

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

UNITED STATES OF AMERICA)
)
)
v.) Case No. 1:19-CR 00022
)
)
WAQAR UL-HASSAN)

DEFENDANT’S SENTENCING MEMORANDUM

Waqar Ul-Hassan is before the court for sentencing following his pleas of guilty to two counts of making a false statement to the FBI, in violation of 18 USC Section 1001(a)(2). The maximum penalty for each count is 5 years. There is no minimum penalty.

The sentencing guidelines range, at this writing, is in dispute. The probation officer has determined that the guidelines range is 120 months, having concluded that the enhancement for committing an offense that involved or was intended to promote a federal crime of terrorism applies. This enhancement dramatically affects the guidelines range—increasing the offense level to level 32 and mandating an increase in the criminal history category to category VI. Absent this

enhancement (which both Mr. Ul-Hassan and the United States believe does not apply),¹ the guidelines range is 0 to 6 months—based on a total offense level of 4 (after acceptance of responsibility credit) and criminal history category I.

The parties have agreed that an appropriate sentence is probation for five years. Mr. Ul-Hassan submits this memorandum in support of his request that this Court approve the plea agreement and impose the agreed upon sentence of probation for five years.²

Background and Offense Conduct

Waqar Ul-Hassan is 35 years old. He was born in Dinga, Pakistan, a city in northern Pakistan, near Kashmir—a territory claimed by both Pakistan and India and presently governed by India.

Waqar's father was an officer in the Pakistan Army. He retired on a modest pension when Waqar was a young boy. Eager to make a better life for himself and his family, Waqar's father applied for admission to the United States under the Diversity Immigration Visa program (green

¹ The probation officer also assessed an enhancement of 8 points under USSG Section 2B1.1(b)(14)(B) which allows for such where the offense involved misappropriation of a trade secret. The parties also have objected to application of this enhancement which only matters if the terrorism enhancement does not apply as the terrorism enhancement overrides the trade secrets enhancement.

² Mr. Ul-Hassan was in custody from April 30, 2019 until his release on pre-trial

card lottery) in 1994 and was selected. He emigrated to the United States and worked as a cab driver in New York City for several years until he was able to bring his family (wife and three children) to the United States in 1999.

Waqar was 14 years old when he came to the United States. He attended school in Brooklyn, New York, but dropped out while in the 11th grade. He worked at a pizza shop, a deli shop and as a cab driver in New York City. He became a naturalized U.S. citizen in 2001.

Waqar's father died in 2006 at age 63—leaving a wife and four children—three adult children and one minor boy.

In 2011, the family moved to Abingdon, Virginia in the following circumstances: Waqar's brother-in-law, Abdul Qudoos (married to Waqar's sister, Saadia Hassan) had a friend in Abingdon, Mohammed Qasim, who owned a convenience store/gas station in Glade Spring, Virginia. Mr. Qasim offered Abdul a job working at the store as a cashier. Abdul accepted and he and Saadia moved to Abingdon—followed shortly thereafter by the rest of the family. All (excepting the mother and youngest child), worked at the convenience store and later

release on June 18, 2019.

worked for Abdul who himself acquired three stores—a Sunoco station in Bristol, Tennessee, a Country Mart in Russell County and Buddy’s Gas N Go in Whitewood, Virginia. As Waqar and his oldest brother, Najam, describe him, Abdul is a hard-working, ambitious man. He worked and still works 16-hour days, saves his money and was able to get credit lines making it possible to purchase these stores.

Waqar’s troubles began when he met a local woman named [REDACTED] [REDACTED] in 2014. Waqar was working as a cashier at a gas station in Chilhowie owned by Mr. Qasim. [REDACTED] frequently came to the store. In Waqar’s words, she “wanted to know about Islam” and was fascinated by terrorists. She spoke of wanting to travel to Syria and Afghanistan and supporting terrorist activity. The two became involved romantically and communicated frequently by way of social media. In various exchanges, [REDACTED] spoke of her interest in supporting terrorism, and Waqar joined in—having never actually engaged in any terrorist activity but wanting to stoke the relationship.

Though not clear from the materials provided in discovery, these exchanges with [REDACTED] coupled with Waqar’s visits to Pakistan where Waqar’s family had a small house (maintained by his aunt)

evidently led to Waqar's name being placed on the no-fly list. Waqar first learned of this in April, 2015. He was in Pakistan at the time, attempting to return to the United States. He met with FBI agents in Islamabad, Pakistan who were interested in his communication with [REDACTED] and his travels to Pakistan. Waqar explained that his family still had a house in Pakistan and that he had a daughter there by way of a previous marriage and had a current wife in Pakistan, Maryam. He admitted having a relationship with [REDACTED] but denied supporting terrorists or sending money to terrorist organizations. He was permitted to return to the United States.

By the time Waqar returned to Abingdon, in summer 2015, his relationship with [REDACTED] had ended, but the FBI investigation into whether Waqar had terrorist ties had not. Between July, 2015 and March, 2016, Waqar had extensive contact with the FBI. He met with agents multiple times—in Abingdon, in Roanoke, and in Charlottesville, and he had multiple telephonic contacts (dozens) with agents. All meetings and contacts were voluntary—many initiated by Waqar. Waqar never invoked his rights (despite being given *Miranda* warnings) and never requested counsel. He was still on the no-fly list and wanted

to travel to Pakistan to see his wife. The FBI, for its part, was pursuing its investigation.

The charges against Waqar stem from interviews occurring on May 20, 2015 (Count 1) and on October 16, 2015 (Count 2). In the May interview, Waqar denied supporting any terrorist groups and denied knowing any members of a terrorist group. In the October interview, Waqar denied trying to send money to Syria for ISIS and denied asking [REDACTED] about such.

On November 18, 2015, Waqar met with agents in Charlottesville. He admitted that he had not told the truth in the above interviews. Specifically, he told FBI agents that for very brief periods in 2013 and 2014 he had contact with Jaish-e-Mohammed (JeM), a foreign terrorist organization committed to reuniting Kashmir with Pakistan. He admitted that he had traveled with members of the group for a few days, had collected money for the group, had distributed recruiting posters for the group and had spoken of jihad³ with members of the group. He also told agents that he was serious when he spoke with [REDACTED] [REDACTED] of sending money (\$175.00) to ISIS but he did not carry

³ Jihad is an Arabic word that means “striving or struggling.” <https://en.wikipedia.org/wiki/Jihad>. The term does not connote armed struggle or

through as he could not find a way to do so.

Waqar expressed remorse for not telling the truth and made clear that he did not presently support terrorism, that he never engaged in any terrorist acts, and had no intention of ever doing so. He maintained contact with the FBI following his admissions, hoping to be allowed to travel to Pakistan to be with his wife. He was not arrested and not charged.

Eventually, Waqar was permitted to travel to Pakistan. Accompanied by FBI agents as far as Dubai, he departed the United States on March 29, 2016 and arrived in Pakistan that day. His agreement with the agents was clear: if he returned to the United States, he would be charged.

Waqar reunited with his wife who gave birth to their daughter in 2017. Waqar made a living in Pakistan by selling grocery items from a stall in the local outdoor market. He had no contact with JeM or any other terrorist organization.

In December, 2018, Waqar's daughter died of kidney failure associated with leukemia.

terrorist activity.

Missing his family in Abingdon, distraught over his daughter's death, and hoping to bring his wife to the United States, Waqar decided to return to the United States. He consulted with U.S. embassy personnel and was reminded explicitly that if he returned, he would be arrested and charged. He decided, nonetheless, to return and he advised embassy personnel of his travel plans. Waqar arrived at the Charlotte airport on April 30, 2019 and was immediately arrested upon departing the aircraft.

In Waqar's words: "I knew this would happen. I knew I had to straighten this out, and I have to make account for what I did." His brother, Najam, states similarly: "I told Waqar that he had to return and face this. This is family honor."

Mr. Ul-Hassan has pleaded guilty and has accepted full responsibility for his offenses. As noted, he has been on pretrial release since June 18, 2019 and by all reports has fully complied with the terms of release.

Characteristics of the Defendant

Waqar is 35 years old. He is married and has one five-year-old daughter by a previous marriage. His wife, his ex-wife and his daughter

all live in Pakistan. Waqar lives with his sister, Saadia, his mother, his brother-in-law and his niece in Abingdon. He works for his brother-in-law at the brother-in-law's convenience store in Bristol, Tennessee.

Waqar has no criminal history whatsoever. He is a citizen of both the United States and Pakistan and has family in both countries. His mother and siblings all live in the United States; his wife, child and other relatives live in Pakistan. His family still owns a modest home in Pakistan which is looked after by his aunt (father's sister). Waqar's siblings, except his youngest brother, all live in the Abingdon area. His youngest brother, Haseeb, lives in Brooklyn, New York where he attends college.

As for the future, Waqar states that he would like to bring his wife to the United States and is hoping that he will be permitted to do so after this case is concluded. He states unequivocally that he would never engage in a violent act and that he will never support a terrorist organization even in its charitable activities—what attracted Waqar to JeM initially.

Avoiding Unwarranted Sentence Disparity

Those with offense levels and criminal histories similar to Mr. Ul-

Hassan properly face a guidelines range of 0 to 6 months. Waqar has served almost two months in jail. There is no co-defendant in the case—though we do note that [REDACTED] (according to materials provided in discovery) admitted communicating online with persons expressing support for terrorists but was never charged.

Conclusion

Waqar Ul-Hassan, who had no criminal history (not even a traffic ticket), made the biggest mistake of his life in not telling the truth to the FBI. He knew that he would be held to account for lying, and he has accepted responsibility for his offense. We submit that a sentence of probation as provided for in the plea agreement is a fair and reasonable sentence—one that is “sufficient but not greater than necessary” under 18 USC Section 3553. It strikes the appropriate balance between punishment and deterrence and the mitigating aspects of this case, including, most prominently, Waqar’s full acceptance of responsibility and his sincere commitment to resolving his violation of the law.

Respectfully Submitted,

WAQAR UL-HASSAN
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document was electronically filed with the Clerk of Court and will be forwarded using the CM/ECF system to Assistant United States Attorney Christopher Kavanaugh, counsel for the United States this 15th day of October, 2019.

s/Randy Cargill