 have been sentenced within this court who are comparable to  
20 this defendant have been sentenced within the same sentencing  
21 guideline range. And, first of all, we would -- our objection  
22 is that in considering this factor as a legal matter, the Court  
23 is to consider not only comparable cases of defendant's  
24 sentence within this court but also those who have been  
25 sentenced nationwide.

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1           **THE COURT:** I understand. Mr. Tholen, your response?

2           **MR. THOLEN:** My response is the same. To me we  
3 accept the statement by the Probation Department in the report  
4 at that paragraph and I think the Government is again advancing  
5 its argument for an upward departure. I don't see why the  
6 report would need to be changed.

7           **THE COURT:** Well, I have had the same question the  
8 Government has raised in many cases. It's very rarely raised  
9 but it's been the practice of the Eastern District of Michigan  
10 to talk in terms of disparity if there are co-defendants. I  
11 take a broader view and I do consider others similarly  
12 situated, even nationwide. But, and that is on the record now.  
13 And note that the guidelines are advisory so that statement is  
14 not necessarily how I'm going to come out on disparity. But I  
15 should note here that in the Rule 11, the Government has taken  
16 a position, first of all, what charge to bring and so on which  
17 is limited to a ten year felony. But more relevant is that the  
18 Rule 11 stipulates that you are not going to ask for more than  
19 five years. And what I hear is that you are wanting perhaps --  
20 and maybe I am anticipating something you are not going to  
21 do -- that you are, by changing this language, would allow you  
22 to ask for more than five years.

23           **MS. CORKEN:** No, your Honor. I have no intention of  
24 asking for more than five years.

25           **THE COURT:** Wait a minute. I don't understand what

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1 you just said. You have no objection --

2 **MS. CORKEN:** I'm sorry. I have no intention of  
3 asking for more than 60 months.

4 **THE COURT:** Okay. That's fine. And then this  
5 language will stay in the report because that's what we do in  
6 the Eastern District of Michigan. But I also do what you are  
7 asking me to do and that is consider a broader pool. Okay.

8 Anything else to resolve in the Presentence Report before  
9 we go into recommendations?

10 **MR. THOLEN:** Nothing for the defense, Judge.

11 **MS. CORKEN:** Nothing from the Government, your Honor.

12 **THE COURT:** The Government goes first in terms of  
13 what is your bottom line?

14 **MR. THOLEN:** Your Honor, I indicated and I appreciate  
15 that I indicated I had some objections to exhibits they may  
16 refer to. Would this be an appropriate time to deal with that?

17 **THE COURT:** Sure.

18 **MR. THOLEN:** Can we do it at side bar, Judge?

19 **THE COURT:** No. Is your objection to -- contained in  
20 your letter of today?

21 **MR. THOLEN:** Yes, Judge.

22 **THE COURT:** Okay. Hang on.

23 **MR. THOLEN:** Three issues. That's all I am objecting  
24 to.

25 **THE COURT:** Pardon?

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1           **MR. THOLEN:** It's those three items. That is what I  
2 am objecting to, your Honor.

3           **THE COURT:** Okay. I picked up the packet of letters  
4 in support of your client.

5           **MR. THOLEN:** I'm not objecting to those, Judge.

6           **THE COURT:** I understand that. But now I have to  
7 find -- I have it here, too. I'm sorry. All right. First of  
8 all, is the Government planning on using any of these three?

9           **MS. CORKEN:** No, your Honor.

10          **THE COURT:** Without mentioning what they are?

11          **MS. CORKEN:** We submitted them under seal, your  
12 Honor.

13          **THE COURT:** Does that answer your objection?

14          **MR. THOLEN:** It does. Just so I'm clear, the  
15 Government is not going to argue any of those three things  
16 today?

17          **MS. CORKEN:** No.

18          **THE COURT:** You want to give her a chance to change  
19 her mind?

20          **MR. THOLEN:** I asked twice, Judge, just to be safe.  
21 Then it's resolved, your Honor.

22          **THE COURT:** All right. Okay. Now, the Government's  
23 bottom line and why?

24          **MS. CORKEN:** Your Honor, the Government is requesting  
25 a sentence of 60 months.

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1           **THE COURT:** Why don't you adjust at least the  
2 microphone so you're using it.

3           **MS. CORKEN:** Sure.

4           **THE COURT:** And the whole podium goes up if you need  
5 it higher.

6           **MS. CORKEN:** I think I'm okay.

7           **THE COURT:** All right.

8           **MS. CORKEN:** Your Honor, a 60 month sentence in the  
9 Government's view is a sentence that is sufficient but not  
10 greater than necessary to protect public, to reflect the  
11 seriousness of the offense and deter others from similar  
12 conduct.

13           Your Honor, this is a defendant who is an ISIS supporter,  
14 who purchased high explosive grenades, who had an arsenal of  
15 other weapons, who, like ISIS, believes that there is a war  
16 between ISIS and those are not ISIS, who believes he's a  
17 soldier in that war and who, as ISIS directs, equipped himself  
18 with weapons in preparation for violent actions and who made  
19 statements about harming others with weapons. Those are  
20 aggravating factors that are not taken into account in the  
21 calculation of the sentencing guideline range that is  
22 applicable here.

23           The sentence guidelines only look to the defendant's 's  
24 conduct in possessing the grenades. They don't look to these  
25 factors that magnify his dangerousness and the need to protect

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1 the public. That range doesn't take into account the  
2 seriousness of the offense when possession of grenades are  
3 coupled with his ISIS support. So it's not just a case about  
4 someone who has purchased high explosive grenade. That's  
5 dangerous enough. Grenades are military weapons. There is no  
6 other purpose for them but to injury and cause death. That is  
7 their function.

8 But high explosive grenades are even more dangerous in the  
9 hands of an ISIS supporter who approves the terrorist attacks  
10 and makes statements about harming others.

11 Your Honor, the defendant denies that he's an ISIS  
12 supporter in the face of overwhelming evidence. He denied it  
13 to the Probation Department that he even read or disseminated  
14 Dabiq. In his Sentencing Memo he admits that he read Dabiq but  
15 he claims it was purely for an academic interest. And that is  
16 completely contradicted by the evidence.

17 The defendant certainly downloaded every issue of Dabiq  
18 that was published up to the time his arrest. But he also  
19 disseminated that publication to other ISIS supporters via  
20 e-mail. He also e-mailed links about ISIS terrorist attacks  
21 and with a clear indication of his approval of those attacks.  
22 He had in the subject line, Allahu Akbar, God is Great. He had  
23 a smiley face in the subject line of an e-mail where he was  
24 providing a link to an article about the ISIS terrorist attack  
25 on the Sinai Peninsula where police officers were killed. On

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1 Facebook, in emails, to the UC, he praised terrorists' attacks  
2 committed by ISIS and those inspired by ISIS, the Paris  
3 attacks, the Nice attack, the Orlando attack. He referred to  
4 terrorists who commit attacks in the name of ISIS as brothers.  
5 He defended ISIS violence. He sent an e-mail to others  
6 defending the ISIS's murder of the Jordanian Air Force Pilot.  
7 They had been criticized for it. And he sent an e-mail  
8 providing a theological justification for that murder.

9 He also, as he stated to the UCE, is an avowed follower of  
10 Anwar Al Awlaki. He has 96 CDs of Anwar Al Awalki's lectures.  
11 And Anwar Al Awlaki, as the Court may know, was a big recruiter  
12 providing inspiration to many individuals who have committed  
13 terrorist attacks that have resulted in mass casualties. The  
14 defendant used the collective, we, when referring to ISIS and  
15 his Facebook profile, which is something people use to project  
16 their identity, had a photograph of ISIS soldiers.

17 So this is not just some academic interest on the part of  
18 the defendant. His alignment with this terrorist group is  
19 clear. It's also clear he believes there is an ongoing war  
20 between ISIS and those who are not ISIS adherents. I'm not  
21 going to repeat everything that was in the Government's  
22 Sentencing Memo but it's clear he approves of terrorist attacks  
23 committed by ISIS and he thinks those are legitimate because  
24 the world is at war. And he views himself as a soldier in that  
25 war as is clear from his reference to himself as the prisoner

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1 of war.

2 Your Honor, ISIS call on their followers to stockpile  
3 weapons, to equip themselves with weapons. The defendant sent  
4 an e-mail with a translation of the second in command's speech  
5 calling on ISIS soldiers to do just that, to prepare themselves  
6 and to mobilize for Jihad. And that is what the defendant did.

7 Particularly, your Honor, in 2009 he amassed an arsenal of  
8 weapons and ammunition, tactical gear, tactical training  
9 materials. He owned guns before that, yes, and he appeared to  
10 have a prepper or survivalist type of interest. But that  
11 certainly was not his exclusive interest, and as of 2015 it's  
12 also clear he was equipping himself with weapons in preparation  
13 for violent action.

14 Something clearly changed in 2015. That is clear from his  
15 actions. That's clear from his statements. That is clear his  
16 purchasing history. There was an escalation in the number and  
17 the changing nature of the weapons that he purchased.

18 Your Honor, the Sentencing Memo already discussed the  
19 defendant's -- the change in the defendant's purchase of  
20 knives, that he purchased fifteen in 2015. He also purchased  
21 two training knives. The defendant claims that these were not  
22 knives that were marked for tactical use, that basically he was  
23 just purchasing collectors knives. But it's clear from the  
24 names of the knives themselves that they are tactical knives,  
25 that they are combat knives. He purchased, for instance, the

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1 the Ontario Knife Marine Combat Knife. Most of the names of  
2 the knives do have the word combat or tactical on them. And  
3 almost every one that the defendant purchased was specifically  
4 marketed as a tactical knife and how they were advertised and  
5 that is what we have included as Exhibit K.

6 So these are not collectors knives. And you certainly  
7 don't get training knives that are the rubber counterparts of  
8 fixed blade knives if your interest is simply in collecting.

9 Your Honor, the amount of money that the defendant spent  
10 on knives during this time period as a percentage of his income  
11 undermines any claim that this is just a hobby or that he's  
12 some collector of knives. There is a true seriousness of  
13 purchase that is reflected in his purchasing actions during  
14 this time period. I had handed to Mike Government's Exhibit  
15 Number One. I was wondering the Court had that.

16 **THE COURT:** The purchasing from June 2015, yes.

17 **MS. CORKEN:** Yes, your Honor. Your Honor, I have, of  
18 course, provided it to the defense.

19 **MR. THOLEN:** We have it, Judge.

20 **THE COURT:** Thank you.

21 **MS. CORKEN:** Your Honor, that Government's Exhibit  
22 shows the knives that were purchased from June 14, 2015 to  
23 July 12, 2015 by the defendant. That is a 28 day period. He  
24 purchased five tactical knives during that period. And his  
25 payroll during that period was, as indicated on the exhibits,

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1 \$1,170.

2 **THE COURT:** You used the word payroll. I think you  
3 mean income.

4 **MS. CORKEN:** I do, your Honor. Income. Excuse me.  
5 His income during that time period was as I just indicated and  
6 you also see what his bank balance was. So when you look at  
7 this exhibit, you see that first he spent more than half of his  
8 income on these five knives at a time when his bank balance was  
9 modest and those spending -- these spending decisions, excuse  
10 me, undermine any claim that this -- these purchase of tactical  
11 knives was some kind of hobby or of collector's interest.

12 There are also additional purchases showing the nature of  
13 his purchases during this time period were tactical in nature.  
14 He purchased tactical belts, body armor with military grade  
15 plates, balaclava ski mask, commercial grade road spikes. He  
16 also amassed an enormous amount of weapons and weapon related  
17 material. And just focusing on, for instance, AK47 related  
18 materials, and just during this time period, in March of 2015  
19 the defendant purchased 700 rounds of K47 ammunition. A month  
20 later he bought an underground ammunition storage container.  
21 That same month, in May of 2015 he bought a Kushnakov (ph)  
22 training video. Same month he bought Dummy AK47 training  
23 rounds. And in the search of the residence, law enforcement  
24 recovered almost 3,000 rounds of AK47 ammunition. A total of  
25 almost 8,000 rounds of ammunition were recovered from his

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1 residence. This -- the information about his purchases  
2 relating to AK47 materials all during the time period where the  
3 defendant was evidencing support for ISIS and their terrorist  
4 attacks.

5 Your Honor, the Sentencing Memo has also laid out the  
6 defendant's increase or acceleration of firearms purchases  
7 within a two week period in 2016 where he bought three  
8 firearms, two of which were long barreled. And the memo also  
9 sets out what is a clear indication of the defendant's  
10 priorities. He received a check for 1,200-dollars as charity  
11 and spent the bulk of that on guns, not on necessities for his  
12 family.

13 The defendant in his Sentencing Memo makes some reference  
14 to -- makes a claim that the firearms were all purchased  
15 legally. That is not the case at all. The defendant used a  
16 third party to circumvent gun laws.

17 **MR. THOLEN:** Judge, that's not the claim, just to  
18 correct it. I specifically said the straw purchase firearm was  
19 the exception. The Government is misstating my filed document  
20 with the Court.

21 **THE COURT:** You may continue.

22 **MS. CORKEN:** Thank you, your Honor. Your Honor --

23 **THE COURT:** Your objection is noted.

24 **MR. THOLEN:** Thank you, Judge.

25 **MS. CORKEN:** Your Honor, my point was simply that the

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1 defendant violated the law on three occasions, federal law on  
2 three occasions in making straw purchases of a Kel-Tec sub 2000  
3 assault rifle, a Beretta. The Beretta he used to purchase the  
4 grenades and a Glock. And, in addition to violating federal  
5 law, he did not register the Beretta or the Glock when he had  
6 them. When he moved to Michigan he didn't register either of  
7 those guns with Michigan.

8 He also had components in a grenade launcher, your Honor,  
9 to make homemade illegal grenades. In two conversations he  
10 relayed in detail about how to make illegal fragmentation  
11 grenades from those components. And he was -- he explained the  
12 benefits of having all the parts necessary to modify 37 rounds  
13 but not assembling them to prevent being caught.

14 Your Honor, in addition to the components and everything  
15 else he had, he obviously engaged in the purchase of high  
16 explosive grenades which, of course, can inflict mass  
17 casualties and are inherently dangerous. That was just a  
18 start. He planned on purchasing a claymore mine which has a  
19 killing rate of 1,000 yards. And he also told the UCE he  
20 wanted flash bang or stun grenades and he wanted the connection  
21 for military weapons to be kept open in the future. It's clear  
22 he wasn't buying grenades or that he had any interest in the  
23 other weapons for a hobby.

24 Your Honor, most importantly, there is a connection  
25 between the weapons he acquired and using the weapons in a

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1 violent act. He told UC how he would commit an act on a  
2 building using 37-millimeter grenades. Quote, if I locked into  
3 a building, I'm talking about interior use, by the time you get  
4 through then you walk over there. When you get inside  
5 everybody is all disoriented. I really think that would be  
6 devastating. He's talk about committing an attack on people  
7 within a building and using 37 millimeter grenades which he had  
8 or smoke grenades which he bought to make sure people inside  
9 the building were disoriented by the time he got inside. He  
10 had two conversations with the UC where he's detailing how to  
11 make these homemade fragmentation grenades. What does he say  
12 about that? He specifies that illegal -- these illegal  
13 homemade rounds could be used indoors to clear places to hit a  
14 gathering. He's talking about using illegal homemade grenades  
15 of the type he described making to the UC indoors hitting a  
16 gathering of people. He expressed an interest in obtaining  
17 particular type of 40 millimeter grenade launcher that would be  
18 mounted on a rifle that was made for combat. He talked about  
19 purchasing smoke grenades to cause chaos within your enemies  
20 ranks, that is, using enemies against people. And he talked  
21 about using homemade -- or excuse me -- high explosive grenades  
22 against law enforcement.

23 Your Honor, there is also a connection between the weapons  
24 and using those weapons against the enemies of ISIS. The  
25 defendant states about high explosive grenades. He was

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1 expressing his belief that he was equipping himself with  
2 grenades to be better prepared against those he believes to be  
3 at war with and in preparation for confrontation with infidels.  
4 He also expressed his desire to supplement his self-described  
5 armory with more battle rifles and arm like-minded ISIS  
6 brothers in Maryland.

7 Your Honor, with respect to the claymore mine, he called  
8 it a magical piece of equipment and that it achieves total  
9 destruction. That was what was appealing to the defendant  
10 about the claymore mine -- its destructive capabilities. That  
11 is what he focused on. He indicated that he had the patience  
12 to wait for it in terms of purchasing it and that all that a  
13 believer has to have in the Jihad in the cause of Allah is  
14 patience. Patient is what distinguishes the believer from the  
15 infidel. We will outlast them because we can keep fighting and  
16 fighting but eventually they will get tired. We will not. I  
17 think it's clear from his statements he wanted to purchase the  
18 claymore mine as a weapon in Jihad to take violent action in  
19 this perceived war against the infidels.

20 The defendant also made statements of intent to harm  
21 Muslim clerics who do not subscribe to ISIS indicating when  
22 they were deserving of death. he talked about using the knives  
23 he was carrying to execute them or a firearm to shoot them  
24 using this Mozambique drill technique. He talked about using  
25 high explosive grenades against laws enforcement. ISIS has

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1 called on that repeatedly in terms of attacks against law  
2 enforcement. He talked about how he and the UC could attack  
3 and kill a park ranger. And he certainly made it clear that he  
4 thought all homosexuals were deserving of death. He praised  
5 the ISIS attacker in Florida. He called him a brother. He was  
6 deserving of paradise.

7 Your Honor, his accumulation of weapons, his purchase of  
8 the high explosive grenades were all connected with the ISIS  
9 extremism and its believe in this war between ISIS and others  
10 and his own preparations to commit a violent act.

11 What is most chilling and what underscores of the  
12 defendant's dangerousness I think is his critique of ISIS  
13 terrorist attacks, how attackers could have increased civilian  
14 and law enforcement fatalities. That is beyond creepy. It is  
15 chilling. He talked about the Orlando attack and how the  
16 attacker could have increased deaths in that case. He  
17 emphasized the importance of planning. He praised the attacker  
18 in the Nice attack for using a truck with bulletproof glass.  
19 He was critical of the Garland, Texas attack because the  
20 attackers were killed there before they could kill. This is  
21 not someone who has an academic interest. This is not someone  
22 who is a prepper. This is not someone who has an academic  
23 interest in ISIS.

24 A 60 month sentence is necessary to protect the public.  
25 The law enforcement has an enormous challenge in preventing

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1 individuals have been radicalized and subscribe to the ISIS  
2 ideology. They can become operational. The defendant argues  
3 that he didn't harm anyone. It is true, obviously, that the  
4 Government arrested the defendant before any specific plot or  
5 before a terrorist attack was committed. But it's also clear  
6 he's an ISIS supporter who illegally obtained lethal  
7 fragmentation grenades and he wanted more.

8 If you sentence the defendant to the low end the range, 37  
9 months, he is out in eighteen months. And it's the  
10 government's view that he cannot be released --

11 **THE COURT:** How is he out in 18 months?

12 **MS. CORKEN:** Calculating good time, your Honor, the  
13 time that he already served and the time in a halfway house.

14 **THE COURT:** Well, he's certainly served that time in  
15 custody awaiting trial or awaiting the plea and the sentence.  
16 That doesn't mean he's only serving 18 months. He's serving  
17 eighteen months plus what he has already served.

18 **MS. CORKEN:** Your Honor --

19 **THE COURT:** And I understand the good time does  
20 reduce the 37 months somewhat.

21 **MS. CORKEN:** Yes, your Honor. My point I guess would  
22 be that the defendant is dangerous and that he can't be  
23 released in the near future without posing a risk to the  
24 public.

25 **THE COURT:** Okay. I understand your point.

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1           **MS. CORKEN:** Okay. Your Honor, I think it is  
2 significant that the defendant does not even admit that he's an  
3 ISIS supporter. When he walks out of prison, will he be  
4 anything other than a committed ISIS adherent? He considers  
5 himself a POW. Like any professional soldier he is unlikely to  
6 relinquish that view of himself as a soldier while he's in  
7 prison. He hasn't changed since his arrest. He hasn't  
8 concluded that he's on the wrong path. If he hasn't concluded  
9 he's on the wrong path, he's not likely to change his behavior.  
10 He's not on the road to doing something different once he's  
11 released from prison.

12           Your Honor, we already discussed in our Sentencing  
13 Memorandum the history and characteristics of the defendant and  
14 how in the government's view they do not argue for anything  
15 less than a 60 month sentence, particularly given the  
16 defendant's -- the nature of the defendant's associates and his  
17 friends.

18           Your Honor, the defense does argue that the defendant has  
19 no criminal record. But I would suggest that there is greater  
20 proclivity to break the law than his lack of record reflects.  
21 And I would point to the number of times that he engaged in  
22 straw purchases, his failure to register handguns and but for  
23 his arrest, he would have continued to buy illegal military  
24 weapons.

25           Your Honor, with respect to the factor of providing or

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1 fashioning a sentence to afford adequate deterrence, the  
2 Government submits the 60 months is necessary to achieve that  
3 purpose as well. Deterrence is critical because of the serious  
4 nature of the threat posed by ISIS supporters who abide by  
5 ISIS' directive to prepare or begin to prepare for Jihad. It's  
6 important to sent the public a message that even the first  
7 steps to prepare to exhibit a violent act carries serious  
8 consequences.

9 And then, lastly, your Honor, we have cited in our  
10 Sentencing Memorandum a number of cases where other courts have  
11 recognized that the combination of a defendant being an ISIS  
12 supporter and indicating an intent to do harm is -- justifies a  
13 significant upward variance. The Government in this case is  
14 asking for fourteen months.

15 Now, the defendant argues, well, these other cases aren't  
16 comparable because the defendants there made specific threats  
17 of violence against a specific target. That is not the case  
18 with respect to the Shaw case that we cited. There was no  
19 specific plan. There was no specific targets. The other  
20 defendants also were not on the eve of committing any attack.  
21 This defendant is no less dangerous than they are. Just  
22 because he did not commit a specific act of terrorism doesn't  
23 mean he's not dangerous. All of the other defendants like this  
24 defendant were charged with firearms or other offenses. They  
25 were not charged with committing a terrorist act. They weren't

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1 charged with committing an attempted terrorist act or  
2 conspiracy. What the courts recognized was that ISIS support  
3 plus evidence of intent to do harm causes -- is a danger to the  
4 public and it requires a very substantial sentence.

5 Here we have evidence of the defendant's intent to do  
6 harm. He has stated it in different -- with respect to  
7 different attacks, different -- on different occasions, in  
8 different -- with Facebook, e-mails and with the UCE.

9 Your Honor, in conclusion, we would ask for a 60 month  
10 sentence because of all these factors, primarily because he's  
11 an ISIS supporter who bought high explosive grenades, amassed  
12 an enormous amount of guns and ammunition as ISIS directs and  
13 made statements reflecting a desire to commit violence acts. We  
14 would also ask that you impose a supervised release condition  
15 pursuant to Rule 11 (c)(1)(c) that are set out in paragraph  
16 3(b) of the Rule Eleven. And with respect to forfeiture, your  
17 Honor, there is an agreement that certain items will be  
18 administratively forfeited and therefore no forfeiture orders  
19 are needed and no forfeiture language needs to be included in  
20 the judgment. Thank you, your Honor.

21 **THE COURT:** Defense?

22 **MR. THOLEN:** Thank you, Judge. Your Honor, my  
23 request on behalf of Mr. Gregerson with respect to the straw  
24 purchase firearm case would be a sentence at the bottom of the  
25 guidelines of six months imprisonment and have that sentence

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1 run concurrent to the other case. With respect to the  
2 destructive device case, I'm asking the Court to impose a  
3 sentence of 37 months imprisonment and I will explain the  
4 reasons why.

5 The Government had a lot to say today and has had a lot to  
6 say in the pleadings that it filed before today. From my  
7 assessment, the Government has overstated its case from the  
8 first court proceedings I represented Mr. Gregerson in which  
9 were during his detention hearings. I made the claim then and  
10 it's surprising that when I line up the pleadings that the  
11 Government filed at that time and the allegations they had,  
12 and, of course, they had the benefit because they had  
13 investigated Mr. Gregerson for 16 months. This was all before  
14 they filed a complaint against him. So they had that  
15 information. There is very much of an overlap and very little  
16 new information that they are presenting now at the time of  
17 sentencing.

18 I said it before and I will say it again, the Government  
19 is overstating its case. And the Government from my  
20 perspective had a preconceived theory of this case and it  
21 involved all this talk about ISIS and whether or not  
22 Mr. Gregerson is aligned with ISIS and then the Government, and  
23 I mean the Prosecutor in this case, has cherry picked facts,  
24 whether they are taken out of context, whether they are  
25 misleading to the Court, and plucked them in to support its

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1 theory. And it's not -- it's going about this all backwards.

2 In this case the first thing I will argue against will be  
3 the Government's request for an upward departure of 14 months.  
4 I would object to any upward departure in this case. And I  
5 know the Court has the authority -- first, the Government has  
6 the authority to argue for it under the Rule Eleven. I agree  
7 with that, and the Court certainly has a discretion if it  
8 believes there is aggravating factors to go above the guideline  
9 range. I wholly agree with that. In this case, quite simply,  
10 the Government has neither the facts nor the law on its side.  
11 The Government cited four or five specific cases that it  
12 attempted to bolster its position to support or make an  
13 argument to your Honor that a 60 month sentence was warranted.  
14 However, they didn't want to talk about any of the facts of  
15 that case, Judge. I did, Judge. Each of those cases had  
16 something very specific and something very scary, a specific  
17 threat against an individual or a specific location that is  
18 wholly absent in this case. And I disagree with the  
19 government's assessment that in the Shaw case there wasn't a  
20 plan because actually in the Shaw case, if you read the full  
21 transcript, the Court points to the buildings, local buildings  
22 from Houston were found on Mr. Shaw's computer and they had  
23 concerns that he was targeting those buildings. They were  
24 aerial type photographs. So I suggest in addition to all of  
25 the other things that Mr. Shaw was doing, there was evidence of

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1 a plot there. It is lacking in this case.

2 I represented Mr. Gregerson for thirteen months now and in  
3 that time someone close to Mr. Gregerson shared with me that  
4 Sebastian talks a lot of crap. And you know what, Judge? I  
5 agree with that statement. I also think the undercover FBI  
6 employee in this case talked a lot of crap in the discussions  
7 he had with Mr. Gregerson when they were building their case or  
8 trying to do their investigation and bring this case to court.

9 The Government seems to be taking -- I mean this is the  
10 United States. We have a First Amendment right. Individuals  
11 are allowed to read controversial texts or magazine articles if  
12 they want to. The Government knows that Sebastian Gregerson  
13 was taking a Homeland Security class at Henry Ford Community  
14 College. And they know this, one, because they had an  
15 undercover employee following him around at those classes, but,  
16 two, they went and interviewed his instructor at least three  
17 times and they asked for his class work and asked how was he  
18 doing in the course and what does he act like in class?

19 So for the Government to suggest why would Mr. Gregerson  
20 read any articles about the Middle East or about anything going  
21 on with terrorist attacks belies their own investigation. He  
22 was in a class on Homeland Security. I mean, he was in that  
23 class because he did have an interest in that. But the  
24 government has verified through its own investigation. But  
25 once again, that doesn't fit with their fact pattern, that

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1 doesn't fit with their conclusion so they say Mr. Gregerson  
2 allies himself with ISIS. That is not true. Mr. Gregerson and  
3 every one in the United States is entitled to unpopular speech,  
4 is entitled to politically incorrect speech, and ultimately  
5 that is what the Government has. If you did a count on the  
6 number of times they put ISIS in their 47 page Sentencing  
7 Memorandum it would probably be at least hundreds of times.  
8 What they didn't have was facts. You might have noticed they  
9 weren't citing cases. They weren't citing reports. They  
10 weren't citing interviews most of the time. And that's very  
11 dangerous in this case, Judge. In fact, one of the things the  
12 Government wanted to introduce was certain articles that  
13 Mr. Gregerson sent to other individuals. And I explained in my  
14 Sentencing Memorandum that as part of his interest  
15 Mr. Gregerson did access through the Long War Journal which is  
16 the United States political blog, if you will, articles about  
17 the Middle East and terrorist activities there. That is where  
18 he was getting them from. He wasn't on some ISIS website or  
19 something as the government tries to portray. It's just not  
20 true.

21 So, your Honor, with respect to whether or not the  
22 Government has established the facts or the law for an upward  
23 variance I don't think they have, Judge. I know that the Judge  
24 -- your Honor is going to be concerned with -- I'm asking the  
25 Court to stay within the sentencing range, so what would be the

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1 appropriate sentence within the range? The Government, again,  
2 the things they focused on as far as danger, there are  
3 misstatements. The Government stood here and said today just  
4 this afternoon that Mr. Gregerson had 37-millimeter grenades.  
5 Untrue. Patently untrue. What he did have was 37-millimeter  
6 flares. What the Government knows through its own  
7 investigation through the FBI explosives agent that analyzed  
8 the flares, they were completely untampered with. So they  
9 never became grenades. The Government stands here and tells  
10 your Honor Gregerson had 37-millimeter grenades at his house.  
11 No, he did not. False statement. The Government also has  
12 continued to talk about in this case a Claymore mine. You know  
13 what? We never saw a Claymore mine. Every report has had the  
14 Government's Exhibit of, quote, a Claymore mine that they got  
15 out of some book or off Google or something like that. But you  
16 know what? There was never a Claymore mine that was negotiated  
17 for, that was bought and sold, that was found in  
18 Mr. Gregerson's house. It didn't happen. But you wouldn't  
19 know that and the Government never backs down from that.

20 The Government has said that Mr. Gregerson has expressed,  
21 if you will, my words, dangerous thoughts. The most -- the  
22 closest thing I can find to that in the four months of  
23 recordings between Mr. Gregerson and the undercover FBI  
24 employee -- and mind you, these recordings lasted from anywhere  
25 from a half hour to seven or eight hours. I mean, they were

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1 all over the map. They spent a lot of time together. And  
2 Mr. Gregerson did make some comments that are close to what the  
3 Government paraphrased and they were along the lines of his  
4 prepper beliefs, which were that if all hell broke loose and he  
5 was under attack or his family was under attack, he would bring  
6 all the power he could against that force. Now that is  
7 something very different to me, your Honor. To me that is a  
8 defensive type statement or a defensive type posture. And the  
9 Government has continued to use those statements and insert law  
10 enforcement or insert citizens or say, just like ISIS preaches,  
11 but those things were not part of the statement and the  
12 Government knows it.

13 I have asked the Court to consider a sentence at the  
14 bottom of the range but I do so also because in the guideline  
15 calculations, the calculations that reach the 37 to 46 months,  
16 there is an enhancement, a specific offense enhancement due to  
17 the number of firearms. And in this case explosives equal  
18 firearms for purposes of the guidelines. So what has gone into  
19 that calculation of 8 to 24 firearms are these 37-millimeter  
20 flares that were found at Mr. Gregerson's residence. There is  
21 ten of them. They upped -- without those being included, it  
22 would be a plus two level. The guideline range for the  
23 destructive device would be 30 to 37 months. They have been  
24 included pursuant to the Rule 11 Agreement. I am not shying  
25 away from that. But I point out to the Court that effectively

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1 through the terms of the agreement it's been elevated to  
2 capture those 37-millimeter flares. And what I think is  
3 critical about the 37-millimeter flares, and the Court doesn't  
4 have to take my word for this, the FBI analyzed these and the  
5 flares -- and the Government keeps saying buckshot. The  
6 buckshot was in shotgun shells. So the 37 millimeter flares  
7 were in tact and they were, in fact -- the shipping box they  
8 came was from Specialty Arms. That is all in the FBI's  
9 explosives reports. The shotgun shells were in tact as well.  
10 These things were not tampered with and the Government's own  
11 experts looked at that.

12       What I think is critical, Judge, is the Government's  
13 theory has been, well, Mr. Gregerson could have manipulated the  
14 buckshot, could have manipulated the flares and created what  
15 would be an unregistered explosive device. I get it. It wasn't  
16 done in this case. And the plus four levels he gets in his  
17 guidelines which make his guideline range 37 to 46 months, it's  
18 the same now with pristine condition flares and shotgun shells  
19 or the devious situation that the Government keeps saying was  
20 going to happen if Mr. Gregerson had taken those things apart,  
21 resembled them and created 37-millimeter grenades which didn't  
22 happen. The guidelines would treat those the same. What I  
23 suggest to the Court is even if the Court gives a sentence  
24 which appears to be at the bottom of the range of 37 months,  
25 it's taking into consideration this enhancement that the

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1 guidelines factored into with respect to the 37 millimeter  
2 flares. I thinks it's relevant, judge.

3 Your Honor, throughout this case the Government has --  
4 really has had tunnel vision about this from my perspective and  
5 not looked at any other possible explanation for things. And I  
6 have tried to pinpoint a few of them for your Honor. One is  
7 that Mr. Gregerson is and has been a prepper for at least the  
8 last ten years. And a prepper, a doomsday prepper, whatever  
9 you want to call it. It's not my cup of tea, Judge, but there  
10 are folks like Mr. Gregerson that are preparing for calamity,  
11 catastrophe, power grids going down and he is going to have  
12 food, water, and weapons to protect himself and his family from  
13 the ravaging people that come after his stuff. Okay? He is  
14 allowed to do that. The Government hasn't looked at that. The  
15 Government knows when they did the search warrant at his  
16 residence after he was arrested that they pulled out of their  
17 in addition to all the exhibits it shows, your Honor, with the  
18 guns and the ammunition and the knives, all of which were legal  
19 with the exception of the firearm that was from Virginia in the  
20 straw purchase case. They also found a bunch of camping  
21 equipment. One of the pictures is a hatchet. There was tents.  
22 There was backpacks. There was water. There was food stores.  
23 They didn't seize that because, of course, there is nothing  
24 illegal about that, but it was all there. But the Government  
25 didn't want to talk about that.

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1 Mr. Gregerson also is proudly a Muslim and he has been so,  
2 again, over the last ten years, perhaps more, actually more,  
3 and he converted shortly after high school and he lives his  
4 life in that way. And your Honor can see he has a long beard  
5 but his long beard is one of the things he does as part of the  
6 his religion, to identify himself to others as Muslim. He is  
7 that.

8 The fact that he has made unpopular statements about  
9 certain segments of society, that happens to be in line with  
10 his belief and his faith. It's politically incorrect. It's  
11 not the way I think. But he's entitled to think that. He's  
12 entitled to say it. He has not acted out on any of those  
13 things. Again, something else the Government ignores. And on  
14 that note, the Government submitted -- it's not referencing it  
15 but it submitted a portion of the recording between the  
16 undercover FBI employee and Mr. Gregerson talking about the  
17 Orlando attack which as the Court knows involved what was known  
18 to be a gay nightclub and there was a horrible tragedy there  
19 and a number of innocent victims were shot up. And the  
20 Government presents this for the Court's consideration, has  
21 highlighted, of course, only the portions that Mr. Gregerson  
22 talks about. But I am going to draw the Court's attention to  
23 statements that were made unprovoked by the FBI undercover  
24 agent which I find chilling and shocking. One was the  
25 undercover agent saying he would have smoked every last

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1 hostage. And by smoked I assume he means killed them. That is  
2 coming from the undercover. Another is, they're going to be  
3 tripping on bodies. That is a nice image coming, again, from  
4 the undercover. And perhaps what to me seems to be some of the  
5 most gruesome is the statement in here that they would smell  
6 blood in the air. Now, these are all statements that were  
7 unsolicited, made by the undercover employee. And this is part  
8 of why I objected and I wanted the whole story put into the  
9 Presentence Report about these conversations. I think context  
10 is highly relevant. I find those statements shocking. I find  
11 those statements concerning. I am sure the Government is going  
12 to say, well, when you are undercover you do what you can. We  
13 are trying catch the bad guys. But those statements are as  
14 vile or more vile than anything they have attributed to  
15 Mr. Gregerson.

16 Your Honor, the Court knows Mr. Gregerson is a first  
17 offender. The Government seems to brush that aside. I think  
18 it's highly relevant. The Court should know because he didn't  
19 have prior felonies, the majority of firearms and ammunition,  
20 the knives, the equipment that he had which is so troubling to  
21 Government, he all purchased legally, he purchased in his name  
22 with the exception of the straw purchase pistol. And, in fact  
23 they were able to follow these transactions through on-line  
24 vendors or Amazon, things like that. They also followed him to  
25 local gun stores like Dunham's or something and saw him filling

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1 out paperwork in his name. So he bought these things the way  
2 you are supposed to.

3 Mr. Gregerson is a family -- he has a close family. They  
4 are here. His mother and father is here. His wife is here.  
5 His father-in-law is here. They have stood by him. This case,  
6 the time that he has been incarcerated, and we have full  
7 recognition that he's going to serve time still, some amount of  
8 time when he leaves court today. It has a destructive impact  
9 on him and his family as well. And, your Honor, I think that  
10 for all those reasons, a sentence of 37 months and concurrent  
11 sentence of 6 months will achieve the goals of sentencing.  
12 It's warranted. And I would ask the Court to not impose any  
13 upward variance or departure in this case.

14 **THE COURT:** Does your client wish to speak?

15 **THE DEFENDANT:** I just stand by the Plea Agreement I  
16 submitted and the remarks from my lawyer.

17 **THE COURT:** Okay. Anyone else have anything to say  
18 before I decide on the sentence?

19 **MR. THOLEN:** I don't, your Honor.

20 **MS. CORKEN:** Your Honor, I would just note that the  
21 defendant's guilty plea did include relevant conduct related to  
22 the components to assemble the grenades, that is 37-millimeter  
23 shells and buckshot. And that as part of the Rule 11 as well  
24 as the Plea Hearing, the defendant acknowledged his intent to  
25 assemble those components into destructive devices.

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1           **THE COURT:** Thank you. Would you bring your client  
2 to the lecturn, please?

3           **MR. THOLEN:** Yes, your Honor.

4           **THE COURT:** And I respect your decision not to say  
5 anything in addition to what has been said. It's my turn to  
6 talk and I have to go through the rules in terms of sentencing.

7           And the first rule is to consider at least as I interpret  
8 the higher courts and Congress, is to consider the guidelines.  
9 While they are advisory they are also important and everyone  
10 myself included agrees that Category One is reflecting your not  
11 having any prior felony convictions and Level 21 as calculated  
12 by the Presentence Report writer is accurate and it results in  
13 a guideline range the same as anticipated by the Rule 11. That  
14 guideline range is 36 to 46 months.

15           **MR. THOLEN:** 37, Judge.

16           **THE COURT:** 37 months. I'm sorry. I don't recall  
17 but I think I accepted the Rule 11 Agreement. If I did not, I  
18 accept it now. And that affectively allowed the Prosecutor to  
19 do exactly what they have done or she has done and that is ask  
20 for an upward departure to 60 months. And I am obviously  
21 considering that as well as the range that is recommended.

22           I also have to consider the congressional intent. And  
23 they have set forth a number of factors that I will discuss  
24 starting with the seriousness of the offense. Obviously, it's  
25 a serious offense because it's called a felony. And in our

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1 system a felony is the top kind of crime except for treason or  
2 I guess treason or capital offenses. And it's a ten year  
3 felony which puts it in the middle to high end of the felony  
4 range so both those points lead me to the conclusion of what  
5 you have pled guilty to is a serious offense.

6 In terms of general deterrence, that refers to deterring  
7 other people who might be inclined to do what you have done in  
8 each of these cases. And, quite frankly, the most effective  
9 deterrence in this case has already been done and that is by  
10 the arrest and all the publicity that was engendered by every  
11 stage of your going through the system so that people thinking  
12 of procuring an explosive device or people thinking of getting  
13 a weapon, using a straw person, will know that another person,  
14 that is you, have been charged with two felonies, both of them  
15 ten year felonies, and are facing a significant amount of  
16 prison time. And I should indicate that -- well, I will get to  
17 that in a minute.

18 I should indicate that in terms of special deterrence,  
19 that is, will you be deterred from doing this in the future, I  
20 don't think anything I can do will change what is described as  
21 a collector's hobby by the defense and is described as  
22 collecting weapons for future use. If it is, in fact, a hobby,  
23 you are entitled to do that. If, in fact, it is for actual  
24 use, obviously you are not entitled to do that. I don't know.  
25 I'm not a mind reader. I think the Government when they

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1 decided what to charge you with recognizes that this is not a  
2 life offense which tells me that they use their discretion and  
3 their experience of their agents to determine what would be the  
4 appropriate charge, and, in addition, what the appropriate plea  
5 agreement would be. And that gives me some guidance as does  
6 your attorney's presentation on your behalf. And if, in fact,  
7 your language, and the court record has been quoted as, one,  
8 accurate, and, two, meaningful, the only way to deter you would  
9 be to put you in prison for the rest your life. And that is  
10 not what anyone has decided is appropriate in this case,  
11 neither side, nor have I.

12 In terms dangerousness, I think what I just said applies  
13 to dangerousness. I don't know how dangerous you are but I  
14 know that your conduct to this date has not created an action  
15 event that could be called dangerous. The coming together of  
16 your religious slash political beliefs, you are entitled to in  
17 the coming together of your procurement of most of the weapons  
18 that you have collected are legal. And it is very easy to  
19 conflate the two but under our system of law that is not the  
20 way it's done. And I respect your rights and I respect the  
21 Government's right to exercise their discretion. And part of  
22 my respect for your rights is after listening to your attorney  
23 reminding me of what is in the Constitution.

24 In terms of disparity which was raised, I already  
25 indicated that I do look at a much broader pool than our local

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1 interpretation of co-defendants. However, the range is so  
2 scattered to matter what sentence I impose would be disparate,  
3 that is, unequal to some other sentences in some other  
4 jurisdictions for a similar charge. In other words, the range  
5 of people involved, what they have done, what they have said  
6 and so on is vast. And while I acknowledge it's important not  
7 to have diametrically opposed sentencing, I don't think that is  
8 a factor that helps me a whole lot.

9 Care and treatment is something that your attorney has  
10 raised. It's been raised somewhat in the Presentence Report  
11 when your attorney talks about you're talking, I think the  
12 quote was, *crap*, that may reflect a lot of different things I'm  
13 not qualified to determine. But included would be a compulsive  
14 obsessive behavior that is perfectly legal and part of it could  
15 be interpreted as a much more dangerous thing. And as a result  
16 I am recommending in terms of care and treatment that you be  
17 evaluated at the Bureau of Prisons for mental status so that if  
18 you do need some help that would be provided. If you don't,  
19 that is the end of it.

20 Your prior record is obviously very important. While it's  
21 unusual for me to have two felony cases at the same time, I  
22 think we all know that the straw man case is much less serious  
23 than the other case, possession of destructive devices.

24 In terms your work record, I am not sure how that comes  
25 into play and I don't think after all that I have said it's an

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1 important factor. And in terms your attitude, you have  
2 accepted responsibility which is good. And the rest that I  
3 already said about my ability to, based on what you said and  
4 done, predict where you are in terms of attitude, I don't think  
5 I have to say any more.

6 Your family responsibilities. It's wonderful that you  
7 have a five year old and as a matter of common sense, the  
8 collection that you claim you are doing has to be impacting  
9 your ability to support your wife and child and this is  
10 something you should consider over the next period of time so  
11 that when you get out you will put it in perspective and accept  
12 the choices you have to make. And there are programs in prison  
13 which we will talk about you about, life skills and how to  
14 survive, and one of them is how to spend and budget your money  
15 so that your family should come first. And I am recognizing  
16 you are not in great financial shape. And I am recognizing you  
17 are 30 years old which plays into and emphasizes the fact you  
18 don't have any prior contacts with the law. That helps you.  
19 Also at the age of 30, the studies show that a certain wisdom  
20 and maturity is beginning to blossom. And I would note that  
21 from all I read about you, you are obviously a smart, capable  
22 person who should be able to set priorities and survive without  
23 getting into trouble again, without succumbing to whatever your  
24 beliefs are in terms of taking action and whatever your  
25 survival instincts are have to include a recognition of the

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1 importance of your five year old and your wife. The fact that  
2 you have your parents supporting you and your family supporting  
3 you obviously indicates that you have not been completely  
4 absent in doing family responsibilities. But what I have just  
5 said indicates that you could do better. You have to go to  
6 prison for what you have done. And I'm ready to impose  
7 sentence unless anybody has anything they want to say to  
8 correct anything I have said. Government?

9 **MS. CORKEN:** No, your Honor.

10 **THE COURT:** Defense?

11 **MR. THOLEN:** Just so the Court knows, he has twin  
12 sons so has two sons. They are both five, Judge.

13 **THE COURT:** It makes it even more important how you  
14 allocate your resources for the benefit of your family. And  
15 thank you for correcting that. Anything you want to say on  
16 your own behalf at this time?

17 **THE DEFENDANT:** No, Judge.

18 **THE COURT:** Okay. This is going to take a few  
19 minutes because there are two Counts involved. And while I'm  
20 reading from a script the decision as to what your sentence  
21 will be and is going to be is made after I listened to all  
22 sides in the case.

23 Pursuant to the Sentencing Reform Act of 1984, the Court,  
24 considering the sentencing guidelines which I already discussed  
25 and the factors contained in the Congressional Statute 18 USC

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1 Section 3553 paren small A which I also already discussed,  
2 hereby commits the defendant to the custody of the United  
3 States Bureau of Prisons for a term of 45 months on Count One  
4 of docket 16-20552, and be placed on supervised release for a  
5 term of 36 months on that docket and impose an assessment of  
6 \$100 which is due now.

7 As to docket number 202 -- excuse me -- 17-20235 which has  
8 been referred to as the straw man Count, it is the sentence of  
9 the Court of nine months which shall be run concurrently as per  
10 the Rule 11 Agreement, and supervised release. There will also  
11 be 36 months which will run concurrently and a special  
12 assessment of a hundred dollars will be due immediately for a  
13 total of \$200. I am not imposing a fine or the costs of  
14 incarceration or the costs of supervision due to your financial  
15 condition. The mandatory drug testing condition is suspended  
16 based on my determination that you pose a low risk of future  
17 substance abuse. I should indicate, first of all, I should ask  
18 counsel does he have a choice as to where he wants to serve his  
19 time?

20 **MR. THOLEN:** We would ask the Court to recommend  
21 Milan. It's physically the closest facility to where his  
22 family resides.

23 **THE COURT:** All right. I do recommend Milan. I  
24 should explain that is simply a recommendation. The Bureau of  
25 Prisons will decide and I will ask the Bureau of Prisons to

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1 inform me of what their decision is.

2 **MR. THOLEN:** Thank you, Judge.

3 **THE COURT:** Also recommend that you be evaluated for  
4 mental health needs and if it's determined that's necessary,  
5 that you be provided with mental health treatment. But, again,  
6 that is a recommendation and I'm not in charge of the Bureau of  
7 Prisons.

8 While on supervision you shall abide by the standard  
9 conditions as adopted by the United States District Court for  
10 the Eastern District of Michigan and shall comply with the  
11 following special conditions.

12 One, you are prohibited from using a computer during the  
13 term of supervised release with the exception of and solely for  
14 legal research, outside employment, or for specific class  
15 assignments if you are in school at an accredited educational  
16 institution or you may use it to send or receive typed e-mail  
17 messages without attached electronic files and images embedded  
18 in the body of the message, and for other use as approved by  
19 the probation officer. You shall access the internet only  
20 through one internet capable device. All other internet  
21 capable devices such as cellular phones and gaming consoles  
22 shall not have the internet connected. You are prohibited from  
23 accessing any on-line computer service at any location  
24 including but not limited to public libraries, internet cafes,  
25 and places of employment or education without the permission of

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1 the probation officer. And you shall the provide probation  
2 officer, we call them probation officers. In the state they  
3 are called parole officers. You shall provide them with  
4 accurate information about all computer systems, hardware,  
5 software, and all passwords and internet service providers that  
6 you have potential access to and abide by all rules of the  
7 Probation Department Computer Monitoring Program. And this  
8 is -- I guess this is the day of redundancies. This is  
9 redundant. You shall only access a computer approved by the  
10 probation officer. You shall consent to the probation officer  
11 conducting periodic announced examinations of all computer  
12 systems which may include computer monitoring software, period.  
13 It says at defendant's expense, but you don't have to pay for  
14 that.

15 For the purpose of accounting -- and this is four -- for  
16 the purposes of accounting for all computers, hardware,  
17 software, and accessories you shall submit your personal  
18 residence computer and/or vehicle to a search conducted by the  
19 Probation Department at a reasonable time and manner. You  
20 shall inform other residents that the premises and your  
21 computer maybe subject to a search pursuant to this condition.  
22 You shall provide the probation officer with access to any  
23 requested financial information including billing records,  
24 telephone cable, internet, satellite and so on and any  
25 necessary codes to access that information. Do you have any

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1 questions? Counsel?

2 **MR. THOLEN:** No, your Honor.

3 **THE COURT:** Your client? Defendant?

4 **THE DEFENDANT:** No.

5 **THE COURT:** Government?

6 **MS. CORKEN:** Your Honor, you may have done this. I  
7 did not hear though myself whether you accepted both Rules  
8 Elevens.

9 **THE COURT:** I will accept both Rule Elevens.

10 **MS. MARION:** Thank you, your Honor.

11 **THE COURT:** Okay. And any objection to the sentence  
12 from either side?

13 **MS. CORKEN:** No, your Honor.

14 **MR. THOLEN:** No objection from defense, your Honor.

15 **THE COURT:** All right.

16 **PROBATION OFFICER:** Your Honor, excuse me. As a  
17 matter of housekeeping, is the destructive device -- that was  
18 Count Two?

19 **THE COURT:** Yes.

20 **PROBATION OFFICER:** I believe the court said Count  
21 One.

22 **THE COURT:** Okay. That is true. And did I say for  
23 what I consider Count Two which is a Virginia case -- I don't  
24 recall if I mentioned a number of months.

25 **PROBATION OFFICER:** You did.

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1           **MR. THOLEN:** You did, Judge.

2           **THE COURT:** All right. It's a long day. I do have  
3 to tell you about your right to appeal which is required by  
4 court rule and statute. And if you cannot afford an appeal the  
5 Court will provide you with counsel and the transcript and  
6 waive the filing fee. There is a ten day time period to file  
7 your papers. Your attorney and my case manager will provide  
8 you with the necessary form requesting it but I should also  
9 note part of the Plea Agreement is that if the plea -- if the  
10 sentence is below 60 months you waived your right to appeal so  
11 that while technically you have the right, more likely than not  
12 if you were to exercise it and something were filed at the  
13 Court of Appeals they would dismiss your appeal as having been  
14 waived. And it's a lot of time. It's a lot of things that you  
15 have to think about. I commend both sides for their treating  
16 this as an individual case and not using the facts of the case  
17 to generate media attention or public dispute. The fact that  
18 both sides came together on worked out with your approval a  
19 Rule 11 Agreement tells me that the system is working. You are  
20 entitled to believe the sentence is way too high. And if you  
21 do believe that you would not be the first person entering  
22 prison who believes that. And you might be right. But the  
23 goal of the system and what should be your goal while you are  
24 serving your time is to be able to control your anger at the  
25 system, at the sentence that I imposed, and anyone else you

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1 want to be angry at and that anger should be at least more  
2 under control each day you were there.

3       You will be offered some choices in terms of programs, in  
4 terms of jobs. None of them will be your first choice and the  
5 jobs that may be offered are at the bottom based on seniority.  
6 But do them and with the understanding that it may help you  
7 pass the time a little bit faster and it may teach you some  
8 skills and some realism. And I am not suggesting that you have  
9 to modify any of your religious beliefs, only how you act upon  
10 them. And will I wish you luck. We are done.

11       **MR. THOLEN:** Thank you, Judge.

12       **MS. CORKEN:** Thank you, your Honor.

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**C E R T I F I C A T I O N**

I, Lawrence R. Przybysz, official court reporter for the United States District Court, Eastern District of Michigan, Southern Division, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript has been prepared by me or under my direction.

s/Lawrence R. Przybysz  
Official Court Reporter

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