

UNDER SEAL

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

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

NOW COMES the United States of America, by and through Jill Westmoreland Rose, United States Attorney for the Western District of North Carolina, and the defendant, Justin Nojan Sullivan, in person and through counsel, Fredilyn Sison, and respectfully inform the Court that they have reached an agreement pursuant to **Federal Rule of Criminal Procedure (“Rule”) 11(c)(1)(C)**. References to the United States herein mean the United States Attorney’s Office for the Western District of North Carolina.

I. Plea

1. The defendant agrees to enter a voluntary plea of guilty to Count Nine as set forth in the Superseding Bill of Indictment, and admits to being in fact guilty of attempted acts of terrorism transcending national boundaries in violation of Title 18, United States Code, Section 2332b(a)(1) and (2), as charged in Count Nine.
2. If the Court finds the defendant’s plea to be voluntary and knowingly made, and accepts the plea, then the United States will move at the appropriate time to dismiss the remaining Counts in the Superseding Bill of Indictment.
3. The defendant understands that each and every provision set forth below is a material term of the plea agreement. The defendant’s failure to fully comply with any provision of the plea agreement or attempt to withdraw the guilty plea (i) will relieve the United States of its obligations under the Plea Agreement, but the defendant will not be relieved of the defendant’s obligations or allowed to withdraw the guilty plea; (ii) may constitute the defendant’s failure to accept responsibility under U.S.S.G. § 3E1.1; and (iii) will permit the United States to proceed on any dismissed, pending, superseding or additional charges.

II. Sentence

4. Because this plea is offered pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), if the court accepts the plea agreement, the court may not impose a lesser or greater sentence than that agreed by the parties in this plea agreement. The defendant is aware that the

statutory maximum sentence for the violation of Title 18, United States Code, Section 2332b alleged in Count Nine, is life in prison and a fine not exceeding \$250,000. The court may also impose supervised release for any term of years or life. 18 U.S.C. § 3583(j). In addition, Section 2332b(c)(2) prohibits the Court from placing any person convicted of a violation of Section 2332b on probation or ordering that a term of imprisonment imposed under this statute run concurrent with any other term of imprisonment.

5. The defendant understands that a violation of supervised release may subject the defendant to an additional period of incarceration.
6. This plea agreement is made pursuant to Rule 11(c)(1)(C), and binds the Court as to the terms set forth below in paragraph 7 only. The defendant understands that not all the terms of this plea agreement are binding recommendations that must be accepted by the Court. The Court will not be bound by any provision of this agreement unless the provision explicitly states that it is binding. Unless limited by a binding recommendation, the Court may impose any form of punishment permitted by law.
7. **The defendant and the United States, pursuant to Rule 11(c)(1)(C), make the binding recommendation to the Court that the defendant be sentenced to a term of life imprisonment.**
8. Pursuant to United States Sentencing Guidelines policy for the acceptance of plea agreements, the parties hereby stipulate that the agreed sentence in paragraph 7 is within the applicable guideline range. U.S.S.G. § 6B1.2(c)(1). In this regard, the parties agree that they will jointly recommend that the Court make the following findings and conclusions as to the U.S.S.G.:
 - a. The applicable guideline for attempted murder as alleged in Count Nine is U.S.S.G. § 2A2.1. The object of the defendant's attempt would have constituted first degree murder, resulting in a base offense level of 33.
 - b. The terrorism enhancement under U.S.S.G. § 3A1.4 applies because Count Nine is a felony that involved and was intended to promote a federal crime of terrorism as defined Title 18, United States Code, Section 2332b(g)(5). This enhancement increases the defendant's guidelines by 12 levels and places him in Criminal History Category VI.
 - c. The United States agrees that the defendant's entry of plea is timely for purposes of U.S.S.G. § 3E1.1(b).

d. Based on the above, the total offense level for the Count Nine is calculated as follows:

Base Offense Level	33
Terrorism Enhancement	12
<u>Acceptance of Responsibility</u>	<u>(3)</u>
Total Offense Level	42

e. The Sentencing Guidelines range for offense level 42, criminal history category VI is 360 months to life in prison.

f. The parties agree that they will not seek a departure or variance from the “applicable guideline range” (U.S.S.G. §5C1.1).

g. The United States will inform the Court and the probation office of all facts pertinent to the sentencing process and will present any evidence requested by the Court.

9. The defendant agrees to the following with respect to financial disclosures, monetary penalties, forfeiture and restitution:

a. To pay full restitution, regardless of the resulting loss amount, to all victims directly or indirectly harmed by the defendant’s “relevant conduct,” including conduct pertaining to any dismissed counts or uncharged conduct, as defined by U.S.S.G. § 1B1.3, regardless of whether such conduct constitutes an “offense” under 18 U.S.C. §§ 2259, 3663 or 3663A. The defendant understands that such restitution will be included in the Court’s Order of Judgment and an unanticipated amount of a restitution order will not serve as grounds to withdraw the defendant’s guilty plea.

b. To make full disclosure of all current and projected assets to the U.S. Probation Office immediately and prior to the termination of the defendant’s supervised release or probation, such disclosures to be shared with the U.S. Attorney’s Office, including the Financial Litigation Unit, for any purpose.

c. To truthfully complete under penalty of perjury within thirty days of the execution of this Plea Agreement a financial statement provided by the U.S. Attorney’s Office and to update the statement with material changes within seven days of the change.

d. That monetary penalties imposed by the Court will be (i) subject to immediate enforcement as provided for in 18 U.S.C. § 3613, and (ii) submitted to the-Treasury Offset Program so that any federal payment or transfer of returned property the defendant receives may be offset and applied to federal debts but will not affect the periodic payment schedule.

10. With regard to each and every asset listed in the Superseding Bill of Indictment or seized in a related investigation or administrative, state, or local action the defendant stipulates and agrees:

- a. To its forfeiture herein, if necessary as substitute property under 21 U.S.C. § 853(p), as made applicable by 18 U.S.C. § 982(b)(1) or any other statute, or in a separate administrative or civil judicial proceeding. The United States may use the value of forfeited property for restitution but is not required to do so.
 - b. That the defendant has or had a possessory interest or other legal interest in each item or property.
 - c. To the Magistrate Judge conducting all proceedings necessary for any civil forfeiture of the property, including entry of judgment, pursuant to 28 U.S.C. §636(c).
 - d. That the property may be returned to the true owner or treated as abandoned property.
 - e. To assist the United States in the recovery of all assets by (i) taking whatever steps are necessary or requested by the United States to pass clear title to the United States; (ii) preventing the disbursement of any moneys and sale of any property or assets; (iii) not encumbering or transferring any real estate after the defendant's signing of this plea agreement; and (iv) directing all financial institutions to turn over and surrender to the United States all funds and records regarding accounts listed in any document signed by defendant pursuant to this plea agreement, as criminal proceeds or substitute property.
11. The defendant waives all rights to notice of forfeiture under Rule 32.2 and of any other action or proceeding regarding such assets. The defendant consents and waives all rights to compliance by the United States with any applicable deadlines under 18 U.S.C. § 983(a). Any related administrative claim filed by the defendant is hereby withdrawn.
 12. If the United States discovers that the defendant has not fully disclosed all assets, the United States may seek forfeiture of any subsequently-discovered assets, and the defendant agrees to the immediate forfeiture of any such assets.
 13. The defendant further agrees to participate in the Inmate Financial Responsibility Program to fulfill all financial obligations due and owing under this agreement and the law.

III. Procedure

14. The defendant stipulates that there is a factual basis, as required by Rule 11(b)(3), for the plea of guilty. The defendant further stipulates that he has read and understands the Factual Basis filed with this Plea Agreement, and that such Factual Basis may be used by the Court and the United States Probation Office without objection by the defendant to determine the applicable advisory guideline range or the appropriate sentence under Title 18, United States Code, Section 3553(a), unless the Factual Basis itself notes that the defendant's right to object to a particular fact(s) has been explicitly reserved.

IV. Waivers

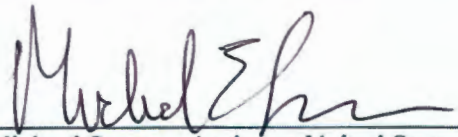
15. The defendant is aware that the law provides certain limited rights to withdraw a plea of guilty after it has been accepted by the United States District Judge conducting his plea hearing. The defendant has discussed these rights with defense counsel and knowingly and expressly waives any right to withdraw the plea once the Judge has accepted it.
16. The defendant acknowledges that Federal Rule of Criminal Procedure 11(f) and Federal Rules of Evidence 408 and 410 are rules which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions. The defendant knowingly and voluntarily waives these rights and agrees that any statements made in the course of the defendant's guilty plea or this plea agreement (in part or in its entirety, at the sole discretion of the United States) will be admissible against the defendant for any purpose in any criminal or civil proceeding if the defendant fails to enter or attempts to withdraw the defendant's guilty plea, or in any post-conviction proceeding challenges the voluntary nature of the guilty plea.
17. The defendant agrees that by pleading guilty, the defendant is expressly waiving the right: (a) to be tried by a jury; (b) to be assisted by an attorney at trial; (c) to confront and cross-examine witnesses; and (d) not to be compelled to incriminate him or herself.
18. The defendant has discussed with his attorney: (1) defendant's rights pursuant to Title 18, United States Codes, Sections 3742, Title 28, United States Code, Section 2255, and similar authorities to contest a conviction and/or sentence through an appeal or post-conviction after entering into a plea agreement; (2) whether there are potential issues relevant to an appeal or post-conviction action; and (3) the possible impact of any such issue on the desirability of entering into this plea agreement.
19. The defendant, in exchange for the concessions made by the United States in this plea agreement, waives all such rights to contest the conviction except for: (1) claims of ineffective assistance of counsel or (2) prosecutorial misconduct. The defendant also knowingly and expressly waives all rights conferred by Title 18, United States Code, Section 3742 or otherwise to appeal whatever sentence is imposed with the two exceptions set forth above. The defendant agrees that the United States preserves all its rights and duties as set forth in Title 18, United States Code, Section 3742(b).
20. The defendant waives all rights, whether asserted directly or by a representative, to request or to receive from any department or agency any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

V. Conclusion

21. This agreement is effective and binding once signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled by the Court.
22. There are no agreements, representations, or understandings between the parties in this case, other than those explicitly set forth in this Plea Agreement, or as noticed to the Court during the plea colloquy and contained in writing in a separate document signed by all parties.

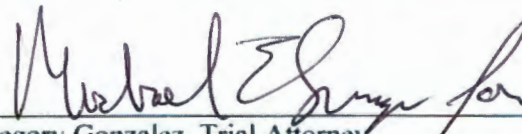
SO AGREED:

JILL WESTMORELAND ROSE
UNITED STATES ATTORNEY



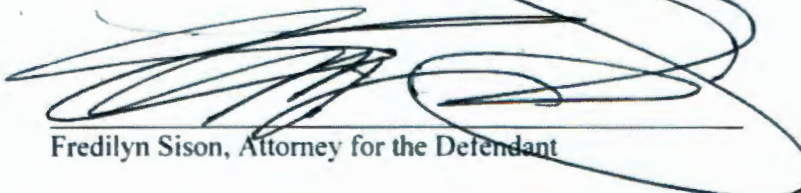
Michael Savage, Assistant United States Attorney

DATED: 11/10/16



Gregory Gonzalez, Trial Attorney
U.S. Department of Justice, National Security Division

DATED: 11/10/16



Fredilyn Sison, Attorney for the Defendant

DATED: 11-10-16



Justin Nojan Sullivan, Defendant

DATED: 11/10/2016