

16

**FILED**

**JUN 26 2008**

**CLERK'S OFFICE  
U. S. DISTRICT COURT  
EASTERN MICHIGAN**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

v.

No. 2:08-Cr-20223  
Hon. Baffan

MOHAMAD FOUAD ABDALLAH,  
\_\_\_\_\_ /

OFFENSE:  
COUNT 1:  
18 U.S.C. §245(b)(2)(C) - Interference with  
Federally Protected Activity

Statutory Maximum Penalties:  
One year imprisonment and  
\$100,000 fine

**RULE 11 PLEA AGREEMENT**

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, Mohamad Fouad Abdallah, defendant, and the United States agree as follows:

**1. GUILTY PLEA**

**A. Count of Conviction**

Defendant will enter a plea of guilty to **Count 1** of the Information, which charges interference with federally protected activities, in violation of 18 U.S.C. §245(b)(2)(C), for which the penalty is up to one year in prison and a fine not to exceed \$100,000.

**B. Elements of the Offense**

The elements of Interference with Federally Protected Activities (18 U.S.C. §245(b)(2)(C)), as charged in Count 1 of the Information, are : 1) defendant used force or the threat of force; (2) defendant willfully injured, intimidated, or interfered with a person, or attempted to do so; (3) defendant acted because of the victim's religion; and (4) defendant acted because the victim was engaged in the federally-protected right of enjoying employment by a private employer.

**C. Factual Basis for Guilty Plea**

The following facts, which defendant agrees are true, provide a sufficient and accurate basis for defendant's guilty plea:

On or about August 22, 2006, defendant MOHAMAD FOUAD ABDALLAH sent two back-to-back e-mail messages to D.S., a Jewish woman who, as part of her employment, writes, blogs, and speaks on topics that include Arab-American and Muslim affairs. The first e-mail message stated:

HEY WHITE BITCH JEW.FUCK YOU.HEZBOLAAH IS AWESOME.WE WILL NEVER DIE BITCH.WERE GONNA BLOW YOU UP. (sic)

The second e-mail message, sent less than one minute after the first one, stated:

FUCK YOU AND YOU WILL SOON BE RAPED AND WILL DIE.

Defendant sent these e-mail messages to D.S. in reaction to an article posted on D.S.'s website about two Arab men.

2. **SENTENCING GUIDELINES**

A. **Standard of Proof**

The Court will find sentencing factors by a preponderance of the evidence.

B. **Agreed Guideline Range**

There are no sentencing guideline disputes. The parties agree that defendant's guideline sentence, before the application of any potential downward departure pursuant to Chapter 5, Part K of the U.S.S.G., is 12 months, as set forth in the attached worksheets. If the Court finds:

a) that defendant's criminal history category is higher than reflected on the attached worksheets, or

b) that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from his probation officer; otherwise demonstrated a lack of acceptance of responsibility for his offense(s); or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than 12 months, the higher guideline range becomes the agreed range. However, if the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does *not* authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is inconsistent with any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections a) and b), above.

3. **SENTENCE**

The Court will impose a sentence pursuant to 18 U.S.C. §3553, and in doing so must consider the sentencing guideline range. This agreement does not preclude either party from arguing at sentencing the factors set forth in 18 U.S.C. §3553.

A. **Imprisonment**

Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the sentence of imprisonment in this case may not exceed the top of the sentencing guideline range as determined by Paragraph 2B.

B. **Supervised Release**

The Court may impose a one-year term of supervised release on Count 1. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

C. **Special Assessment**

Defendant will pay a special assessment of **\$25** and must provide the government with a receipt for the payment before sentence is imposed.

D. **Fine**

The Court may impose a fine in any amount between **\$3,000** and **\$30,000**.

**E. Restitution**

The Court shall order restitution to every identifiable victim of defendant's offense. There is no agreement on restitution. The Court will determine who the victims are and the amounts of restitution they are owed.

**5. OTHER CHARGES**

If the Court accepts this agreement, the government will not bring additional charges against defendant based on any of the conduct reflected in the attached worksheets.

**6. EACH PARTY'S RIGHT TO WITHDRAW FROM THIS AGREEMENT**

The United States may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B.

Defendant may withdraw from this agreement, and may withdraw his guilty plea, if the Court decides to impose a sentence higher than the maximum allowed by Part 3. This is the only reason for which defendant may withdraw from this agreement. The Court shall advise defendant that if he does not withdraw his guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Part 3.

**7. RIGHT TO APPEAL**

If the sentence imposed does not exceed the maximum allowed by Part 3 of this agreement, defendant waives any right he has to appeal his conviction or sentence. The government agrees not to appeal any sentence imposed that is within the guideline range determined by Paragraph 2B, but

retains the right to appeal any sentence below that range.

**8. CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA OR VACATION OF CONVICTION**

If defendant is allowed to withdraw his guilty plea, or if any conviction entered pursuant to this agreement is vacated, the government may pursue any charges that were not pursued as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing him to withdraw his guilty plea becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea or to any conduct reflected in the attached worksheets, defendant waives his right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

**9. PARTIES TO PLEA AGREEMENT**

Unless otherwise indicated, this agreement does not bind any government agency except the Civil Rights Division of the United States Department of Justice. The United States Attorney's Office for the Eastern District of Michigan recused itself from this case.

**10. SCOPE OF PLEA AGREEMENT**

This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. It supersedes all other promises, representations, understandings, and agreements between the parties concerning the subject matter of this plea agreement that are made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the

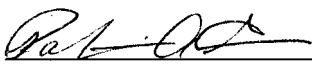
government to defendant or to the attorney for defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

This agreement does not prevent any civil or administrative actions against defendant, or any forfeiture claim against any property, by the United States or any other party.

11. **ACCEPTANCE OF AGREEMENT BY DEFENDANT**

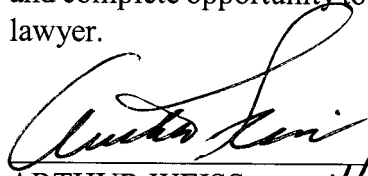
This plea offer expires unless it has been received, fully signed, at the United States Department of Justice, Civil Rights Division, Criminal Section by 5:00 p.m. on April 25, 2008. The United States reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

GRACE CHUNG BECKER  
*Acting Assistant Attorney General*  
*Civil Rights Division*

By:   
\_\_\_\_\_  
PATRICIA A. SUMNER  
*Trial Attorney*  
*Civil Rights Division*

Date: 4/20/08

By signing below, defendant acknowledges that he has read (or has had read to him) this entire document; that he understands it; and that he agrees to its terms. He also acknowledges that he is satisfied with his attorney's advice and representation. Defendant agrees that he has had a full and complete opportunity to confer with his lawyer, and has had all of his questions answered by his lawyer.

  
ARTHUR WEISS 4/29/08  
*Attorney for Defendant*

  
MOHAMAD FOUAD ABDALLAH  
*Defendant*

Date: 5/7/08



# Worksheet A (Offense Level)

Defendant Mohamad Fouad Abdallah District/Office E.D. Mich.

Docket Number (Year-Sequence-Defendant No.) \_\_\_\_\_

Count Number(s) 1 U.S. Code Title & Section 18 : USC § 245(b)(2)(C)

Guidelines Manual Edition Used: 2007 (NOTE: worksheets keyed to the Manual effective November 1, 2007)

**Instructions:**

For each count of conviction (or stipulated offense), complete a separate Worksheet A. Exception: Use only a single Worksheet A where the offense level for a group of closely related counts is based primarily on aggregate value or quantity (see §3D1.2(d)) or where a count of conspiracy, solicitation, or attempt is grouped with a substantive count that was the sole object of the conspiracy, solicitation, or attempt (see §3D1.2(a) and (b)).

**1. Offense Level** (See Chapter Two)

Enter the applicable base offense level and any specific offense characteristics from Chapter Two and explain the bases for these determinations. Enter the sum in the box provided.

Guideline	Description	Level
<u>§2A1.1(a)(1)</u>	<u>Offense guideline applicable to underlying offense - §2A6.1</u>	<u>12</u>
Sum		12

**2. Victim-Related Adjustments** (See Chapter Three, Part A)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable enter "0."

§3A1.1 3

**3. Role in the Offense Adjustments** (See Chapter Three, Part B)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If the adjustment reduces the offense level, enter a minus (-) sign in front of the adjustment. If no adjustment is applicable, enter "0."

\$ \_\_\_\_\_ 0

**4. Obstruction Adjustments** (See Chapter Three, Part C)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable, enter "0."

\$ \_\_\_\_\_ 0

**5. Adjusted Offense Level**

Enter the sum of Items 1-4. If this worksheet does not cover all counts of conviction or stipulated offenses, complete Worksheet B. Otherwise, enter this result on Worksheet D, Item 1.

15

Check if the defendant is convicted of a single count. In such case, Worksheet B need not be completed.

If the defendant has no criminal history, enter criminal history "I" here and on Item 4, Worksheet D. In such case, Worksheet C need not be completed.

# Worksheet B

## (Multiple Counts or Stipulation to Additional Offenses)

Defendant \_\_\_\_\_

Docket Number \_\_\_\_\_

**Instructions**

**Step 1:** Determine if any of the counts group. (Note: All, some, or none of the counts may group. Some of the counts may have already been grouped in the application under Worksheet A, specifically, (1) counts grouped under §3D1.2(d), or (2) a count charging conspiracy, solicitation, or attempt that is grouped with the substantive count of conviction (see §3D1.2(a)). Explain the reasons for grouping:

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**Step 2:** Using the box(es) provided below, for each group of closely related counts, enter the highest adjusted offense level from the various "A" Worksheets (Item 5) that comprise the group (see §3D1.3). (Note: A "group" may consist of a single count that has not grouped with any other count. In those instances, the offense level for the group will be the adjusted offense level for the single count.)

**Step 3:** Enter the number of units to be assigned to each group (see §3D1.4) as follows:

- One unit (1) for the group of closely related counts with the highest offense level
- An additional unit (1) for each group that is equally serious or 1 to 4 levels less serious
- An additional half unit (1/2) for each group that is 5 to 8 levels less serious
- No increase in units for groups that are 9 or more levels less serious

<p>1. <b>Adjusted Offense Level for the First Group of Closely Related Counts</b>                  Count number(s): _____</p>	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>	(unit)						
<p>2. <b>Adjusted Offense Level for the Second Group of Closely Related Counts</b>                  Count number(s): _____</p>	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>	(unit)						
<p>3. <b>Adjusted Offense Level for the Third Group of Closely Related Counts</b>                  Count number(s): _____</p>	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>	(unit)						
<p>4. <b>Adjusted Offense Level for the Fourth Group of Closely Related Counts</b>                  Count number(s): _____</p>	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>	(unit)						
<p>5. <b>Adjusted Offense Level for the Fifth Group of Closely Related Counts</b>                  Count number(s): _____</p>	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>	(unit)						
<p>6. <b>Total Units</b></p>	_____	(total units)						
<p>7. <b>Increase in Offense Level Based on Total Units (See §3D1.4)</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">1 unit: no increase</td> <td style="width: 33%;">2 1/2 - 3 units: add 3 levels</td> </tr> <tr> <td>1 1/2 units: add 1 level</td> <td>3 1/2 - 5 units: add 4 levels</td> </tr> <tr> <td>2 units: add 2 levels</td> <td>More than 5 units: add 5 levels</td> </tr> </table>	1 unit: no increase	2 1/2 - 3 units: add 3 levels	1 1/2 units: add 1 level	3 1/2 - 5 units: add 4 levels	2 units: add 2 levels	More than 5 units: add 5 levels	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>	
1 unit: no increase	2 1/2 - 3 units: add 3 levels							
1 1/2 units: add 1 level	3 1/2 - 5 units: add 4 levels							
2 units: add 2 levels	More than 5 units: add 5 levels							
<p>8. <b>Highest of the Adjusted Offense Levels from Items 1-5 Above</b></p>	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>							
<p>9. <b>Combined Adjusted Offense Level (See §3D1.4)</b>                  Enter the sum of Items 7 and 8 here and on Worksheet D, Item 1.</p>	<input style="width: 50px; height: 30px; border: 1px solid black;" type="text"/>							



# Worksheet C

Defendant \_\_\_\_\_ Docket Number \_\_\_\_\_

5. 2 Points if the defendant committed the instant offense while under any criminal justice sentence (e.g., probation, parole, supervised release, imprisonment, work release, escape status). (See §§4A1.1(d) and 4A1.2.) List the type of control and identify the sentence from which control resulted. Otherwise, enter 0 Points.

6. 2 Points if the defendant committed the instant offense LESS THAN 2 YEARS after release from imprisonment on a sentence counted under §4A1.1(a) or (b), or while in imprisonment or escape status on such a sentence. However, enter only 1 Point for this item if 2 points were added at Item 5 under §4A1.1(d). (See §§4A1.1(e) and 4A1.2.) List the date of release and identify the sentence from which release resulted. Otherwise, enter 0 Points.

7. 1 Point for each prior sentence resulting from a conviction of a crime of violence that did not receive any points under §4A1.1(a), (b), or (c) because such sentence was counted as a single sentence which also included another sentence resulting from a conviction for a crime of violence. (See §§4A1.1(f) and 4A1.2.) Identify the crimes of violence and briefly explain why the cases are considered a single sentence. Otherwise, enter 0 Points.

Note: A maximum sum of 3 Points may be given for Item 7.

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8. **Total Criminal History Points** (Sum of Items 4-7)

9. **Criminal History Category** (Enter here and on Worksheet D, Item 4)

<u>Total Points</u>	<u>Criminal History Category</u>
0-1	I
2-3	II
4-6	III
7-9	IV
10-12	V
13 or more	VI

# Worksheet D (Guideline Worksheet)

Defendant Mohamad Fouad Abdallah District E. D. Mich.

Docket Number \_\_\_\_\_

1. **Adjusted Offense Level** (From Worksheet A or B)  
 If Worksheet B is required, enter the result from Worksheet B, Item 9.  
 Otherwise, enter the result from Worksheet A, Item 5.

15

2. **Acceptance of Responsibility** (See Chapter Three, Part E)  
 Enter the applicable reduction of 2 or 3 levels. If no adjustment is applicable, enter "0".

- 2

3. **Offense Level Total** (Item 1 less Item 2)

13

4. **Criminal History Category** (From Worksheet C)  
 Enter the result from Worksheet C, Item 9.

I

5. **Terrorism/Career Offender/Criminal Livelihood/Armed Career Criminal/Repeat and Dangerous Sex Offender** (see Chapter Three, Part A, and Chapter Four, Part B)

a. Offense Level Total

If the provision for Career Offender (§4B1.1), Criminal Livelihood (§4B1.3), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in an offense level total higher than Item 3, enter the offense level total. Otherwise, enter "N/A."

b. Criminal History Category

If the provision for Terrorism (§3A1.4), Career Offender (§4B1.1), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in a criminal history category higher than Item 4, enter the applicable criminal history category. Otherwise, enter "N/A."

6. **Guideline Range from Sentencing Table**  
 Enter the applicable guideline range from Chapter Five, Part A.

12-18 Months

7. **Restricted Guideline Range** (See Chapter Five, Part G)  
 If the statutorily authorized maximum sentence or the statutorily required minimum sentence restricts the guideline range (Item 6) (see §§5G1.1 and 5G1.2), enter either the restricted guideline range or any statutory maximum or minimum penalty that would modify the guideline range. Otherwise, enter "N/A."

12 Months

Check this box if §5C1.2 (Limitation on Applicability of Statutory Minimum Penalties in Certain Cases) is applicable.

8. **Undischarged Term of Imprisonment** (See §5G1.3)

If the defendant is subject to an undischarged term of imprisonment, check this box and list the undischarged term(s) below.

\_\_\_\_\_  
 \_\_\_\_\_

# Worksheet D

Defendant Mohamad Fouad Abdallah Docket Number \_\_\_\_\_

9. **Sentencing Options** (Check the applicable box that corresponds to the Guideline Range entered in Item 6 or Item 7, if applicable.)  
(See Chapter Five, Sentencing Table)

Zone A If checked, the following options are available (see §5B1.1):

Fine (See §5E1.2(a))

"Straight" Probation

Imprisonment

Zone B If checked, the minimum term may be satisfied by:

Imprisonment

Imprisonment of at least one month plus supervised release with a condition that substitutes community confinement or home detention for imprisonment (see §5C1.1(c)(2))

Probation with a condition that substitutes intermittent confinement, community confinement, or home detention for imprisonment (see §5B1.1(a)(2) and §5C1.1(c)(3))

Zone C If checked, the minimum term may be satisfied by:

Imprisonment

Imprisonment of at least one-half of the minimum term plus supervised release with a condition that substitutes community confinement or home detention for imprisonment (see §5C1.1(d)(2))

Zone D If checked, the minimum term shall be satisfied by a sentence of imprisonment (see §5C1.1(f))

10. **Length of Term of Probation** (See §5B1.2)

If probation is imposed, the guideline for the length of such term of probation is: (Check applicable box)

At least one year, but not more than five years if the offense level total is 6 or more

No more than three years if the offense level total is 5 or less

11. **Conditions of Probation** (See §5B1.3)

List any mandatory conditions ((a)(1)-(10)), standard conditions ((c)(1)-(14)), and any other special conditions that may be applicable:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Worksheet D

Defendant Mohamed Fouad Abdallah

Docket Number \_\_\_\_\_

**12. Supervised Release** (See §§5D1.1 and 5D1.2)

a. A term of supervised release is: (Check applicable box)

- Required because a term of imprisonment of more than one year is to be imposed or if required by statute
- Authorized but not required because a term of imprisonment of one year or less is to be imposed

b. Length of Term (Guideline Range of Supervised Release): (Check applicable box)

- Class A or B Felony: Three to Five Year Term
- Class C or D Felony: Two to Three Year Term
- Class E Felony or Class A Misdemeanor: One Year Term

c. Restricted Guideline Range of Supervision Release

- If a statutorily required term of supervised release impacts the guideline range, check this box and enter the required term: \_\_\_\_\_

**13. Conditions of Supervised Release** (See §5D1.3)

List any mandatory conditions ((a)(1)-(8)), standard conditions ((c)(1)-(15)), and any other special conditions that may be applicable: \_\_\_\_\_

**14. Restitution** (See §5E1.1)

- a. If restitution is applicable, enter the amount. Otherwise enter "N/A" and the reason: \_\_\_\_\_
- b. Enter whether restitution is statutorily mandatory or discretionary: \_\_\_\_\_
- c. Enter whether restitution is by an order of restitution or solely as a condition of supervision. Enter the authorizing statute: \_\_\_\_\_

**15. Fines** (Guideline Range of Fines for Individual Defendants) (See §5E1.2)

- |   | <u>Minimum</u>  | <u>Maximum</u>   |
|---|-----------------|------------------|
| a. Special fine provisions  |                 |                  |
| <input type="checkbox"/> Check box if any of the counts of conviction is for a statute with a special fine provision. (This does not include the general fine provisions of 18 USC § 3571(b)(2), (d)) |                 |                  |
| Enter the sum of statutory maximum fines for all such counts  |                 | \$ _____         |
| b. Fine Table (§5E1.2(c)(3))  |                 |                  |
| Enter the minimum and maximum fines   | \$ <u>3,000</u> | \$ <u>30,000</u> |
| c. Guideline Range of Fines (determined by the minimum of the fine table (Item 15(b)) and the greater maximum above (Item 15(a) or 15(b)))  | \$ <u>3,000</u> | \$ <u>30,000</u> |
| d. Ability to Pay   |                 |                  |
| <input type="checkbox"/> Check this box if the defendant does not have an ability to pay.   |                 |                  |

