

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 Plaintiff,

Docket No.:
09 CR 663(S-1)

5 versus

6 NAJIBULLAH ZAZI,

U.S. Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

7 Defendant.

8 -----x

February 22, 2010
2:30 p.m.

9 Transcript of Criminal Cause for Pleading

10 Before: HONORABLE RAYMOND J. DEARIE,
District Court Chief Judge

11

12 APPEARANCES

13 For the Government: BENTON J. CAMPBELL, ESQ.
United States Attorney
14 Eastern District of New York
271 Cadman Plaza East
15 Brooklyn, New York 11201
BY: JEFFREY KNOX, ESQ.,
16 DAVID BITKOWER, ESQ.,
Assistant U.S. Attorneys

17 For the Defendant: WILLIAM J. STAMPUR, ESQ.

18 Court Reporter: LISA SCHMID, CCR, RMR
19 Official Court Reporter
225 Cadman Plaza East
20 Brooklyn, New York 11201
Phone: 718-613-2644

21 Proceedings recorded by mechanical stenography. Transcript
22 produced by computer-aided transcription.

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1 THE COURT: All right. Good afternoon, everyone.
2 Please be seated.

3 THE CLERK: May we have the defendant out?

4 We are on this afternoon for a pleading. This is USA
5 versus Zazi, Docket Number CR 09 663 S-1. Can I ask the
6 attorneys, please, to note their appearance, beginning with
7 counsel for the government?

8 MR. KNOX: Jeff Knox, David Bitkower for the
9 government. Good afternoon, Your Honor.

10 THE COURT: Hello.

11 MR. STAMPUR: William J. Stampur for Mr. Zazi. Good
12 afternoon, Judge.

13 THE COURT: Mr. Stampur, good afternoon.

14 Mr. Zazi, good afternoon.

15 THE DEFENDANT: Good afternoon.

16 THE COURT: Are we ready to proceed?

17 MR. STAMPUR: We are, Judge.

18 MR. KNOX: Yes, Your Honor.

19 THE COURT: Mr. Stampur, I take it the application is
20 to withdraw the previously-entered plea?

21 MR. STAMPUR: That is correct, Your Honor.

22 THE COURT: Swear the defendant, please.

23 THE CLERK: Mr. Zazi, please raise your right hand.

24 (Defendant sworn.)

25 THE DEFENDANT: Truth.

1 THE COURT: Thank you.

2 Mr. Zazi, I have to ask you a number of questions, as
3 I am sure Mr. Stampur has told you. If there is anything I say
4 to you that isn't entirely clear, do not hesitate to say so.

5 THE DEFENDANT: Yes.

6 THE COURT: It is critical that you understand
7 everything being said here in the courtroom. And if there is
8 any reason that you're not entirely sure, let me know that, and
9 we will do our best to rephrase or clarify any questions. Do
10 you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Along that same line, if you wish at any
13 time to confer with Mr. Stampur, simply ask me, and I'll give
14 you whatever time you need to speak privately with him.

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: We're in no hurry here, so you take your
17 time, and be comfortable that you understand exactly what's
18 transpiring.

19 You also should also bear in mind that you're now
20 under oath. That means that your answers to my questions must
21 be truthful. If they were not in any material way, you could
22 subject yourself to further criminal charges for the offense of
23 perjury, which is lying while under oath. Do you understand
24 that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Mr. Zazi, first of all, have you had
2 sufficient time to consider your decision to offer these pleas
3 of guilty?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And are you satisfied with Mr. Stampur's
6 representation?

7 THE DEFENDANT: That's correct.

8 THE COURT: Please state your full name for the
9 record.

10 THE DEFENDANT: Najibullah Zazi.

11 THE COURT: And how old are you, sir?

12 THE DEFENDANT: Twenty-five, sir.

13 THE COURT: And what schooling or formal education
14 have you had?

15 THE DEFENDANT: From Flushing High School, Queens, New
16 York.

17 MR. STAMPUR: He did not graduate, Your Honor, but he
18 went to high school.

19 THE COURT: And you read and write in English, I
20 assume?

21 THE DEFENDANT: Yes.

22 THE COURT: Are you presently or have you recently
23 been under the care of a physician or any medical professional?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Or psychiatric professional?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: In the past 24 hours, have you had any
3 drugs, alcohol or anything of that sort?

4 THE DEFENDANT: No.

5 THE COURT: Are you taking medication at this time?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: How is your health?

8 THE DEFENDANT: Good enough.

9 THE COURT: All right. You're comfortable? You can
10 understand what I'm saying to you now?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Have you at any time had difficulty with
13 drugs or alcohol?

14 THE DEFENDANT: I never took it.

15 THE COURT: Mr. Stampur, in your discussions with your
16 client, are you satisfied that he understands the rights that
17 he is waiving by waiving indictment, and by pleading guilty?

18 MR. STAMPUR: Yes, Your Honor.

19 THE COURT: Is he, in your judgment, competent to
20 proceed and capable of understanding the nature of these
21 proceedings?

22 MR. STAMPUR: Yes, sir Your Honor.

23 THE COURT: And again, Mr. Zazi, you are pleased and
24 satisfied with Mr. Stampur's representation?

25 THE DEFENDANT: That's correct, Your Honor.

1 THE COURT: Now, sir, the first order of business is
2 what's commonly referred to as a waiver of indictment. The
3 Information that the U. S. Attorney seeks to file as a formal
4 charging instrument, charges three separate offenses, each of
5 which carries a potential sentence well in excess of one year.
6 Those charges are, by definition, felonies.

7 The Constitution of the United States provides that no
8 person shall be charged with any felony, except by indictment
9 presented by a grand jury. You have the right, therefore, sir,
10 to refer this matter and these charges to a grand jury for
11 their consideration as to whether or not formal charges should
12 be presented. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: You could waive that right, as appears to
15 be your intention. Before you do that, I should tell you a
16 little bit more about the grand jury, and I fully appreciate
17 that the grand jury has already in this case heard evidence,
18 and returned formal charges.

19 A grand jury, sir, is a group of people drawn from our
20 community. The responsibility of the grand jury is not to
21 determine whether a defendant is guilty or not guilty, but only
22 whether or not there is probable cause to believe that an
23 offense has been committed.

24 A grand jury is comprised of a total of 23 jurors.
25 There must be 16 present to constitute a quorum for the conduct

1 of business of the grand jury, and 12 of those jurors must
2 agree that probable cause has been established before that
3 body, the grand jury, is empowered to charge you or anyone with
4 a felony.

5 That means that if presented with the evidence in this
6 case, the grand jury may or may not indict you on these
7 specific charges. If they were to decline to do so, the United
8 States Attorney would be powerless to charge you with these
9 offenses specifically, although they would have the opportunity
10 to re-present the matter to the grand jury or to present the
11 matter to another grand jury. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Now, if you waive your right to proceed
14 before the grand jury, we would then proceed just as if the
15 grand jury had indicted you on these three specific offenses.
16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Is the subject matter of the waiver of the
19 grand jury one of the subjects you have discussed with
20 Mr. Stampur?

21 THE DEFENDANT: Yes, I did.

22 THE COURT: Are you fully confident, sir, that you
23 understand your rights before the grand jury?

24 THE DEFENDANT: That's right.

25 THE COURT: Do you have any questions that you would

1 like to put to me about any aspect of that?

2 THE DEFENDANT: At this point? No, sir.

3 THE COURT: And Mr. Stampur, you have, of course, just
4 to confirm for the record, fully discussed this aspect of the
5 plea with your client?

6 MR. STAMPUR: I have, Your Honor.

7 THE COURT: All right. The Court finds here that the
8 defendant has, here in open court, in the presence and with the
9 advice of counsel, knowingly and voluntarily waived his right
10 to proceed before the grand jury.

11 I note before me a signed Waiver of Indictment form.
12 I will add my signature to indicate my findings as the
13 presiding judicial officer, and tender it to the clerk of the
14 court.

15 Ellie? (Handing.)

16 THE CLERK: (Retrieves document.) Thank you.

17 THE COURT: As I said a moment ago, Mr. Zazi, we now
18 proceed just as if the grand jury had indicted you on these
19 specific charges, the substance of which I will get to in just
20 a moment.

21 Okay. Now, by that, I mean you have an absolute
22 right, notwithstanding whatever discussions you have had with
23 the government and with counsel, you have an absolute right as
24 you stand there to plead not guilty to these charges. Do you
25 understand that?

1 THE DEFENDANT: Yes, Your Honor. I do.

2 THE COURT: I'm sorry?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: If you were to plead not guilty, under our
5 Constitution and laws, you would be entitled to a speedy and
6 public trial by jury with the assistance of counsel on the
7 charges reflected in the superseding information, as well as
8 presumably the charges in the underlying indictment. Do you
9 understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: At trial, you would be presumed innocent
12 of all charges, and I would instruct the jury to that effect in
13 no uncertain terms. You understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: The government would have the burden of
16 attempting to prove -- to convince the jury of your guilt by
17 competent evidence, and beyond a reasonable doubt. You would
18 have no burden whatsoever. You could sit back, say nothing, do
19 nothing. Simply put, the government to the burden of
20 attempting to convince the jury of your guilt, as I said,
21 beyond a reasonable doubt. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: That means, of course, that if the
24 government would were to fail for any reason, technical or
25 otherwise, the jury would be required to, under my

1 instructions, find you not guilty, even if you committed these
2 offenses. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Now, in the course of the trial, witnesses
5 for the government would be required to come here to court and
6 testify under oath in your presence, in the presence of your
7 attorney. You would have a right, therefore, to confront each
8 of these witnesses face-to-face, here in the courtroom.

9 You would have the right, through counsel, to
10 cross-examine each of the government's witnesses, and when
11 appropriate, to object to evidence offered by the government.
12 You would have the right to offer evidence in your own defense.
13 And in that regard, you have a right to compel the attendance
14 of witnesses, and the production of possible evidence, through
15 the use of court order or subpoena. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Mr. Zazi, at trial, you would have an
18 absolute right to testify in your own defense, if you chose to
19 do so. You also enjoy an absolute constitutional right to
20 remain silent and not testify. And if you decided to do that,
21 in consultation with counsel, and if counsel requested it of
22 me, I would instruct the jury in the strongest possible terms
23 that they would not be permitted in any way to hold your
24 decision against you. Do you understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Now, Mr. Zazi, the decision whether or not
2 to plead guilty -- whether or not to testify at trial, just
3 like the decision whether or not to plead guilty is a personal
4 decision that you make, not counsel. Do you understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Obviously, these are critical decisions
7 that you make with the assistance and guidance of counsel, but
8 ultimately, they are your decisions to make. Do you understand
9 that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Okay. Now, having said all of that, if
12 you plead guilty and I accept your pleas, you'll be giving up
13 your constitutional right to a trial and these other rights
14 I've just explained. Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And you will give them up for all time.
17 You understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: There will be no trial. With the possible
20 exception of sentence, which I'll explain in a few minutes,
21 there is no right to an appeal. I will simply enter a judgment
22 of guilty, based upon your pleas of guilty. Do you understand
23 that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And finally, before I can actually accept

1 your pleas, I am required, under the Federal Rules of Criminal
2 Procedure, to satisfy myself that you are, in fact, guilty of
3 these three charges. To do that, in just a couple of minutes,
4 I will ask you in turn about each of the charges. In
5 responding to my questions, obviously, you'll give up your
6 right to remain silent. You'll give up your constitutional
7 right not to incriminate yourself. And you'll be called upon
8 here, in open court, to acknowledge your guilt. Do you
9 understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Are you willing, then, to give up your
12 right to a trial and these other rights I have just explained?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you have any questions before we
15 proceed?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: All right. I turn my attention to a
18 document that bears the caption of this case. It's been marked
19 as Court Exhibit 1. It constitutes the agreement of the
20 parties.

21 Do you have a copy in front of you, Mr. Stampur?

22 MR. STAMPUR: I do, judge.

23 THE COURT: Mr. Zazi, if I may direct your attention
24 to it.

25 For the record, it is a ten-page typewritten document

1 containing 13 numbered paragraphs, the final page bearing a
2 number of signatures, including, presumably, Mr. Zazi's and his
3 counsel, along with the United States Attorneys in the case.

4 Mr. Zazi, have you read this document?

5 THE DEFENDANT: Yes, I did.

6 THE COURT: Have you read it carefully?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: Do you appreciate, sir, that this document
9 is a very important document in your life and for your future?
10 Is that fair to say?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Have you read it with that degree of care?

13 THE DEFENDANT: Yes, I did.

14 THE COURT: Have you had sufficient time to review it
15 with counsel?

16 THE DEFENDANT: Yes, I had.

17 THE COURT: Do you feel confident that you understand
18 everything reflected in this agreement?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Has counsel answered any questions that
21 you might have had?

22 THE DEFENDANT: Yes, he did.

23 THE COURT: Do you have any questions you would like
24 to put to me?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Mr. Zazi, finally, does this agreement
2 fully and accurately set out the full extent of your agreement
3 with the United States Attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: Counsel, can you confirm that?

6 MR. KNOX: Yes, Your Honor.

7 MR. STAMPUR: And I confirm it, Judge.

8 THE COURT: All right. We'll come back to that in
9 just a moment. I should note for the record that there's an
10 application pending before me, which I will address
11 momentarily, to seal the contents of the agreement.

12 The charges are reflected, as I say, in a superseding
13 information. And they are as follows, and there are three.

14 Count 1, conspiracy to use weapons of mass
15 destruction, quote, In or about and between September 2008 and
16 September 2009, both dates being approximate and inclusive,
17 within the Eastern District of New York and elsewhere, the
18 defendant, Najibullah Zazi, also known as Salahuddin, together
19 with others, did knowingly and intentionally and without lawful
20 authority conspire to use one or more weapons of mass
21 destruction, to wit: Explosive bombs and other similar
22 explosive devices against persons and property within the
23 United States, and in furtherance of the offense, facilities of
24 interstate and foreign commerce, to wit: Email and the
25 internet were used. One or more perpetrators, to wit: The

1 defendant, Najibullah Zazi, and others traveled in interstate
2 and foreign commerce, and the offense and the results of the
3 offense would have affected interstate and foreign commerce.

4 Count 2, conspiracy to commit murder in a foreign
5 country: "In or about and between January 2008 and September
6 2008, both dates being approximate and inclusive, within the
7 Eastern District of New York and elsewhere, within the
8 jurisdiction of the United States, the defendant, Najibullah
9 Zazi, also known as Salahuddin, together with others, did
10 knowingly and intentionally conspire to commit one or more acts
11 outside of the United States that would constitute the offense
12 of murder, if committed in the special maritime and territorial
13 jurisdiction of the United States, and one or more of the
14 coconspirators -- of the conspirators did commit and act within
15 the jurisdiction of the United States to affect an object of
16 the conspiracy. In furtherance of the conspiracy and to affect
17 its objectives, the defendant, Najibullah Zazi, together with
18 others, knowingly committed and caused to be committed, among
19 others, the following overt act: On or about August 28, 2008,
20 the defendant, Najibullah Zazi, together with others, boarded a
21 flight at Newark Liberty International Airport, to fly from
22 Newark, New Jersey to Doha, Qatar and Peshawar, Pakistan."

23 Count 3, providing material support for a foreign
24 terrorist organization: "In or between and September 2008 and
25 September 2009, both dates being approximate and inclusive,

1 within the Eastern District of New York and elsewhere, the
2 defendant, Najibullah Zazi, also known as Salahuddin, together
3 with others, did knowingly and intentionally provide material
4 support and resources as defined in 18 USC, Section 2339(a)Sub
5 B, including currency, training, communications, equipment and
6 personnel to a foreign terrorist organization to wit, al-Qaeda,
7 which has been designated by the Secretary of State as a
8 foreign terrorist organization since 1999, pursuant to Section
9 219 of the Immigration and Nationality Act, end quote.

10 Mr. Zazi, have you read, have you reviewed these
11 charges?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Have you reviewed them carefully?

14 THE DEFENDANT: Yes, I did.

15 THE COURT: Do you feel confident that you understand
16 what it is that you've been charged with in each of these three
17 counts?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you have any questions you would like
20 to put to the Court about any of the charges reflected --

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: -- in the counts? All right.

23 Let me turn now briefly to the subject of sentencing.
24 The agreement before the Court reflects, among other things,
25 the statutory penalties that you face upon conviction for each

1 of these three counts, and I will review that with you now. I
2 assume you have reviewed this information in great detail with
3 counsel?

4 THE DEFENDANT: Yes.

5 THE COURT: With respect to Count 1, you face a period
6 of a maximum term of imprisonment of life, and that is life
7 without parole. There is no parole in the federal system. Do
8 you understand that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: You face a period of up to life,
11 supervised -- lifetime supervised release.

12 Supervised release is a period of supervision that
13 begins to run the moment you are released, if and when you are
14 released from federal custody.

15 If you were to violate the terms or conditions of your
16 supervised release at any time during the period of
17 supervision, then under the terms of my sentence in this case,
18 you could be returned to prison for up to five years without
19 any credit being given to you for the time you spent at liberty
20 under supervision. Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: The statute also provides for a fine up to
23 an amount of \$250,000. The Court will impose a special
24 assessment of \$100. And you should know it is virtually
25 inevitable as a result of your conviction on any one of these

1 three charges, you will, if upon -- if and when released, be
2 removed from the United States. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Count 2 contains, as far as I can
5 determine, virtually identical statutory penalties.

6 MR. KNOX: Yes, Your Honor.

7 THE COURT: You should understand that these penalties
8 may be imposed consecutively -- again, a maximum of life,
9 lifetime supervised release, a fine of up to \$250,000, a \$100
10 special assessment.

11 Count 3 carries a maximum term of 15 years
12 imprisonment. Again, a maximum term of life, lifetime
13 supervised release.

14 A violation under this count would or could result in
15 a return to prison for up to two years, again, without credit
16 being given to you for the time you spend at liberty under
17 supervision. Again, a fine of up to \$250,000, and a special
18 assessment of \$100.

19 All right. Those are the statutory penalties that the
20 Congress of the United States has written into the laws that
21 you are charged with violating.

22 The second aspect of the sentencing involves what we
23 call the sentencing guidelines.

24 I would like to ask the U. S. Attorney to give us some
25 indication as to their current thinking on the likely

1 calculation of the sentencing guidelines under each of the
2 three counts.

3 MR. KNOX: Yes, Your Honor.

4 With respect to the Count 1, conspiracy to use weapons
5 of mass destruction, we estimate a base offense level of 42,
6 plus a 12-level increase under the terrorism enhancement, under
7 3(a)1.4, for a total offense level of 54, and under the
8 terrorism enhancement, the criminal history category is
9 automatically set at six, which results in a guideline range of
10 life.

11 For Count 2, the conspiracy to murder in a foreign
12 country, the base offense level we calculate as 33, plus a 12-
13 level terrorism enhancement, which results in a level 45, minus
14 three points for acceptance of responsibility, results in 42,
15 again, a criminal history category of six, which results in a
16 sentence of 360 months to life.

17 And for Count 3, the conspiracy to provide material
18 support to al-Qaeda, the base offense level is 26, plus a
19 two-level enhancement for the use of explosives, plus a
20 12-level enhancement under the terrorism enhancement, 3(a)1.4,
21 which results in a total offense level of 40, minus three
22 levels for a timely acceptance of responsibility, and couple
23 that with a criminal history category of six, results in a
24 guideline range of 360 months to life, although that would be
25 capped by the 15-year statutory maximum for that count.

1 THE COURT: Mr. Zazi, I take it, listening to the
2 United States Attorney, this information doesn't come as a
3 surprise to you?

4 THE DEFENDANT: No.

5 THE COURT: You have discussed this with counsel?

6 THE DEFENDANT: Yes, I did, sir.

7 THE COURT: Now, I can tell you today -- I cannot tell
8 you today whether or not I agree with what the United States
9 Attorney has just said. I simply do not have the information
10 necessary to calculate the guidelines sentencing range. Okay?

11 I won't be in a position to do that until after I have
12 received the pre-sentence report prepared by the probation
13 department with your input, and counsel's input and guidance,
14 as well as that of the United States Attorney.

15 The report will tell an objective story of this case
16 and your involvement in it. It will provide your own personal
17 history. It will also reflect the Probation Department's
18 recommended calculation of the guidelines sentencing range.

19 You and counsel will see that report before I do.
20 You'll be given an opportunity to voice objections or make
21 other comments to the Probation Department, in an attempt to
22 influence their final report, which will ultimately come to me.
23 At that point, with the assistance of counsel and with their
24 input, I will calculate the advisory guidelines range.

25 THE DEFENDANT: Thank you, Your Honor.

1 THE COURT: I am not obligated to sentence you within
2 that range. I am, however, obligated to consider as an
3 important first step in this sentencing procedure, the advisory
4 guidelines range. Thereafter, what the law requires of me is
5 that I consider not only the range, but certain statutory
6 factors that are peculiar to you as an individual, and to the
7 offense conduct itself, as well as any other pertinent
8 information that counsel on both sides of the aisle might bring
9 to my attention in an effort to influence my judgment as to
10 what is a reasonable sentence.

11 The law requires that I impose what the law recognizes
12 to be as a reasonable sentence. If, at the end of the day, you
13 think I've imposed an unreasonable sentence, you may seek to
14 have my sentence reviewed by a higher court, and the fees and
15 expenses associated with such an appeal would be paid by the
16 court under the terms of the Criminal Justice Act. Do you
17 understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: The United States Attorney enjoys a
20 comparable right. If, following sentence, they feel that my
21 sentence has been unreasonable and on the lenient side, they,
22 too, may seek review. Should they do that, your interest in
23 that proceeding would be represented by counsel, paid for by
24 the court, under the terms of the Criminal Justice Act. Do you
25 understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: If at the time of sentence, you disagree
3 with my calculation of the advisory guidelines range, you will
4 not be permitted on that basis alone to withdraw your pleas of
5 guilty. Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you have any questions before we
8 proceed?

9 THE DEFENDANT: No.

10 THE COURT: Either of me or of counsel?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Are you ready to plead?

13 THE DEFENDANT: Yes, Your Honor.

14 MR. STAMPUR: Your Honor, may I interject, so the
15 Court is aware, that myself and Mr. Zazi prepared a statement
16 that he's prepared to read to the Court, and I believe contains
17 all the elements of the three counts within the superseding
18 information.

19 THE COURT: I will expect nothing less, but before we
20 get there, let me just touch all the bases here.

21 Mr. Zazi, what is your plea to Count 1, guilty or not
22 guilty?

23 THE DEFENDANT: Guilty, Your Honor.

24 THE COURT: What is your plea to Count 2, guilty or
25 not guilty?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: I'm sorry?

3 THE DEFENDANT: Yes, Your Honor, guilty. (Raises
4 hand.)

5 THE COURT: What is your plea to Count 3, guilty or
6 not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: Are you pleading guilty voluntarily?

9 THE DEFENDANT: Yes.

10 THE COURT: You have considered the case, the
11 circumstances, the advice of counsel, and made your own
12 decision that this is the best course of action available to
13 you at this time? Is that a fair statement?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Has anyone threatened you in any way to
16 plead guilty?

17 THE DEFENDANT: No.

18 THE COURT: Has anybody forced you?

19 THE DEFENDANT: No.

20 THE COURT: Has anybody made any promises as to what I
21 might do when it comes to sentence?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: All right. Turning then back to the
24 specific charges. Count 1 charges -- Count 1 and Count 2 -- if
25 you'll permit me, Counts 1 and 2 of the superseding information

1 charge the crime of conspiracy. All right?

2 What, sir, is your understanding of the nature of the
3 conspiracy? What is a conspiracy?

4 THE DEFENDANT: Two or more planned to do criminal or
5 any kind of activity.

6 THE COURT: That's right. A conspiracy is an illegal
7 agreement, and therefore, it requires that at least two people,
8 two or more people conspire or agree to commit a specific
9 offense.

10 The specific offense that is the object of the
11 conspiracy in Count 1 is to use weapons of mass destruction,
12 more specifically, explosive bombs and other similar explosive
13 devices, against persons and property here in the United
14 States, and in furtherance of that, to use the facilities of
15 interstate commerce by virtue of the email or Internet,
16 traveling in interstate or foreign commerce, and with the
17 understanding or the knowledge that the offense and the results
18 would have some effect on interstate or foreign commerce. Did
19 you do that?

20 THE DEFENDANT: Yes.

21 THE COURT: Count 2 alleges a conspiracy to commit
22 murder in a foreign country. Were you involved in such an
23 illegal agreement?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And finally, Count 3 alleges the

1 substantive count for providing material support to a terrorist
2 organization, namely al-Qaeda. Did do you that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Tell me what happened.

5 MR. STAMPUR: Judge, if I may, Counts 1 and 3 are
6 intertwined, so I think, with the Court's permission, Mr. Zazi
7 will read Count 2 first, and then Counts 1 and 3 will both be
8 covered by his allocution.

9 THE COURT: That's fine. With respect to Count 2,
10 which charges conspiracy to commit murder in a foreign country.

11 THE DEFENDANT: Your Honor, during the spring and
12 summer of 2008, I conspired with others to travel to
13 Afghanistan to join the Taliban and fight against the U. S.
14 military and its allies. We made this agreement in Queens, New
15 York, to carry out this agreement.

16 At the end of August 2008, we flew from New York
17 airport to Peshawar, Pakistan.

18 THE COURT: Your purpose in going to Pakistan?

19 THE DEFENDANT: Was to join Taliban.

20 THE COURT: For the purpose of?

21 THE DEFENDANT: To fight alongside with the Taliban
22 against the U. S.

23 THE COURT: With respect to Counts 1 and 3?

24 THE DEFENDANT: Yes, Your Honor. Also, our plan was
25 to go to Afghanistan and fight with the Taliban. While we were

1 in Peshawar, we were recruited by al-Qaeda, instead. We were
2 taken by al-Qaeda to training camp in Waziristan, where we
3 received weapons training.

4 During the training, al-Qaeda leaders asked us to
5 return to the United States and conduct martyrdom operation.
6 We agreed to this plan. I did so because of my feelings about
7 what the United States was doing in Afghanistan.

8 Later, I received more training from al-Qaeda about
9 how to construct the explosives for attack in the United States
10 or to carry martyrdom operation. I took notes on the training
11 and later emailed a summary of the notes to myself, so that I
12 could access them in the U. S.

13 During my training, I had discussion with al-Qaeda. I
14 had discussions with al-Qaeda leaders, including target
15 locations, such as New York City subways. I also give money
16 and computers to al-Qaeda during that trip.

17 In January 2009, I come back to United States.
18 Beginning around June 2009, I accessed my bomb-making notes and
19 began researching where to find the ingredients for the
20 explosives.

21 I also took trips to New York, and meet with others to
22 discuss the plan, including the timing of the attack, and where
23 to make the explosives.

24 I then used the bomb-making notes to construct
25 explosive for the detonators in Denver. The explosives was

1 Hydrogen Peroxide.

2 In early September 2009, I drove to New York with the
3 detonator explosive and other materials necessarily --
4 necessary to build a bombs.

5 I arrived in New York City on Thursday, September
6 10th. And we intend to obtain and assemble the remaining
7 components to build a bomb over the weekend.

8 The plan was to conduct martyrdom operation on subway
9 lines in Manhattan as soon as the material were ready, Monday,
10 Tuesday or Wednesday.

11 When I arrived in New York City, I realized that law
12 enforcement was investigating me. At that point, we threw away
13 the detonator explosives and other materials, and I flew back
14 to Denver, and I was arrested just a few days after.

15 THE COURT: You used the word "bomb." Do you mean
16 bomb or bombs?

17 THE DEFENDANT: Bombs.

18 THE COURT: Plural?

19 THE DEFENDANT: Plural.

20 THE COURT: And you say you met in New York with
21 others. Are they al-Qaeda representatives?

22 THE DEFENDANT: No.

23 THE COURT: But others who are involved in this
24 activity?

25 THE DEFENDANT: Yeah.

1 THE COURT: And you used the phrase "martyrdom
2 activities." Is that in the nature of a suicide bomber?

3 THE DEFENDANT: Yes, Your Honor. I have a different
4 explanation to that. To me, it meant that I would sacrifice
5 myself to bring attention to what the United States military
6 was doing to civilian in Afghanistan by sacrificing my soul for
7 the sake of saving other souls.

8 THE COURT: And did your plan include specific targets
9 within the subway system?

10 THE DEFENDANT: Wasn't sure, but yes.

11 THE COURT: Anything else?

12 MR. KNOX: No, Your Honor. We believe that's
13 sufficient on all of the charges.

14 THE COURT: Any questions you would like to put to me
15 before we conclude the proceedings?

16 THE DEFENDANT: Thank you. No, Your Honor.

17 THE COURT: Based on the information that has been
18 given to me, I find that the defendant fully understands his
19 rights, the consequences and possible consequences of his
20 pleas, and that there is on the record of this proceeding a
21 factual bases for these pleas. I therefore accept the pleas of
22 guilty to Counts 1, 2 and 3 of superseding information, bearing
23 Docket Number 09 CR 663, S-1.

24 I urge to you to cooperate, Mr. Zazi, with the
25 Probation Department, consistent, of course, with the advice of

1 counsel, in their preparation of the pre-sentence report.

2 I would ask the U. S. Attorney to maintain custody of
3 the original agreement. I have, as I noted earlier, received a
4 sealed application, to seal the contents of the agreement
5 between the parties. Obviously, I've heard from no third
6 parties on that. But on the basis of what I've heard and
7 without prejudice to the application of any third parties, I
8 grant the application, pending any further application, and
9 direct the sealing of the agreement between the parties.

10 Is there anything further?

11 MR. KNOX: Your Honor, we have a sentencing date
12 scheduled for June 25th, at 11 a. m.

13 THE COURT: Okay. Got that? And that is your date?

14 THE CLERK: Yes. Yes, indeed.

15 THE COURT: Anything else, Mr. Stampur?

16 MR. STAMPUR: No Your Honor.

17 THE COURT: Mr. Zazi, anything you would like to ask
18 me before we conclude?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: Gentlemen?

21 MR. KNOX: Thank you, Judge.

22 MR. BITKOWER: Thank you, Your Honor.

23 THE CLERK: Mr. Stampur, I'm going to note for the
24 Probation Department that you wish to be present at the time
25 your client is interviewed.

1 MR. STAMPUR: I would like to be present.

2 THE CLERK: Yes.

3 (Proceedings concluded.)

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