

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Criminal No.  
02-10013-WGY

\* \* \* \* \*  
UNITED STATES OF AMERICA \*  
v. \* CHANGE OF PLEA \*  
RICHARD C. REID \*  
\* \* \* \* \*

BEFORE: The Honorable William G. Young,  
District Judge

APPEARANCES:

GERARD T. LEONE, TIMOTHY Q. FEELEY, COLIN G.K.  
OWYANG and GARY S. KATZMANN, Assistant United States  
Attorneys, 1 Courthouse Way, Boston, Massachusetts  
02210

OFFICE OF THE FEDERAL DEFENDER (By Owen S. Walker,  
Esq., Tamar R. Birckhead, Elizabeth L. Prevett, Esq.  
and Amy Baron-Evans, Esq.), 408 Atlantic Avenue, Third  
Floor, Boston, Massachusetts 02210

1 Courthouse Way  
Boston, Massachusetts

October 4, 2002

DEFENDANT'S  
EXHIBIT

KA

ZM039

U.S. v. Moussaoui  
Case No. 01-455-A

1 THE CLERK: All rise. Court is in session, please  
2 be seated.

3 Calling Criminal Action No. 02-10013, the United  
4 States v. Richard Reid.

5 THE COURT: Good morning. Would counsel introduce  
6 themselves.

7 MR. FEELEY: Good morning, your Honor. Gerard  
8 Leone for the government. With me is Timothy Feeley, Colin  
9 Owyang and Gary Katzmann.

10 MR. WALKER: And Owen Walker for Mr. Reid, and  
11 with me is Ms. Birckhead and Ms. Prevett.

12 THE COURT: Thank you.

13 MR. WALKER: And Ms. Amy Baron-Evans.

14 THE COURT: Thank you.

15 There are some preliminary matters. The way you  
16 have framed your motion, Mr. Walker, I've convened this at  
17 your request for a hearing under Rule 11, but I do want to  
18 deal with preliminary issues first. And there's a motion  
19 by the government but it's, I think, dependent -- no, it  
20 isn't. Well, let's deal with the motion for the  
21 government. It's a motion to amend the complaint -- amend  
22 the indictment in light of the fact that Count IX has been  
23 dismissed and would only, with the result that Count IX no  
24 longer is the predicate for any sanction under Count VIII  
25 and that will obtain whether there's a plea here today or

1 not.

2 I've got the motion correct, right? All right,  
3 that's the government's motion. And there's no objection  
4 to that?

5 MR. WALKER: No objection, your Honor.

6 THE COURT: All right. So the motion to amend is  
7 allowed.

8 Now, on the condition, and I'll call it a  
9 condition, the motion to strike the alleged surplusage from  
10 the indictment, I recognize that in order to bring this  
11 indictment at all, at least Count II, the attempted  
12 homicide, the attempts on the lives of the United States  
13 nationals outside the United States, my understanding of  
14 the law is the Attorney General had to certify that this  
15 was, attempt was made during an act of international  
16 terrorism. That's not raised by your papers and ostensibly  
17 the indictment is all in order.

18 So recognizing that, I put to you the question.  
19 The specific language that Mr. Reid has asked be stricken  
20 is not an essential element, an element that has to be  
21 proved beyond a reasonable doubt in any of the counts of  
22 the indictment. And I put that to the government. That's  
23 correct, isn't it?

24 MR. LEONE: That's correct, your Honor.

25 THE COURT: All right. Now, that said,

1 Mr. Walker, I have had a chance now carefully to read the  
2 papers that have been submitted. I really know of no  
3 authority to start paring down an indictment to the simple  
4 language required by the statute. And again as a  
5 practical, as a functional matter, it seems to me that the  
6 indictment as a pleading, it's perfectly appropriate that  
7 the matters adverted to and the specific allegations which  
8 you seek to have stricken are relevant. They are open to  
9 proof by the government at a trial, and whether or not  
10 there's a trial they are relevant conduct which this Court  
11 might be expected to take into account were there to be a  
12 sentencing, after trial or after a plea.

13 At the same time, since they're not essential  
14 elements of the offense there's no occasion to inquire of  
15 Mr. Reid about them specifically, nor to ask him to take a  
16 position with respect to them, if indeed I have to ask him  
17 to take a position about essential elements. This is not a  
18 case where death is a possible consequence and an Alford  
19 plea is at least a possibility.

20 Now, I'm not getting into any sort of discussion  
21 about what if, because under Rule 11 I have nothing to say  
22 about whether someone pleads. But I wanted to sketch that  
23 out, because it's not an essential element, it seems to me  
24 validly in the indictment, and I will hear you briefly.  
25 I'm not inclined to strike anything from the indictment,

1 but if there's something I haven't touched on I'll hear  
2 you.

3 MR. WALKER: Well, if your Honor please, the --  
4 thank you. I agree with most of what the Court says except  
5 that it doesn't properly belong in the indictment. The  
6 rule, the rules of pleading which up until now, at least in  
7 my cases, I can't think of a case where the government  
8 hasn't complied with the rule, says that, and this is Rule  
9 7(c), which explains what an indictment is supposed to  
10 contain, the indictment shall be a plain, concise and  
11 definite written statement of the essential facts  
12 constituting the offense charged. And that's the way every  
13 indictment, normal indictment, a drug indictment to  
14 distribute such and such --

15 THE COURT: But the reason for that rule is that's  
16 the constitutional minimum so that the person accused knows  
17 the essential elements of the charge which the government  
18 must prove before that person could be found guilty. The  
19 fact that the government has gone further here is not a  
20 ground for paring it down, is it?

21 MR. WALKER: Your Honor, I disagree.

22 THE COURT: All right.

23 MR. WALKER: The government has gone further. The  
24 Court says that the government has put something in the  
25 indictment that the rule says should not be there.

1 THE COURT: The rule doesn't say it should not be  
2 there.

3 MR. WALKER: Your Honor, it says a plain -- the  
4 information shall be a plain, concise and definite  
5 statement of the essential facts constituting the offense  
6 charged.

7 THE COURT: What's your best, what's your best  
8 authority for striking out paragraphs or sentences in an  
9 indictment which allege relevant conduct which is amenable  
10 to proof at trial?

11 MR. WALKER: Well, first of all, your Honor, there  
12 is no case that I know of before this where the government,  
13 and none of the government's cited cases are on point,  
14 where the government throws into the indictment essential  
15 elements which are other, essentially 404(b) evidence and  
16 throws the word terrorist into the indictment where it's  
17 not an element, can't be shown to the jury. The indictment  
18 is the primary record. When one looks at an indictment  
19 after a case has ended, whether there has been a plea or a  
20 trial, it is the primary record of what happened in Court.  
21 And we look at these old indictments or the complaints when  
22 we're considering whether convictions are valid. The Court  
23 does that all the time. The indictments from the superior  
24 court, the district court, have simple, plain, concise  
25 direct statements of the essential elements.

1           Now, here what happens? Why this is an issue  
2   is -- it's an issue because the government, if allowed to  
3   do this, not just in this case, but in other cases, can  
4   under the government's theory, the government, we can put  
5   anything in the indictment and then, oh, we'll come back to  
6   the Court and at time of trial say, well, that actually  
7   shouldn't go to the jury because it's not one of the  
8   essential elements. That is a mealy-mouthed response.  
9   They can blacken -- it is, your Honor. They can blacken  
10  the defendant with any -- the government's theory is we can  
11  put anything we want in the indictment so long as it's  
12  conceivably relevant and the defendant can't complain  
13  because the jury will only be instructed on the elements of  
14  the offense. And that is just what is happening in this  
15  case, your Honor.

16           THE COURT: No, respectfully, I really think that  
17  argument overreaches. I read the Rule of Criminal  
18  Procedure as setting the required constitutional minimum.  
19  In this case particularly the allegations are germane.  
20  They are not peripheral. They are certainly not 404(b)  
21  data of other crimes, wrongs, acts. They purport to shed  
22  light on what was going on here. And respectfully, it's  
23  not mealy-mouthed for the government so to plead. And of  
24  course the practical way to proceed at trial is as you  
25  recognize, and as is this Court's common practice, I rarely

1 now send the indictment to the jury. And while we'll have  
2 the final pretrial conference on Thursday, if that's the  
3 direction we're going, and I don't want to make  
4 anticipatory rulings, but it seems to me your argument has  
5 a great deal more force when it comes to whether we are  
6 going to send the indictment to the jury because it does go  
7 beyond the essential elements.

8 The motion to -- well, before I rule, the problem  
9 with your moving in this fashion is, in part, for this and  
10 other cases, you would frequently, it seems to me, then  
11 have motion practice on the editing of the indictment.

12 MR. WALKER: Your Honor?

13 THE COURT: That's unwise and unnecessary.

14 MR. WALKER: I've not had an indictment up until  
15 this case where the government has put the word "terrorist"  
16 in the indictment and then said, well, it doesn't matter  
17 because it's not an essential element.

18 THE COURT: How many cases have you had where it  
19 is alleged that you've added a terrorist? You see?

20 MR. WALKER: Well, if your Honor please, I've  
21 never had a case where the -- the Court has said this would  
22 be admissible at trial.

23 THE COURT: Well, it looks to me like it will be.

24 MR. WALKER: It would be. Well, your Honor, that  
25 has not been briefed. Whether, whether, if you have a case



1 of somebody on an airplane, as Mr. Reid concedes he was,  
2 with a destructive device, with the necessary intent, the  
3 fact that at another time and another place there are  
4 allegations which the government in fact was not going to  
5 be putting into evidence, of something else that he did  
6 that involved terrorism are, I would submit are not  
7 necessarily relevant evidence.

8 THE COURT: But as you very well know --

9 MR. WALKER: But --

10 THE COURT: And my mind is open to that. I'm not  
11 making preliminary rulings. I have to deal with what you  
12 have presented to me by way of pleading. You're now asking  
13 me to strike language from an indictment returned by a duly  
14 constituted grand jury.

15 Now, the indictment is not evidence of anything.  
16 We all know that. The indictment doesn't prove anything.  
17 The indictment doesn't commit the government to proof of  
18 anything beyond the essential elements of the offenses  
19 charged. It is just improvident to engage in motion  
20 practice to edit or pare down an indictment. The motion to  
21 strike surplusage is denied, I think for the second time.

22 Now, take a moment and talk with your client and  
23 you tell me how you want to proceed.

24 MR. WALKER: Oh, your Honor, Mr. Reid is prepared  
25 to plead to the essential elements of Counts I and II which

1 are set forth in Paragraph 3 of both counts. There's no --

2 THE COURT: Oh.

3 MR. WALKER: That has been his position and  
4 continues to be. So he --

5 THE COURT: Assuming that it's intelligent,  
6 voluntary and knowing, that is his right. My understanding  
7 was it was to all the counts.

8 MR. WALKER: Oh, and he is, your Honor. It's  
9 just --

10 THE COURT: He may come forward to be inquired of.

11 THE CLERK: Right up here, sir.

12 Sir, would you raise your right hand. Stand and  
13 raise your right hand.

14 Do you solemnly swear that the answers you will  
15 give to this Court will be the truth, the whole truth, and  
16 nothing but the truth, so help you God?

17 THE DEFENDANT: Yeah.

18 THE COURT: Please be seated.

19 RICHARD COLVIN REID

20 INQUIRY BY THE COURT

21 Q. Could you state your full name?

22 A. Richard Colvin Reid.

23 Q. Mr. Reid, my name is Bill Young. I'm the judge who's,  
24 and you know this because you've been here in court, I'm  
25 the judge who's responsible for presiding over this case.

1           Now, your lawyers on your behalf have made a  
2 motion, a request, and the request says that you, it is  
3 your desire to plead guilty and that's what Mr. Walker has  
4 just said.

5           Before I can let you plead guilty there's various  
6 things I have to know. I have to know that you know what  
7 you're doing. I have to be sure that you know what you're  
8 giving away, because if you plead guilty you give away  
9 things that are terribly important to you.

10          I have to be sure that you know what may happen to  
11 you if you plead guilty. I have to be sure that you want  
12 to plead guilty. Not that you're happy about it, but that  
13 you've decided, you're the one who's decided, not that  
14 there's pressure on you, that what's best for you is to  
15 plead guilty to these various charges.

16          And I have to be sure that the government has  
17 enough evidence that if we go to trial a jury could find  
18 you guilty of each the charges that the government's made  
19 against you.

20          The way I find these things out is we talk. I ask  
21 you questions. You're under oath to answer my questions  
22 truthfully. This isn't evidence at a trial, this is our  
23 talking.

24          If you don't understand what I'm asking you, you  
25 stop me and I'll ask, I have to ask it in a way that you

1 understand. So you tell me you don't understand.

2 If, at any time, you want to talk to Mr. Walker or  
3 Ms. Birckhead, just turn around. They're, they're here  
4 standing beside you to counsel you as your attorneys. I'll  
5 step away and you can talk privately to them.

6 If, at any time, because listen to what I'm asking  
7 you, as you size up the situation, as you size me up, if  
8 you plead guilty, I'm the judge who has to sentence you, if  
9 you decide you don't want to plead guilty, just say I want  
10 to stop. I'm not offended. Talking personally now. I'm  
11 not offended. It won't make me angry. You will not be  
12 punished if you decide to go to trial. You won't be  
13 punished for going to trial. We'll see if the government  
14 can prove beyond a reasonable doubt what they say they can  
15 prove.

16 Now, do you understand those things?

17 A. Yeah, I do.

18 Q. Let's talk about the first part, do you know what  
19 you're doing.

20 How old are you, Mr. Reid?

21 A. Twenty-nine years old.

22 Q. How far did you go in school?

23 A. Fifth grade.

24 Q. Have you ever been treated for a mental illness of any  
25 sort?

1 A. No.

2 Q. Are you aware of any mental illness that you have  
3 today?

4 A. No.

5 Q. Are you taking any medication today?

6 A. No.

7 Q. Are you under the influence of alcohol?

8 A. No.

9 Q. Are you under influence of any drug?

10 A. No.

11 Q. Now, I want to move now to your rights but it's  
12 important to me to ask you really a basic question about  
13 voluntariness here, and I'm going to ask it.

14 I've read the papers to get us ready to hold this  
15 hearing and from these papers there is no plea bargain  
16 between you and the government. And you understand it that  
17 way, correct?

18 A. That's right.

19 Q. I mean, sometimes people are willing to plead guilty if  
20 the government will make some concession. But in this case  
21 you've come to court and said I want to plead guilty. And  
22 the government has not negotiated with you, entered into a  
23 plea bargain. They're going ahead ready to attempt to  
24 prove that you're guilty of one or more of these charges.

25 Now, you understand that?

1 A. Yeah.

2 Q. And that's the way it is, correct?

3 A. That's right.

4 Q. Well, then tell me why you want to plead guilty. There  
5 are a series of charges, they carry potential serious  
6 consequences. And I'll talk it all over specifically.

7 But bottom line, why do you want to plead guilty?

8 A. Because at the end of the day I know I done the  
9 actions.

10 Q. All right. All right. Now, I'm going to ask you that  
11 again, but let's go over the things here that we need to  
12 consider and I want to talk now about your rights.

13 The government has made, that's left against you,  
14 eight different charges. As to each one of the charges  
15 that the government makes against you the government has to  
16 prove that charge here in open court beyond a reasonable  
17 doubt. They have to prove that charge to a jury of the  
18 people.

19 Now, jurors sit right where we've got these folks  
20 sitting today. And you have some say, you and the  
21 government, you participate in choosing the jury. The jury  
22 is a jury of average people and they're the ones who decide  
23 and they have to decide unanimously, all twelve of them,  
24 agreeing before you can be found guilty of any of these  
25 charges.

1 Do you understand you have that right to a jury  
2 trial?

3 A. Yeah.

4 Q. Well, let's go over these charges.

5 The first charge is that you attempted to use a  
6 weapon of mass destruction against a national of the United  
7 States while such national is outside the United States.  
8 So, that means that the government has to prove that you  
9 tried, you took a significant step, more than just thinking  
10 about it, to use, you actually attempted to use, and then  
11 they've got to prove a weapon of mass destruction. Now, a  
12 bomb, or an incendiary device, something that bursts into  
13 flame would, on a plane in flight, qualify as a weapon of  
14 mass destruction. Mass destruction is a weapon different,  
15 for instance, from a rifle with a single shot that shoots  
16 at a particular target. Mass destruction would cause  
17 damage to more than one person. The government has to  
18 prove that beyond a reasonable doubt.

19 Then they've got to prove that among the people  
20 who you attempted to use this weapon against were nationals  
21 of the United States. Now, under the law a citizen of the  
22 United States is a national of the United States. The  
23 concept is somewhat broader than that. But there has to be  
24 citizens of the United States and those citizens have to be  
25 outside the territorial jurisdiction of the United States.

1           Now, in your case, at least as I read the  
2 indictment, a plane in international waters flying in the  
3 sky, that's outside the territorial jurisdiction of the  
4 United States. But, our congress has passed this law to  
5 protect the nationals of the United States against the  
6 attempt, the use or attempted use of a weapon of mass  
7 destruction. So that's the first charge.

8           Do you understand the government has to prove the  
9 essential elements of that charge beyond a reasonable  
10 doubt?

11 A. Yeah.

12 Q. The second charge is similar. That you attempted --  
13 each one of these charges, they may be related, but they  
14 have to be slightly different or they don't count, they  
15 can't just make the same charge against you and call it a  
16 different name. But each one is slightly different.

17           So the second charge is that you attempted  
18 homicide of a United States national outside the United  
19 States. Same definition of who's a United States national,  
20 same definition of outside the territorial jurisdiction in  
21 the United States. But here the charge is that you  
22 attempted to kill a United States national. That knowing  
23 what you were doing, you didn't just attempt to injure or  
24 create a panic, you had the specific intent, intent to kill  
25 a national of the United States, or more than one, outside



1 the United States, and then you didn't just think about it,  
2 you tried it. You did something to make it come about.  
3 That's what the government has to prove. And they've got  
4 to prove it beyond a reasonable doubt.

5 Do you understand that on Count II?

6 A. Yeah.

7 MR. WALKER: If your Honor please, may I just  
8 interrupt to say one thing.

9 THE COURT: I want you to. Please.

10 MR. WALKER: I think it is sufficient that the  
11 defendant not necessarily have this specific intent that  
12 somebody died but knowing disregard of a known risk of  
13 death also satisfies.

14 THE COURT: I appreciate that. And the government  
15 agrees?

16 MR. LEONE: Yes, we agree that's a theory of  
17 murder. Yes.

18 MR. WALKER: And we've explained that to Mr. Reid,  
19 your Honor.

20 THE COURT: Thank you. And you, please, both of  
21 you, interrupt.

22 Q. What they want to point out is, I'm concentrating on  
23 specific intent to kill people, but the law is broader than  
24 that.

25 If the government can prove beyond a reasonable

1       doubt that you knew that the natural and probable  
2       consequence and the strong likelihood is that people would  
3       die from what you did, that constitutes attempted homicide.

4               Do you understand that?

5       A.   Yeah.

6               MR. WALKER:  I think, your Honor, I'm going to  
7       have to quibble just a little bit.

8               THE COURT:  I want you to.

9               MR. WALKER:  It's not necessarily just the natural  
10       and probable consequence but a specific disregard of a  
11       known and credible risk of death.

12               THE COURT:  I'll use that language.  And you agree  
13       with that, Mr. Leone?

14               MR. LEONE:  I would agree there's a number of  
15       different ways to describe this theory of murder, and I  
16       would agree.

17               THE COURT:  But his way, your proof you say will  
18       match?

19               MR. LEONE:  Absolutely.

20               THE COURT:  All right.  All right.

21       Q.  He says that one way, he wants to be sure, and the  
22       reason he interrupts is that you be properly counseled by  
23       what I say to you and know exactly what your rights are.

24               A specific disregard of the probable  
25       consequences --

1 MR. WALKER: Or known and credible risk.

2 Q. A known and credible risk of the consequences of your  
3 acts would be that a person would die, not just any person,  
4 a national of the United States, outside the United States,  
5 or more than one would die, as a consequence of your acts,  
6 and knowing that you attempted such acts.

7 Do you understand that?

8 A. Yeah.

9 Q. The third charge is that you placed an explosive device  
10 on an aircraft. Now, this one is different because this  
11 one requires that an aircraft be involved. The other two  
12 don't talk about aircraft. Now, this one requires that  
13 you, knowing what you're doing, placed, that is, you took,  
14 you got an explosive device -- now, an explosive device is  
15 a device that's capable of exploding, blowing up, doing  
16 damage -- and you put it on an aircraft.

17 Do you understand that's what the government  
18 charges you in Count III?

19 A. Yeah.

20 THE COURT: Well, I want to know how Count IV is  
21 different than anything I've explained already. Oh, it's  
22 different because it's the specific statute that applies to  
23 aircraft and so this requires the attempted murder as I've  
24 explained take place aboard an aircraft. And that's the  
25 added element.

1 MR. LEONE: That's correct, your Honor. Title 49.

2 MR. FEELEY: Your Honor, could we go back to Count  
3 III for a moment.

4 THE COURT: Yes.

5 MR. FEELEY: There's actually a further element  
6 charged in Count III at the end of the charging paragraph  
7 dealing with, without regard for the safety of human life,  
8 and with, with reckless disregard, which is a further  
9 element the way it's charged, your Honor.

10 THE COURT: I appreciate it.

11 Q. The government, cautious, too, everyone is concerned  
12 that you know exactly what you're charged with, it's not  
13 enough that the government prove that you, knowing what you  
14 were doing, placed, that is, took, went, carried an  
15 explosive device aboard an aircraft. It also requires that  
16 you did so with reckless disregard for human life. Now,  
17 that's the third charge.

18 Now, the fourth charge. The fourth charge is the  
19 same theory of attempted murder that we've been talking  
20 about in charge two, but this one has the added element  
21 that the attempted murder as I've explained it take place  
22 aboard an aircraft.

23 Do you understand that's the fourth charge?

24 A. Yeah.

25 Q. All right. Now, the fifth and sixth charges are the

1 same and, they're the same charges though they involve  
2 different people. There are two counts, two charges that  
3 you interfered with flight crew members and attendants, and  
4 in Count V it's a person called Hermis Moutardier and in  
5 Count VI it's a person called Cristina Jones.

6 And the charge is that you interfered with them by  
7 intimidating -- intimidating means to frighten someone, put  
8 someone in fear -- and assaulting them, means to scare them  
9 by gesture or by touch, by grabbing, biting, kicking,  
10 fighting with a flight crew member. And the government has  
11 to prove, the way they've charged this here, that you used  
12 a dangerous weapon in this assault and intimidating. The  
13 dangerous weapon the way they charge it is the explosive  
14 device. That's what the government has to prove beyond a  
15 reasonable doubt, you used to scare, to intimidate these  
16 two separate flight crew members.

17 Do you understand that?

18 A. Yeah.

19 Q. Then in Count VII the government charges you with  
20 attempting to destroy the aircraft. Now, what's new,  
21 what's different in that charge is it requires that part of  
22 your idea, your attempt here, the idea was to destroy the  
23 aircraft. These other charges, whether they mentioned  
24 aircraft or not, have to deal with violence or against  
25 people, be done against people. Count VII, what's

1 different is that you attempted to actually destroy that  
2 aircraft.

3 Do you understand there's that charge?

4 A. Yeah.

5 Q. And Count VIII is a derivative charge. Before you  
6 could be convicted of Count VIII the government would first  
7 have to prove that you committed a crime of violence, one  
8 of these other counts, that you committed a crime of  
9 violence, the assaults on the flight crew members, the  
10 attempted destruction of the -- well, I'll pass the  
11 aircraft -- the attempted murders of people on an aircraft,  
12 the charges that talk about violent acts that I've already  
13 described.

14 And then the government would have to prove that  
15 in doing so you used a destructive device. And a bomb is a  
16 destructive device.

17 Do you understand that that's the eighth and last  
18 charge?

19 A. Yeah.

20 Q. Now, as to each one of these charges and each one of  
21 those things that I've mentioned and as the lawyers have  
22 helped me, it's the government who has to prove those  
23 charges, not to me, but to a jury of the people. They'll  
24 sit right there in that jury box. And all of them have to  
25 agree unanimously, beyond a reasonable doubt, before you

1 can be found guilty.

2 Do you understand you have that right to a jury  
3 trial? A fair and an impartial jury trial?

4 A. Yeah.

5 Q. At that trial you get to confront the evidence against  
6 you. That means you can sit right there at counsel table,  
7 you can look at the witnesses, they sit where you're  
8 sitting, your attorneys can ask them questions, can  
9 cross-examine them, you can introduce evidence on your own  
10 behalf, you can call witnesses on your own behalf.

11 Your lawyers will have the right to argue, and  
12 you've seen how quite properly they have argued to me,  
13 well, they have the right to argue about the evidence to  
14 the jury.

15 At that trial you don't have to do anything. You  
16 can't be required to do a single thing. You can be silent.  
17 You certainly don't have to testify. You don't have to  
18 have your attorneys ask any questions or make any arguments  
19 or submit any evidence. And what's important is, I will do  
20 the best I know how that we pick a completely fair and  
21 impartial jury. And I'm going to be telling those jurors  
22 that you start this case innocent. They won't have seen  
23 anything. And you start innocent and the government has to  
24 prove the case beyond a reasonable doubt.

25 Now, to the extent that you are silent I will tell

1 the jury they have to disregard it. Because you don't have  
2 to explain anything, you don't have to tell anyone  
3 anything. You don't have to do anything. The government  
4 makes these charges. The government has to prove them  
5 beyond a reasonable doubt.

6 And last, you have the right to be treated as an  
7 innocent person. Now, I know we've held you in custody and  
8 I know we're getting the matter for trial. But that's,  
9 one, for your protection and to be sure you're here at  
10 trial, and for various reasons that are appropriate under  
11 the law.

12 But you'll start the trial absolutely innocent.  
13 And I will tell the jury that over and over. And as  
14 between you and I, I've seen you in court, I've read all  
15 the papers that people file, I've done what's required of  
16 me as a judge, but mentally I've got to take you as  
17 innocent. I've got to see can the government prove each  
18 one of these elements beyond a reasonable doubt.

19 Now, when I explain -- do you understand you have  
20 those rights?

21 A. Yeah.

22 Q. When I explain them to you, I'm not giving you  
23 anything. It makes no difference whether you're a citizen  
24 or not a citizen. Those are your rights here. And  
25 everyone is going to honor them.



1 Do you understand that?

2 A. I do.

3 Q. If you plead guilty here this morning all those rights  
4 are gone. In effect here this morning you give them away.  
5 We're never going to have a trial. We're never going to  
6 get a jury of average people in here. We're never going to  
7 get to see what the evidence actually can prove by the way  
8 of witnesses here on the witness stand. The closest we'll  
9 come, I'm going to ask the attorneys for the government to  
10 tell me briefly, just briefly, what they hope they can  
11 prove and then I'll ask you is that true, is that right.  
12 That's as close as we're going to come. And at a  
13 sentencing hearing, if you plead guilty, all that remains  
14 is what sentence am I going to give you. I'll listen to  
15 them explain further, I'll listen to your lawyer explain,  
16 I'll listen to you if you want, I'll listen to a probation  
17 officer. But there will never be a trial. We'll never see  
18 witnesses.

19 Also understand your right to be silent about  
20 these eight charges, that's gone. Now, you don't have to  
21 read too far in these papers to get the idea that the  
22 government at least thinks that other people are involved.  
23 Where the device supposedly comes from and who put it  
24 together and things like that.

25 Now, you plead guilty, once I've imposed the

1 sentence, until I've imposed the sentence you don't have to  
2 say anything to anyone, but once I've imposed the sentence  
3 then at least as to these crimes, now, I recognize  
4 conspiracy is a different crime and you may still have your  
5 right to be silent, but as to these specific crimes you're  
6 guilty, there's no right to honor your constitutional right  
7 to be silent.

8 Do you understand that?

9 A. Yeah.

10 Q. And you understand if you plead guilty here this  
11 morning in my eyes, and I'm the judge who has to sentence,  
12 you go from being innocent, innocent to being guilty of  
13 these charges and all that remains then is for me to do the  
14 proper preparation for sentence and then impose the  
15 sentence as is just under the law.

16 Do you understand that?

17 A. Yeah.

18 Q. Now, let's talk specifically about what may happen if  
19 you plead, what that sentence may be.

20 I've gone over the different charges. When  
21 congress passes a law -- these are all, these charges are  
22 all laws passed by the congress of our country. They're  
23 the laws under which we live.

24 The law as passed carries a maximum sentence. No  
25 judge can sentence you to more than the maximum, but some

1 of these carry life in prison. So let's go over them.

2 The attempted use of a weapon of mass destruction,  
3 that carries a maximum sentence of life in prison, the rest  
4 of your life in prison, a fine of \$250,000, and a special  
5 assessment of \$100.

6 Attempted homicide against a national of the  
7 United States, Count II, that carries a maximum sentence of  
8 20 years, a \$250,000 fine, and a mandatory special  
9 assessment of \$100.

10 Count III, placing an explosive device on an  
11 aircraft, that carries 20 years in prison, a \$250,000 fine,  
12 and a \$100 special assessment.

13 Attempted murder carries a maximum sentence of 20  
14 years in prison, a \$250,000 fine, and a \$100 special  
15 assessment.

16 Interfering with flight crew members in the  
17 fashion as alleged in this case, that carries a maximum  
18 sentence of life in prison. And there are two separate  
19 counts of that.

20 Attempted destruction of an aircraft carries a  
21 maximum sentence -- well, go back to interference with  
22 flight crew members. Carries a maximum sentence of life in  
23 prison, a \$250,000 fine, a \$100 special assessment.

24 Attempted destruction of an aircraft carries a  
25 maximum sentence of 20 years in prison, a \$250,000 fine,

1 and a \$100 special assessment.

2 The use, this last one, doing a crime of violence  
3 and using a destructive device, that carries a mandatory  
4 minimum, the lowest a judge can go is 30 years in prison,  
5 up to life, and that has to be imposed after any other  
6 sentence I impose. It also carries a \$250,000 fine, and a  
7 \$100 mandatory special assessment.

8 Now, under our laws after you serve a term of  
9 years there is a period of supervised release. A number of  
10 these alleged offenses here carry a period of supervised  
11 release that can last the rest of your life.

12 Do you understand that those are the maximum  
13 sentences allowed under the laws?

14 A. Yeah.

15 Q. Now, under the law a sentence of life in prison, that's  
16 what it means. That means you spend the rest of your life  
17 in prison. And here in the federal courts we don't ascribe  
18 to the theory of a life sentence followed by another life  
19 sentence, because that's silly. And a life sentence, it  
20 would make no sense to follow that by another 30 years.

21 But if you got less than a life sentence on these  
22 ones that carry a maximum 20 years in prison, it is at  
23 least theoretically possible, because each one requires a  
24 separate element, that I could add them all together. So  
25 Count II is 20 maximum, Count III is 20 maximum, Count IV

1 is 20 maximum, Count VII is 20 maximum, that's 80, and then  
2 I have to add another 30. So that's 110. People don't  
3 live to 139 years. So theoretically that could be the  
4 sentence.

5 Do you understand that?

6 A. Yeah.

7 Q. Congress has also passed a law. Simple theory,  
8 difficult to apply. It's called the sentences guidelines.  
9 Now, the sentencing guidelines instruct a judge that the  
10 judge may not -- I apply a series of complex arithmetic  
11 formula. I listen to your lawyers on how to do it. I  
12 listen to the government lawyers on how to do it. I listen  
13 to my probation officer. I listen to you. But I do it.  
14 So when I calculate out the sentencing guidelines then I  
15 must sentence you within that range. And I cannot be more  
16 lenient than the bottom of that range; and I cannot be more  
17 severe than the top of that range unless there's something  
18 especially evil about you.

19 But I know if you plead guilty to Count VIII,  
20 whatever sentence I give you, unless it's a life sentence,  
21 I have to add on to that a minimum 30 years.

22 Are you very clear on that?

23 A. Yeah.

24 Q. So I'm going to ask the government now to tell me how  
25 they calculate the sentences guidelines, just bottom line.

1 Because if you do go through with it and plead guilty,  
2 we'll do those calculations at the time when I'm going to  
3 impose the sentence. But while you're still innocent you  
4 need to know what the government's position is here. The  
5 government is not the one who determines your sentence. I  
6 determine your sentence. But I'll listen to them and I'll  
7 listen to your lawyers and I'll listen to you and the  
8 probation officer. But the likelihood is the government's  
9 going to be asking for the most severe sentence so we  
10 better know what it is.

11 THE COURT: Again, just bottom line, given these  
12 offenses, and given acceptance of responsibility, what, how  
13 do the guidelines work out from the government's point of  
14 view?

15 MR. FEELEY: Your Honor, excluding the 924(c)  
16 count for a moment --

17 THE COURT: That makes sense.

18 MR. FEELEY: -- the government views all the  
19 remaining counts to be of substantially the same harm and  
20 therefore grouped together.

21 The government views the highest applicable base  
22 offense level to be 30. The government views the terrorism  
23 enhancement to be applicable which would add 12 levels and  
24 require the imposition of a criminal history category VI.

25 So, taking into account, given those factors, your

1 Honor, and taking into account acceptance of  
2 responsibility, the government's view is that the  
3 sentencing range would be 360 months to life imprisonment  
4 followed, of course, by the 30 year mandatory on and after  
5 sentence required by 18 U.S. Code, Section 924(c).

6 Q. Now, did you hear what Mr. Feeley had to say?

7 A. Yeah.

8 Q. Now, the way he figures it, that doesn't mean that it's  
9 the way it is, but that this is the way they look at it.  
10 If they get a conviction here either after a trial or,  
11 either after a trial or because you plead guilty, they say  
12 the lowest, the lowest I can go is 360 months in prison.

13 Now, that's 30 years for starters.

14 A. Uh-huh.

15 Q. And then there has to be another 30 years. So the  
16 lowest they say I can go, that I have no right they say  
17 under the law, given the law, that I've got to give you a  
18 minimum sentence of 60 years in prison, and of course it's  
19 open to me to give you a maximum sentence of life in  
20 prison.

21 Do you understand?

22 A. Yeah.

23 Q. Now, do you understand that if, if you are not a  
24 citizen of the United States, conviction of these crimes  
25 may have the consequence of your being deported from the

1 United States, denied admission under the laws of the  
2 United States, denied naturalization under the laws of the  
3 United States?

4 Do you know that?

5 A. Yeah.

6 Q. Do you know that in addition to the years in prison, I  
7 can add up all the fines here --

8 A. Uh-huh.

9 Q. -- and impose the maximum on all those fines? Do you  
10 understand that?

11 A. Yeah.

12 Q. Do you understand I have to add up the special  
13 assessments and impose on you a special assessment of \$800?

14 Do you understand that?

15 A. Yeah.

16 Q. Has anyone threatened you to get you to plead guilty?

17 A. No.

18 Q. Are you covering up for the acts of someone else by  
19 pleading guilty in this case yourself?

20 A. No.

21 Q. Have you, yourself, read the indictment, the charges in  
22 this case?

23 A. Yeah.

24 Q. Have you talked them all over with Mr. Walker and  
25 Ms. Birckhead?



1 A. Yeah.

2 Q. Do you think you understand the nature of the charges  
3 and what the government has to prove?

4 A. Yeah, I understand.

5 Q. Again what passes between you and any of your lawyers,  
6 that's private. I can't ask about it. I'm not. I just  
7 want to know generally. Have you, have you considered the  
8 consequences of pleading guilty, what under the law is  
9 likely to happen?

10 A. Yeah.

11 Q. Have you -- are you satisfied with what your attorneys,  
12 Ms. Birckhead, Mr. Walker, the other two attorneys, what  
13 they've done for you acting as your attorneys?

14 A. I suppose so.

15 Q. Do you have a question about that?

16 A. No.

17 Q. Do you really think they're in your corner here, that  
18 they're trying their best to give all the help they can to  
19 you as an individual?

20 A. According to their understanding.

21 Q. All right. Are you satisfied with their  
22 representation?

23 A. According to their understanding.

24 Q. Well, I accept that answer for the preceding question,  
25 but this one is how do you feel. Are you satisfied?

1 A. I don't recognize your system so how can I be  
2 satisfied? I don't recognize your legal system.

3 Q. I see. Very well.

4 Let me ask you, now that we've gone over all of  
5 this, do you want to plead guilty to all of these eight  
6 charges?

7 A. Yeah.

8 Q. You've told me once, but I need to ask. Why?

9 A. Why? Because I know what I done. Because I know what  
10 I done.

11 Q. All right. Very well.

12 Now, what I'm going to do now is, I'm going to  
13 turn to the government lawyers and I'm going to ask them  
14 briefly to outline the evidence that they would seek to  
15 present on these charges.

16 THE COURT: And it makes sense to me to break, if  
17 you can think of a different way of doing this I'm open to  
18 suggestions, but I want to be sure Mr. Reid understands  
19 specifically what the government is purporting to prove  
20 here as to the essential elements. And I want to sidestep,  
21 candidly, this business, which we agree is not an essential  
22 element -- but let me ask him about this and then I'll be  
23 back to you.

24 Q. Your lawyers made this motion to strike out this  
25 language about Al Qaeda and terrorism. And I wouldn't do

1 that. But I said, well, this is just the charge. We'll  
2 see what they can prove.

3 Do you understand that if you plead guilty when we  
4 come to the sentencing, because I'll set that up for, some  
5 date for sentencing, I will listen to them about what they  
6 think they can prove about training by, the things that you  
7 wanted taken out of the indictment, I will at least listen  
8 to that. Because as I understand the law and what is  
9 relevant conduct, what is the conduct that will concern me  
10 at the time of sentencing, I'll want to hear about that.

11 Do you understand that's not out of the case?  
12 I'll be listening to that.

13 A. Yeah, I understand that and I don't care. I'm a member  
14 of Al Qaeda, I pledge to Osama bin Laden and I'm an enemy  
15 of your country, and I don't care. Simple and plain.

16 Q. All right. All right. You don't care. That's very  
17 well.

18 THE COURT: Then what I'm going to do now --  
19 nevertheless, we're going to exclude that part of it from  
20 this colloquy which we're going to limit to the essential  
21 elements. And I thought it would make sense, we'll do the  
22 assaults on the flight attendants first, ask him about  
23 those, and then we'll do the whole business with the plane  
24 generally, and I'll ask him about that. Just to give him a  
25 couple of opportunities to listen and respond.

1           Make sense? Very well.

2           MR. LEONE: Certainly, your Honor.

3           Q. I'm first going to listen to them about what they say  
4 they can prove as to the assaults on the flight attendants.  
5 Then I'm going to ask you, you listen, because I'm going to  
6 ask you if that's true, if that actually happened.

7           All right. Mr. Leone.

8           MR. LEONE: Your Honor, the government would offer  
9 the following facts to satisfy that there is a factual  
10 basis for the plea and I would start with Counts 5 and 6 at  
11 your direction.

12           Your Honor, during the defendant's attempt to  
13 detonate the explosive device in his right shoe aboard  
14 Flight 63 on December 22nd of the year 2001, Hermis  
15 Moutardier, a flight attendant on board Flight 63, and  
16 others noticed a smell of sulfur in the coach section of  
17 the aircraft. Upon investigation Ms. Moutardier learned  
18 that the defendant had a lit match in his hand. She  
19 requested that he put the match out which the defendant did  
20 by putting it in his mouth. Ms. Moutardier left the area  
21 of the defendant's seat to report her observations to one  
22 of the flight crew members but returned shortly thereafter  
23 to find the defendant again with a lit match, this time  
24 trying to light what she thought was a fuse in the tongue  
25 area of his shoe which he had between his legs.

1           A struggle between the defendant and  
2 Ms. Moutardier ensured for possession of the shoe, the  
3 defendant pushing Ms. Moutardier back away from his seat.  
4 Ms. Moutardier then left the area of seat 29J to report the  
5 incident to other members of the flight crew.

6           THE COURT: All right, and let's do the second  
7 attendant. Well, no, we'll stop there. Thank you.

8 Q. Did you hear what he had to say?

9 A. Yeah.

10 Q. Do you understand it?

11 A. Yeah.

12 Q. Is that true?

13 A. I don't remember, but basically, yeah.

14 Q. Very well.

15           THE COURT: Go ahead, Mr. Leone.

16           MR. LEONE: Your, Honor at Ms. Moutardier's urging  
17 the second flight attendant, Cristina Jones, went to the  
18 area of seat 29J and entered into a struggle with the  
19 defendant for the shoe. During that struggle her hand was  
20 bitten by the defendant.

21 Q. Did you hear what he said then?

22 A. Yeah.

23 Q. Do you understand it?

24 A. Yeah.

25 Q. Is that true?

1 A. Yeah.

2 Q. Very well. All right.

3 THE COURT: Now, would you -- and I understand you  
4 may want to split it up and how you want to do it is fine.

5 Q. Now they're going to speak to the more general about  
6 what was taken onto the plane and what they say you  
7 attempted to do on that plane. You listen carefully  
8 because I'm going to ask you the same question. And if any  
9 of it is not true, I mean, I want you to tell me.

10 THE COURT: Mr. Leone.

11 MR. LEONE: Your Honor, the defendant, Richard  
12 Reid, received in Afghanistan training from Al Qaeda, a  
13 designated foreign terrorist organization.

14 THE COURT: Well, I thought that's not relevant.  
15 Let's skip that. I'm not going to ask him to respond to  
16 that. Because that's something that is not an essential  
17 element of the claim. Correct?

18 MR. WALKER: Yes.

19 THE COURT: That's your position?

20 MR. WALKER: Yes, your Honor.

21 THE COURT: And for these purposes, I have  
22 explained to them I'll hear that at the time of sentencing.  
23 But I'm not going to ask him to take a position with  
24 respect to that. Let's come to the plane.

25 MR. LEONE: While they're relevant to the

1 essential elements, your Honor, you would just like me to  
2 get to the essential elements to support the --

3 THE COURT: Precisely. And you'll appreciate, I'm  
4 in no sense saying that's irrelevant.

5 MR. LEONE: I understand.

6 THE COURT: I've explained to him that that's data  
7 which if it comes up properly in the sentencing hearing, I  
8 intend, one, to hear, and two, to consider as to what the  
9 appropriate sanction ought be.

10 Q. And you understand that, don't you, Mr. Reid?

11 A. Yeah.

12 Q. I mean, I'm going to listen to them then. But for now  
13 we'll stick to the essential elements of the alleged  
14 offenses and I'm going to ask you if that's true, if you're  
15 pleading guilty to that.

16 THE COURT: So in no sense suggesting that it's  
17 not relevant, but I do want you to stick to the essential  
18 elements.

19 Go ahead, Mr. Leone. Strike that. Start again.

20 MR. LEONE: Your Honor, on the morning of  
21 December 22nd the defendant boarded Flight 63 in Paris.  
22 The flight departed Paris about one hour behind schedule at  
23 approximately 11:45 a.m. Paris time. The flight was nearly  
24 full with 184 passengers and 14 crew members. Among the  
25 passengers and crew were a number of United States

1 nationals. Passenger aircraft flown by American Airlines  
2 such as Flight 63 are civil aircraft of the United States  
3 as that term is defined by Title 49 of the United States  
4 Code.

5 The defendant was seated in seat 29J on Flight 63,  
6 a window seat aft of the wing of the aircraft. Between the  
7 two and-a-half to three hours outside of Paris while Flight  
8 63 was over the North Atlantic on route to Miami, Florida,  
9 a man seated next to the defendant in 29H left his seat to  
10 use the restroom at the rear of the plane. At that time  
11 the defendant removed his ankle-high hiking shoes. Each  
12 shoe contained a sophisticated explosive device of  
13 substantially identical design. The sole of the shoes  
14 consisted of waffle-patterned cushioning cells, many of  
15 which had been packed with a quantity of plastic  
16 high-explosive. The detonating cord, containing a small  
17 quantity of high-explosive and designed to cause an  
18 explosion-induced shock wave throughout the plastic  
19 explosives to ensure complete detonation, was laced through  
20 the shoes' cushioning cells that were filled with plastic  
21 explosives.

22 An improvised detonator was fashioned from a paper  
23 tube filled with a quantity of non-commercial explosive. A  
24 safety fuse containing black powder ran from the detonator  
25 and was accessible through the inner sole of the shoes.



1           The defendant took his right shoe and pulled the  
2 free end of the safety fuse through the inner sole out of  
3 the shoe in the area of the tongue. He then attempted to  
4 ignite the safety fuse through the use of matches he had  
5 brought onto the aircraft. He lit approximately six  
6 matches in an effort to ignite the safety fuse, melting the  
7 end of the safety fuse in the process. However, he was not  
8 able to ignite the black powder in the safety fuse before  
9 he was restrained by passengers and crew members.

10           Your Honor, in chronological order that is the  
11 point in the fact pattern where I've related to the Court  
12 with regard to Ms. Moutardier and Ms. Jones.

13           THE COURT: I understand.

14           MR. LEONE: If I may continue.

15           THE COURT: Yes, please.

16           MR. LEONE: Passengers from nearby seats then  
17 assisted Ms. Jones and other flight attendants in subduing  
18 the defendant and restraining him. Both of the defendant's  
19 shoes were eventually secured by members of the flight crew  
20 at the rear of the airplane and the aircraft was diverted  
21 to Logan International Airport in Boston where the  
22 defendant was placed under arrest by the FBI. Later  
23 testing and analysis by F.B.I. bomb technicians and  
24 explosives experts determined that the devices in the  
25 defendant's shoes were functioning explosive devices

1 capable of exploding if the safety fuse had been properly  
2 ignited. An F.B.I. bomb technician and explosives expert  
3 would testify at trial that if the defendant had  
4 successfully ignited either time fuse either device would  
5 have detonated. Further, if either device had been placed  
6 near or against the interior wall of the aircraft at seat  
7 29J on Flight 63, the resulting explosion would have  
8 breached the outside skin of the aircraft.

9 Your Honor, if I may, I would like to defer the  
10 next factual recitation to Mr. Feeley.

11 THE COURT: All right. Go ahead, Mr. Feeley.

12 MR. FEELEY: Your Honor, just to make sure that  
13 this would be in keeping with the Court's intentions, the  
14 remainder of the fact recitation goes to the elements of  
15 intent to kill and actually focuses on evidence that this  
16 Court is aware of, primarily the e-mails and the  
17 post-arrest statements that were previously --

18 THE COURT: So it makes some, it makes some sense  
19 to stop here and I will. Because it seems to me that Mr.  
20 Leone, and correct me if I've got this wrong, has sketched  
21 out Count I, attempted use of a weapon of mass destruction,  
22 Count III, and then we've already asked Mr. Reid about  
23 Counts V and VI, but we haven't yet, and we'll hear from  
24 you, about, adding on to this, attempted homicide and --  
25 well, you said that it would -- I'm a little concerned

1 about Count VII -- that it would, if placed against the  
2 interior wall it would have blown a hole in the, in the  
3 skin of the aircraft. Is that sufficient in your mind for  
4 destruction of an aircraft? Certainly a damage to the  
5 aircraft.

6 MR. FEELEY: Well, your Honor, Count VII actually  
7 is pled alternatively to, to include damage or destroy.

8 THE COURT: And so his recitation is certainly  
9 sufficient for damage.

10 MR. FEELEY: It is, your Honor.

11 THE COURT: All right. And those are the counts,  
12 Mr. Leone, that you just covered?

13 MR. LEONE: That's right, your Honor.

14 THE COURT: All right.

15 Q. Now, I'm not asking you if you know what these supposed  
16 bomb experts, what testing they did. And I'm not asking  
17 you if you know what our laws require. But I am asking  
18 you, did you understand the facts that Mr. Leone explained  
19 to me? Do you understand those?

20 A. Yeah.

21 Q. Are they true?

22 A. Yeah, more or less.

23 Q. Well, more or less. What's the less?

24 A. Basically I got on the plane with the bomb. Basically  
25 I got on, I tried to ignite it.

1 Q. I tried to?

2 A. Tried to ignite it.

3 Q. To ignite it.

4 A. Ignite the bomb basically. And what's the other  
5 charge?

6 Q. Attempted use of a weapon of mass destruction and  
7 placing an explosive device on the aircraft and --

8 MR. WALKER: Damaging, your Honor.

9 Q. -- damaging the aircraft.

10 A. Basically I intended to damage the plane.

11 THE COURT: Very well. All right. Mr. Feeley.

12 MR. FEELEY: Your Honor, the remainder of the  
13 government's evidence as indicated does go to the attempted  
14 murder/homicide charges.

15 On December 20th of 2001, the day before the  
16 defendant's intended flight on, on Flight 63, the defendant  
17 prepared three e-mails and left them in the drafts folder  
18 of a Yahoo e-mail account he maintained. One e-mail was a  
19 letter from the defendant to his mother. The letter  
20 included the following about the defendant's intended  
21 conduct on board Flight 63, and the reasons for that  
22 conduct. And I quote: "I have given this letter to a  
23 brother to send via the e-mail. I hope it will reach you.  
24 I I'm not sending it myself as I will not be able to do so.  
25 What I am doing is part of the ongoing war against islaam

1 and disbelief. I know you will find many muslims quick to  
2 condemn the war between us and the US and I've sent you a  
3 copy of my will. The reason for me sending you it is so  
4 that you can see that I didn't do this act out of ignorance  
5 nor did I do just because I want to die, but rather because  
6 I see it as a duty upon me to help remove the oppressive  
7 american forces from the muslim lands and that this is the  
8 only way for us to do so as we do not have other means to  
9 fight them.

10 I hope that what I have done will not decur you  
11 from looking into islaam or even cause you to hate the  
12 religion as the message of islaam is the truth. This is  
13 why we are ready to die defending the true islaam rather  
14 than to just sit back and allow the American government to  
15 dictate to us what we should believe and how we should  
16 behave. It is clear that this is a war between truth and  
17 falsehood. This is a war between islaam and democracy. I  
18 ask HIM that HE guide me to the truth and cause you to  
19 understand why I've done what I've done. Forgive me for  
20 all the problems I have caused you both in life and in  
21 death and don't be angry for what I've done," end quote.

22 The document referenced in the letter to the  
23 defendant's mother as his will was also prepared that same  
24 day and left in the drafts folder of the e-mail account.  
25 The will contains a justification for the jihad against

1 America, and disputes and rejects arguments that some make  
2 against the jihad and arguments that claim it is not  
3 appropriate. In part, the will also contains a  
4 justification for the killing of innocent civilians as part  
5 of the jihad, and characterizes the World Trade Center as,  
6 and I quote, "a legitimate target being the main financial  
7 center of the US from which it supports itself and  
8 isra'el," end quote.

9 The final document in the drafts folder of the  
10 defendant's Yahoo e-mail account and prepared by him on  
11 December 20th is a letter to a person identified as  
12 brother, requesting him to send the will and the letter to  
13 the defendant's mother, and providing instructions how to  
14 do that from the drafts folder of the e-mail account.  
15 Additionally, in the letter, the defendant writes about a  
16 dream he had about a year earlier. In the dream, the  
17 defendant was waiting for a ride, but when the ride, a  
18 pick-up truck, came, it was full and the defendant could  
19 not go. He was upset and had to go later in a smaller car.  
20 The defendant explained the meaning of the dream in the  
21 e-mail, as follows: Quote, "I now believe that the pickup  
22 that came first was 911 as its true that I was upset at not  
23 being sent," end quote.

24 The defendant was interviewed on the afternoon of  
25 his arrest and the following afternoon by agents from the

1 F.B.I. and the Department of State. In his first  
2 interview, the defendant stated that although born to a  
3 Catholic mother and a Protestant father, he converted to  
4 Islam during his early twenties. He also explained his  
5 motivation for attempting to bomb Flight 63 by stating that  
6 the United States should not be involved in Muslim affairs  
7 such as supporting Israel. He stated that democratic  
8 countries are ruled contrary to God's will. He further  
9 stated that, quote, "America is the problem, without  
10 America there would be no Israel," end quote. He explained  
11 that in his view America is responsible for supporting  
12 Israel and other illicit regimes throughout the Middle  
13 East. He also stated that, quote, "America must remove its  
14 troops from our soil and keep its nose out of our  
15 business," end quote. When asked why he didn't consider  
16 peaceful methods to accomplish his goals, the defendant  
17 replied that, quote, "people tried peaceful methods for  
18 seventy years," end quote.

19 The defendant also said that he was ready to die  
20 because he had lived his life according to the Sharia and  
21 he was ready to be judged. He said he was ready to be a  
22 martyr and that he thought Allah would reward him in  
23 heaven.

24 In his second interview the defendant stated that  
25 he chose to attack an American airplane because he believed

1 an airplane attack, especially during the holiday season,  
2 would cause the American public to lose confidence in  
3 airline security and stop traveling, leading to a  
4 substantial loss of revenue which would in turn hurt the  
5 American economy. The defendant further stated that he  
6 switched his target from Israel to America after America  
7 began bombing the Taliban in Afghanistan, which made him  
8 very angry.

9 THE COURT: Now, this --

10 MR. LEONE: I'm sorry, not to interrupt you, but  
11 if I may.

12 THE COURT: Go ahead.

13 MR. LEONE: Because we took the fact recitation  
14 out of order there is one last piece of the factual  
15 recitation which does go to the element to support the  
16 deliberate premeditation, if I may finish.

17 THE COURT: I'll hear you, yes.

18 MR. LEONE: Thank you, your Honor.

19 Your Honor, in early July 2001 the defendant flew  
20 from Karachi, Pakistan to Amsterdam, the Netherlands. On  
21 July 6th, 2001, he turned in his existing British passport  
22 and obtained a new one at the British Consulate in  
23 Amsterdam. On July 12th he flew on El Al Airlines from  
24 Amsterdam to Tel Aviv, Israel. He traveled within Israel,  
25 and then took a bus to Cairo, Egypt on July 22nd. He



1 stayed in Cairo until July 29th when he flew to Istanbul,  
2 Turkey. He traveled within Turkey, and then flew to  
3 Karachi, Pakistan, on August 7th. During this trip, the  
4 defendant focused on El Al security at the airports and  
5 aboard his flight. He later claimed that the idea of  
6 placing explosives in his shoes came from his observations  
7 of El Al security, and the fact that security personnel did  
8 not check the insides of his shoes. He also scouted  
9 possible bombing missions within Israel and Egypt,  
10 including the train station in Tel Aviv. At the end of his  
11 trip he reported to an associate in Afghanistan that the  
12 reception area of the Tel Aviv train station would be a  
13 particularly good bombing target, especially on a Saturday  
14 night because it can be entered without being searched and  
15 contained at least 100 people at the arrival time of any  
16 given train.

17 THE COURT: All right.

18 Q. Now, they've spoken for a while. And I'll tell you  
19 this is not a case about your beliefs or about sending  
20 e-mails. But let me break it down.

21 When they talk about those e-mails --

22 A. Uh-huh.

23 Q. -- are those your e-mails?

24 A. Yeah.

25 Q. And when they explained what you said to the

1 investigators after you were arrested, did you say those  
2 things to the investigators?

3 A. Yeah.

4 Q. When Mr. Leone just talked about your travels and the  
5 reports you made from those travels, did you make that  
6 travel and make that report?

7 MR. WALKER: If your Honor please, I don't -- Mr.  
8 Reid may want to discuss that. I would suggest that he  
9 doesn't have to answer that question.

10 THE COURT: He doesn't --

11 MR. WALKER: If the Court --

12 THE COURT: -- have to answer that question and I  
13 won't insist on it, but I thought it appropriate to ask it.

14 Q. Did you? Did you make that?

15 A. I made the travel, yeah.

16 Q. Did you make that report?

17 A. Yeah.

18 Q. All right. Now let's come to the charges in this case.

19 Did you intend to blow the plane up and kill the  
20 people on the plane, and yourself?

21 A. Yeah.

22 Q. All right.

23 MR. WALKER: Again, your Honor, bearing in mind  
24 that that intent includes a conscious, or could be a  
25 conscious disregard of a known risk.

1 THE COURT: Well, he's just admitted --

2 MR. WALKER: And that's all that the law requires,  
3 your Honor.

4 THE COURT: It may be all that the law requires.  
5 He's just admitted to a specific intent. Now --

6 MR. WALKER: If your Honor please, this is not a  
7 chance to interrogate the defendant. It is a chance for  
8 the Court to determine, if I may say so, whether the  
9 factual basis presented by the government is an adequate  
10 factual basis.

11 THE COURT: I agree with that.

12 MR. WALKER: And I would ask the Court not, if the  
13 Court is satisfied that the existing information it has  
14 provides a sufficient factual basis, that's all that the  
15 rule requires, that the Court stop interrogating the  
16 defendant.

17 THE COURT: I, I hear what you say. I'm satisfied  
18 with my conduct in conducting the proceeding, and I also am  
19 satisfied with the government's presentation.

20 Q. Now, Mr. Reid, having gone through all of this, my  
21 understanding is that you are prepared to plead guilty to  
22 these eight charges, having talked it all over with your  
23 attorneys, because in fact you committed the acts which are  
24 the essential elements of each of those eight charges.

25 Is that right?

1 A. Yeah.

2 Q. And you tell me you're pleading guilty, this really is  
3 your idea to plead guilty, apparently you're the one who  
4 told your attorney -- well, I can't, strike that, I can't  
5 find out what passes between you and the attorneys.

6 But you really want to plead guilty to these  
7 charges?

8 A. Yeah.

9 THE COURT: Very well. I find that Mr. Richard C.  
10 Reid knowingly, intelligently and voluntarily exercises his  
11 right to plead guilty to these eight charges and the clerk  
12 may accept the plea.

13 Q. Mr. Reid, as important as all of this is, this is  
14 especially important. The clerk, Ms. Smith, is going to  
15 ask you whether you want to change your plea from not  
16 guilty to guilty. If you want to plead guilty you say yes.  
17 Then she'll say how do you plead, and she'll refer to each  
18 of the charges.

19 A. Yeah.

20 Q. And she'll say how do you plead, not guilty or guilty.  
21 If you plead guilty then, you're guilty, there's no  
22 starting over, there's no taking it back, and what I next  
23 do is figure out when we will have the hearing on your  
24 sentence.

25 Do you understand that?

1 A. Yeah.

2 Q. We're not going to have a trial or go back to talking  
3 about trials. You're guilty and we'll talk about when the  
4 sentence will be.

5 Do you understand that?

6 A. Yeah.

7 THE COURT: All right, the clerk may accept the  
8 plea.

9 THE CLERK: Richard Colvin Reid, you have  
10 previously pleaded not guilty to an indictment charging you  
11 in Count I with violating 18 U.S.C., Section 2332(a)(1),  
12 attempted use of a weapon of mass destruction; Count II, 18  
13 U.S.C., Section 2332, attempted homicide; in Count III, 49  
14 U.S.C., Sections 46505(b)(3) and (c), placing explosive  
15 device on an aircraft; in Count IV, 49 U.S.C., Section  
16 46506(1) and 18 U.S.C., Section 1113, attempted murder; in  
17 Counts V and VI, 49 U.S.C., Section 46504, interference  
18 with flight crew members and attendants; Count VII, 18  
19 U.S.C., Section 32(a)(1) and (7), attempted destruction of  
20 an aircraft; and in Count VIII, 18 U.S.C., Section 924(c),  
21 using destructive device during and in relation to a crime  
22 of violence.

23 Do you now want to change your plea from not  
24 guilty to guilty?

25 THE DEFENDANT: Can I?

1 THE COURT: If you want to change your plea to  
2 guilty you say yes.

3 THE DEFENDANT: Basically, as far as the factual  
4 charges 1 through 7, I plead guilty outright. As far as  
5 the charge 8 is concerned, I don't plead. I done the  
6 crime. But as far as the factual basis is concerned, I  
7 done it. I done the acts that led to that charge.

8 THE COURT: Well, Count VIII is this count which  
9 charges you with using a destructive device in relation to  
10 a crime of violence. So I'm not -- you admit you did use a  
11 destructive device in relating to a crime of violence. Is  
12 that true?

13 THE DEFENDANT: I used a destructive device as an  
14 act of war. I don't recognize your law and I don't  
15 recognize your system. I don't recognize any of your laws  
16 at all. So I don't recognize a violent act as a crime.  
17 But I admit I tried to use a destructive device.

18 THE COURT: Very well. I will accept that as a  
19 guilty plea to Count VIII. And now she's going to ask you  
20 how you plead. I recognize what you say, and I accept it,  
21 but she's going to ask you how you plead to Counts I  
22 through VIII.

23 THE DEFENDANT: Guilty with the understanding of  
24 what I said.

25 THE COURT: I understand what you've said.

1 THE CLERK: What say you now to Counts I through  
2 VIII, not guilty or guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: Thank you. You may step down.

5 (Whereupon the defendant stepped down.)

6 THE COURT: I propose 2:00 p.m. on the 8th of  
7 January for the sentencing hearing. Is that satisfactory  
8 to the government?

9 MR. LEONE: Yes, your Honor, thank you.

10 THE COURT: Mr. Walker?

11 MR. WALKER: Yes, your Honor.

12 THE COURT: Probation is here, and you're aware of  
13 that?

14 THE PROBATION OFFICER: Yes, your Honor.

15 THE COURT: You'll be ready by that time?

16 THE PROBATION OFFICER: Yes, your Honor.

17 THE COURT: All right. That completes this  
18 proceeding. We'll stand in recess.

19 THE CLERK: All rise.

20 (Whereupon the matter concluded.)

21

22

23

24

25

C E R T I F I C A T E

I, Donald E. Womack, do hereby certify that the above proceedings were reported by me stenographically and this transcript represents a true and accurate transcription of said proceedings.

---

DONALD E. WOMACK  
Official Court Reporter  
P.O. Box 51062  
Boston, Massachusetts 02205-1062  
(617) 439-8877  
womack@megatran.com