

KAM:PC
F. #2002R002098

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

MOHAMMED MOHSEN YAHYA ZAYED,

Defendant.

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Filed Under Seal

AFFIDAVIT IN SUPPORT
OF ARREST WARRANT
(Title 18, U.S.C.,
§ 2339B)

EASTERN DISTRICT OF NEW YORK:

ROBERT FULLER, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, in or about and between January 2002 and January 2003, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant MOHAMMED MOHSEN YAHYA ZAYED, together with others, within the United States and subject to the jurisdiction of the United States, did knowingly and intentionally conspire to provide material support and resources to a foreign designated terrorist organization, to wit, Hamas.

(Title 18, United States Codes, Sections 2339B and 3551 et seq.)

Upon information and belief, in or about and between January 2002 and January 2003, both dates being approximate and

inclusive, within the Eastern District of New York and elsewhere, the defendant MOHAMMED MOHSEN YAHYA ZAYED, together with others, within the United States and subject to the jurisdiction of the United States, did knowingly and intentionally conspire to provide material support and resources to a foreign designated terrorist organization, to wit, al Qaeda.

(Title 18, United States Codes, Sections 2339B and 3551 et seq.)

The source of your deponent's information and the grounds for his belief are as follows:¹

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (hereinafter "FBI"). Since 2000, I have been assigned to the New York Division of the FBI. For the past 18 months, I have been a member of an FBI International Terrorism (hereinafter "IT") squad. Among other duties, I am one of the case agents assigned to the investigation of defendant MOHAMMED MOHSEN YAHYA ZAYED and others for providing material support to

¹ Because this affidavit is submitted only to establish probable cause to arrest the named defendant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause. In addition, certain conversations described herein, which have occurred over the past three days, are not recounted verbatim, but have been summarized.

designated foreign terrorist organizations. In connection with this investigation, on January 5, 2003, the Honorable Joan M. Azrack, Magistrate Judge in the Eastern District of New York, issued an arrest warrant for Mohammed Al-Moayad for violations of Title 18, U.S.C. § 2339B. An affidavit in support of that arrest warrant (the "Al-Moayad Complaint") was filed under seal and is attached hereto and incorporated herein by reference.

THE AL-MOAYAD COMPLAINT

2. As set forth in the Al-Moayad Complaint, during several conversations that took place in Yemen over the past year, Mohammed Al-Moayad advised CI1 that Al-Moayad has provided material support, in the form of money, weapons, communications equipment and recruits, to organizations designated by the State Department as terrorist organizations, including Al Qaeda and Hamas. Al-Moayad advised CI1 that Al-Moayad has met Usama bin Laden several times and has given bin Laden millions of dollars prior to September 11, 2001. Al-Moayad's claim is corroborated by the recovery of a Mujahideen Information Form, discovered in Afghanistan after September 11, 2001, which lists Mohammed Al-Moayad as the person who recruited a Yemeni mujahideen fighter.

3. Acting at the direction of the FBI agents, CI1 advised Al-Moayad that CI1 knew an individual, CI2, who was interested in donating \$2 million to terrorist activities, but wanted to ensure that his money was going to the right people.

In an effort to demonstrate his support of the "jihad," Al-Moayad invited CI1 to a mass wedding that Al-Moayad hosted in September 2002 in Yemen for men Al-Moayad claimed were going fight the "jihad." During the mass wedding, which CI1 attended and videotaped, a known leader of Hamas made a speech praising a "Hamas operation" that had occurred hours earlier in Tel Aviv, Israel and had not yet been reported in the media. (In fact, several hours earlier, a suicide bombing occurred in Tel Aviv during which five individuals were killed and over 50 individuals were injured.)

4. Acting at the direction of FBI agents, CI1 suggested a meeting between Al-Moayad and CI2. Al-Moayad suggested Frankfurt, Germany as the location for the meeting and advised that he would bring his secretary, the defendant MOHAMMED MOHSEN YAHYA ZAYED.

5. On January 7, 2003, the defendant MOHAMMED MOHSEN YAHYA ZAYED and Mohammed Al-Moayad arrived in Frankfurt, Germany. On the previous day, CI1 had a telephone conversation, which was not recorded, with the defendant MOHAMMED MOHSEN YAHYA ZAYED, in which the defendant told CI1 that Al-Moayad and the defendant almost cancelled their trip because of an incident that had occurred in Frankfurt on January 5, 2003, during which the pilot of a small airplane threatened to fly into a building,

but that Al-Moayad thought the meeting in Frankfurt was too important.

6. On January 7, 2003, Al-Moayad and the defendant MOHAMMED MOHSEN YAHYA ZAYED met CI2 (who was introduced by CI1) and the four men went to dinner. At the direction of the FBI agents, CI1 and CI2 did not discuss the purpose of their trip and the meeting in Frankfurt at the dinner.

7. On January 8, 2003 the defendant MOHAMMED MOHSEN YAHYA ZAYED, Al-Moayad, CI1 and CI2, had breakfast together and then met in CI2's hotel room to discuss business. During a two-hour meeting, which was both video and audio-taped, CI2 advised Al-Moayad that CI2 was interested in providing money to support the jihad against America and Zionist governments. Al-Moayad told CI2, in part and substance, that Al-Moayad had met with Usama bin Laden and discussed matters with bin Laden and that bin Laden says that Al-Moayad is his "sheikh" or spiritual leader. Al-Moayad also said that "jihad" was Al-Moayad's field and that he is connected to Hamas and has prior knowledge of Hamas activities. In response to a question by CI2, Al-Moayad said he would make inquiries as to whether CI2's men could train with Hamas fighters. Towards the end of the meeting, Al-Moayad said he would provide CI2 with names of people in the United States who could transfer money from CI2 to Al-Moayad. The

meeting concluded with the four men agreeing to meet again to continue their discussions.

8. During the January 8, 2003 meeting, CI2 and Al-Moayad were the primary speakers, with CI1 serving as a translator. The defendant MOHAMMED MOHSEN YAHYA ZAYED was present for the entire meeting and occasionally interjected in the conversation by prompting Al-Moayad's responses to questions from CI2. For example, at one point, when Al-Moayad was having difficulty remembering the name of one of his Hamas contacts, the defendant supplied the name. The defendant also nodded his head in apparent agreement to certain statements made during the meeting. At the outset of the meeting, the defendant questioned the presence of CI2's pager on the coffee table, appearing to express concern about the possibility of cameras and recording equipment in the room. At one point during the meeting, Al-Moayad said they should swear on the Quran that they will trust each other with respect to the matter of the money and keep it secret, remembering that Allah is watching. In response, all four men, including the defendant MOHAMMED MOHSEN YAHYA ZAYED, stood up and placed their hands on the Quran. At another point during the meeting, Al-Moayad pointed to ZAYED and told CI2 that money could be sent through "Mohammed."

9. In the evening of January 8, 2003, CI1 met with Al-Moayad and the defendant MOHAMMED MOHSEN YAHYA ZAYED in a hotel

room. During that meeting, which was video- and audio-recorded, the three men discussed the use of codes when speaking with each other on the telephone.

10. On January 9, 2003, the defendant MOHAMMED MOHSEN YAHYA ZAYED and Al-Moayad again met with CI1 and CI2. During this conversation, which was video- and audio-recorded, CI2 asked Al-Moayad to identify the group or groups to which CI2's money would go, specifically whether CI2's money would go to al Qaeda, Hamas or other groups. Al-Moayad responded that the money would be used to support the mujahideen fighters of both al Qaeda and Hamas. CI2 asked what the defendant MOHAMMED MOHSEN YAHYA ZAYED's role was and whether he was someone CI2 could deal with directly if something happened to Al-Moayad. Al-Moayad responded that the defendant was someone he trusted. CI2 asked ZAYED directly if CI2 gave ZAYED his (CI2's) money, would ZAYED give it to the people to whom CI2 wanted it to go. The defendant swore to Allah that he would. Later in the meeting, ZAYED suggested that possibly arrangements could be made with members of Hamas to allow CI2 to send money directly to Hamas.

11. Over the course of the meetings in Germany, Al-Moayad reiterated to CI1 that individuals in Brooklyn could be used to facilitate the transfer of money to Al-Moayad.

WHEREFORE, your affiant respectfully requests that an arrest warrant be issued for MOHAMMED MOHSEN YAHYA ZAYED so that he may be dealt with according to law, and that this Affidavit and the arrest warrant be sealed to prevent the flight of the defendant and any co-conspirators and the destruction of evidence, except that disclosure may be made by the United States to German authorities, as necessary, for purposes of executing the provisional arrest and extradition of the defendant.

ROBERT FULLER
Federal Bureau of
Investigation

Sworn to before me this
9th day of January, 2003

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK