

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Crim. No. 07-10259-DPW
)	
MUHAMMAD MASOOD)	
_____)	

DEFENDANT’S SENTENCING MEMORANDUM

Pursuant to the Court’s Amended Procedural Order, the defendant, Muhammad Masood, by and through his counsel hereby submits this memorandum in support of sentencing. Masood urges the court to adopt the joint recommendation of Masood and the government and impose a sentence of probation of three years, and also to waive any fine.

As an initial matter, the Court should be advised that neither party will move for a departure from the applicable guideline range or move for a non-guideline sentence. Masood is not aware of any legal questions not adequately addressed in the presentence report or of any factual issues which require an evidentiary hearing.

Background

Masood is 50 years old. He grew up in Pakistan is a Pakistani citizen. Masood has been married for 29 years and has eight children, ranging in age from 26 to 13 years old. The three youngest children (13, 15 and 17 years old) were born in the United States and are U.S. citizens. He lives with his family in Sharon, Massachusetts.

Masood is a graduate of the Islamic University in Faisalabad, Pakistan, and of the

University of Punjab in Lahore, Pakistan. In the fall of 1987, Masood came to the United States and enrolled in the Graduate School of Economics at Vanderbilt University in Tennessee. After one year, he transferred to Boston University where he enrolled in a Ph.D. program. Masood took classes at B.U. from 1988 to 1991, at which time he had completed the course work for a masters degree in economics. He was awarded the masters degree in 2005.

Masood maintained part-time jobs while attending school, including working as a security guard from 1990 to 1993. From 1993 to 1996 he worked as a parking attendant in Quincy, Massachusetts. From 1997 to 2006, Masood was employed as a teacher at the Islamic Academy in Sharon, Massachusetts. In 1997, he also became Imam of the Islamic Center of New England (ICNE) in Sharon. He was both a teacher and an Imam up until November, 2006, when was arrested on immigration violations. Masood has not been allowed to work since that time.

In the instant case, Masood was arrested on July 23, 2007, after surrendering to authorities and was subsequently released on pretrial conditions. Masood has been completely compliant with all pretrial conditions. On August 9, 2007, Masood was charged in a nine-count indictment with Fraud in an Immigration Application, in violation of 18 U.S.C. § 1546(a) (Counts 1, 5, 8 and 9); Fraud in a Matter Relating to Registry of Aliens, in violation of 18 U.S.C. § 1015(a) (Counts 2 and 6); making a False Statement, in violation of 18 U.S.C. § 1001(a)(2) (Counts 3 and 7); and Fraud in an Immigration Document, in violation of 18 U.S.C. § 1546(a) (Count 4).

The charges against Masood all stemmed from false statements made either in writing or verbally to immigration authorities in Masood's effort to stay in the United States. Masood had originally come to the U.S. on a J-1 visa which required him to return to Pakistan for a two-year

period before applying to stay in the United States permanently. The primary charges against Masood involved a lie he told immigration, on several occasions, that he had returned to Pakistan from 1991 to 1993 when in fact he had not, in his effort to obtain permanent resident status. As Masood states in his offense statement in the Presentence Report, he came to love the United States after spending some years here and the greatest wish he had was to say that America was his country. PSR ¶ 79. He thought the educational and employment opportunities, especially for his six daughters, would be much better in the United States than in Pakistan and that is what motivated him to want to stay in the U.S. *Id.* Masood admits that he lied to immigration on several occasions in order to try to stay in this country, but now realizes it was a great mistake to do so. PSR ¶ 83.

Pursuant to a thoroughly negotiated plea agreement with the government, Masood pleaded guilty on February 28, 2008, to Counts 1, 4, 6, 7, and 9. Upon sentencing, the government has agreed to dismiss Counts 2, 3, 5 and 8. The plea agreement provides for a joint sentencing recommendation of three years probation.

Discussion

The Probation Department, the government and Masood all agree that the applicable sentencing guideline range is 0-6 months. *See* PSR ¶ 158; Plea Agreement ¶ 3, at 2. This is predicated on a total offense level of 6 and a criminal history category of I. *Id.* Masood has no prior criminal convictions. PSR ¶ 104. Since the minimum of the applicable guideline sentence range is zero months (Zone A), the Court may impose a probationary sentence of up to 3 years. U.S.S.G. § 5B1.2. Hence, the joint recommendation of three years probation is within the guideline range.

While the Sentencing Guidelines are not mandatory, but only advisory, Masood urges the court to adopt the joint recommendation for the following additional reasons. First, the recommendation is the result of a thoroughly negotiated plea agreement with the government, where each side compromised. Second, Masood has shown sincere remorse for his conduct by admitting that his conduct was wrong and apologizing to the Court for it. *See* PSR ¶ 83. Finally, Masood has been an important member of the local religious community, being deeply engaged in interfaith outreach programs. As Rabbi Barry Starr of Temple Israel in Sharon writes in a letter of support (attached hereto as Ex. A.):

Over the years, Imam Masood has worked to make Sharon a model community for interfaith relations. With a large Jewish community and significant Christian and Muslim populations, this community affords a unique laboratory, if you will, for developing meaningful dialogue among the West's religious faiths. Imam Masood has eagerly participated in such dialogue and has led his community in the same direction. . . . At our interfaith Thanksgiving services his message has always been one of peace, kindness to one another, and respect for America. . . . Imam Masood has made a significant impact on the town of Sharon and the communities amongst whom he lives. Clergy of all faiths could learn from his example in these areas.


Paul Peckham, a member of the Walpole Peace and Justice Group, writes in another letter of support (attached hereto as Ex. B.) that Masood is a man of "great patience" and "a genuinely peaceful nature."

In addition to a term of probation, there is an applicable guideline range fine of \$250 to \$5,000. *See* PSR ¶ 172. Because of an inability to pay, Masood asks the court to waive the fine. As shown in the Presentence Report, Masood has a net worth of -\$961. PSR ¶ 151. Moreover, he has no current source of income because, since his arrest on immigration charges, he has been prohibited from working. He and his large family have been relying on charity and donations for

life's essentials, such as food and housing. Even though he cannot work as an imam, the ICNE has allowed Masood and his family to stay at their home in Sharon, which ICNE owns. Counsel can also represent that Masood's legal fees were paid for by community donations. Accordingly, Masood has no ability to pay a fine.

For the foregoing reasons, Masood urges the court to adopt the joint sentencing recommendation of three years probation. In addition, Masood asks the court to waive the fine based on his inability to pay.

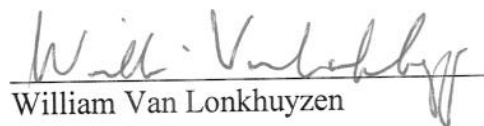
Respectfully submitted,


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Dated: May 14, 2008

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on May 14, 2008.


William Van Lonkhuyzen