

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 91-504 (EGS)
)	
ZAID HASSAN ABD LATIF SAFARINI,)	
also known as MUSTAFA HASSAN)	
SAID BOMER,)	
also known as MUSTAFA,)	
)	
Defendant.)	
_____)	

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America respectfully submits the following sentencing memorandum in the above-referenced case.

Introduction

The defendant’s acts of terror took place more than 17 years ago, but they are not forgotten. The victims of the defendant’s acts of terror will never forget. The United States government has not forgotten. The defendant was released from jail in Pakistan after serving only 15 years, less than one year for every life that he took aboard Pan Am Flight 73. Now, at last, justice will be done.

The horror that the defendant created aboard Pan Am Flight 73 defies adequate description. The defendant has admitted guilt to a detailed proffer of facts and those facts will be summarized below. No mere recitation of facts, however, can ever accurately convey the carnage experienced by those people on board Flight 73. It is only by reading the numerous victim impact statements submitted to the Court that one can begin to gain some sense of the dimension of the atrocity caused by the defendant and some sense of the tremendous breadth and

scope of the damage the defendant inflicted on so many lives.

From the time this defendant was brought into the custody of the United States, the government has consistently asserted that the appropriate punishment for this defendant is the death penalty. This Court, however, ruled that the death penalty is not legally available in this case. The government promptly filed a motion for reconsideration, urging this Court to change its ruling.

The plea agreement in this case reflects both the seriousness of this horrific crime and the reality of the legal landscape in light of this Court's ruling. The government agreed to the only plea that could possibly be appropriate under these circumstances – an admission of guilt to all 95 counts of the superseding indictment and an agreement to the maximum sentence (other than death) on all 95 counts. The total agreed-upon sentence is three consecutive life terms plus 25 years, equivalent to a sentence of 160 years in prison. Given that there was no sentence of “life without parole” under the federal law in effect at the time of this hijacking, and given that the Court has ruled that the death penalty is not legally available, then the plea agreement reached between the government and the defendant metes out the maximum punishment available in this case.

Significantly, the government has also secured the benefit of the defendant's cooperation should any of his accomplices come into United States custody. Further, the plea agreement has given the victims of this terrorist act an opportunity to pay tribute to their lost loved ones and to give voice to their own pain, rather than subject them to the rigors of an adversarial proceeding and years of litigation and uncertainty about the death penalty issue.

Finally, the government has done everything in its power to assure that defendant Safarini

will never be released on parole. We have asked the victims to go through the painful process of expressing their grief and their trauma in written victim impact statements, not only to provide this Court with a basis to determine that the plea is appropriate, but also to create a record that will be passed on to the Parole Commission so that it will never decide to release this defendant on parole. The government has similarly gone to the effort of obtaining from Malta the police and court records of the murder the defendant committed there in 1981 and his escape from prison in 1982, so that this Court and later the U.S. Parole Commission will know what type of history this defendant had even before he murdered and maimed so many aboard Flight 73. In light of this record, the government asks this Court to impose the sentence agreed upon by the parties and to make the strongest recommendation possible to the Parole Commission that this defendant never be released on parole.¹

Summary of the Facts

The Takeover of the Aircraft

On September 5, 1986, four armed men, led by defendant Safarini, seized and took control of Pan Am Flight 73 as the aircraft was boarding passengers on the tarmac in Karachi,

¹ Under the law governing parole in effect at the time of this offense, in making its parole determination, the Parole Commission should consider, among other factors: “official reports of the prisoner’s prior criminal record”; “presentence investigation reports”; **recommendations regarding the prisoner’s parole made at the time of sentencing by the sentencing judge**; and “a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim” 18 U.S.C. § 4206 (1986) (emphasis added).

Pakistan.² The flight had originated in Bombay, India, and it had stopped in Karachi en route to Frankfurt, West Germany, and was then scheduled to fly New York. At the time the hijackers seized control of the aircraft there were approximately 379 passengers and crew, including approximately 78 United States citizens, on board. Defendant Safarini and his fellow hijackers were dressed as Karachi airport security guards and armed with assault rifles, pistols, grenades and plastic explosive belts.

At approximately 6:00 a.m., local time, defendant Safarini drove a van that had been modified to look like an airport security vehicle through a security checkpoint at the Karachi airport, without challenge, and drove up to one of the two stairways being used to board passengers for Pan Am Flight 73. His three fellow hijackers were passengers in that van. Defendant Safarini and one of his fellow hijackers boarded the plane via the forward stairway, while the two other hijackers boarded the plane via the rear stairway. At least one of the hijackers fired rounds from an automatic weapon while entering the aircraft. Defendant Safarini grabbed one of the passengers and then one of the flight attendants and demanded that other flight attendants close the forward door of the aircraft. Meanwhile, co-defendant Mansoor ordered a different flight attendant to close the rear door to the aircraft. When the flight attendant had trouble locking the door, co-defendant Mansoor fired several shots in her direction.

² Defendant Safarini's three accomplices in seizing the aircraft were (1) Jamal Saeed Abdul Rahim, also known as Fahad Ali Al-Jaseen, also known as Fahd Ali Al-Jassem, also known as Fahad, also known as Ismael (hereinafter referred to as "co-defendant Fahad"); (2) Muhammad Abdullah Khalil Hussain Ar-Rahayyal, also known as Khalil Antwan Kiwan, also known as Khalil, also known as Walid (hereinafter referred to as "co-defendant Khalil"); and (3) Muhammad Ahmed Al-Munawar, also known as Mansoor Al-Rashid, also known as Mansour Abdul Rahman Rashed, also known as Mansoor, also known as Ashraf Naeem (hereinafter

Eventually, the flight attendants were successful in complying with the hijackers' orders to close the doors of the aircraft.

While defendant Safarini and his fellow hijackers were taking control of the plane, some of the flight attendants alerted the cockpit crew by intercom, allowing the pilot, co-pilot and flight engineer to escape through a hatch in the cockpit before defendant Safarini and his fellow hijackers reached the cockpit, thereby effectively grounding the aircraft.

On board the aircraft, defendant Safarini dictated the movements of the passengers and crew. He instructed passengers to keep their hands up and heads down, a position they were forced to maintain for a substantial period of time. Throughout the hijacking, co-defendant Fahad primarily patrolled the upper deck and front cabin when defendant Safarini was elsewhere in the aircraft. Co-defendant Fahad kept various members of the flight crew from communicating with one another, and generally treated the passengers and crew roughly. He carried an automatic rifle in a sling and a grenade, and played with the grenade when the pin was pulled out. Co-defendant Khalil spent approximately the first three hours of the hijacking holding a gun and, at times, also a grenade to the head of one of the flight attendants in the rear of the aircraft. Co-defendants Mansoor and Khalil switched off guarding the rear sections of the aircraft. Both co-defendants Mansoor and Khalil were armed with handguns and grenades, and co-defendant Khalil also carried a knife with a large blade.

The Collection of Passports

Within a short time after seizing control of the aircraft, defendant Safarini ordered the flight attendants to collect the passports of passengers. The flight attendants complied with this

referred to as “co-defendant Mansoor”) (hereinafter collectively referred to as “the hijackers” or

request but surreptitiously declined to collect some of the United States passports and hid other United States passports from the hijackers. After the flight attendants had collected the passports, defendant Safarini instructed them to separate the American passports from the others and to bring the American passports to him. Defendant Safarini became visibly distraught after the only United States passports he received belonged to passengers who were of Indian or Pakistani origin or ancestry.

The Murder of Rajesh Kumar

After the passports had been collected, defendant Safarini walked through the cabin of the aircraft, asking passengers about their nationalities. When he arrived at the seat of Rajesh Kumar, a 29-year-old California resident who had recently been naturalized as an American citizen, Mr. Kumar responded that he was from India. Defendant Safarini ordered Mr. Kumar to come to the front of the aircraft, and Mr. Kumar complied. Defendant Safarini then ordered Mr. Kumar to kneel at the front doorway of the aircraft and face the front of the aircraft. Mr. Kumar had his hands behind his head and was bent over. He started to cry and told defendant Safarini that he was with his grandmother. Defendant Safarini kicked him and told him to shut up. Defendant Safarini then ordered a flight attendant to open the door of the aircraft, and defendant Safarini spoke with a Pan Am representative on the ground about getting a flight crew to fly the plane to Larnaca, Cyprus.

Approximately four hours into the hijacking, the Pan Am representative returned to the aircraft and told defendant Safarini that a cockpit crew was being flown in to Karachi. Defendant Safarini became angry about the delay and pulled Mr. Kumar by the scruff of the

as “defendant Safarini and his fellow hijackers”).

neck, threatening that he would shoot Mr. Kumar if something was not done within 15 minutes. Thereafter, defendant Safarini ordered the flight attendant to re-open the door to the aircraft. Defendant Safarini grabbed Mr. Kumar and put a pistol to his head. Once the door was open, defendant Safarini shot Mr. Kumar in the head in front of witnesses both on and off the aircraft. He then kicked Mr. Kumar in the bottom, heaved him out of the door onto the tarmac below, threw the gun out after Mr. Kumar and pulled the door shut. Pakistani personnel on the tarmac reported that Mr. Kumar was still breathing when he was placed in an ambulance, but he was pronounced dead shortly after arriving at a hospital in Karachi.

Threats, Demands and Negotiations

Following the murder of Mr. Kumar, defendant Safarini threatened to kill another passenger every ten minutes if his demands were not met. On board the plane, defendant Safarini selected another passenger to come forward. That passenger began to pray to Allah and when defendant Safarini satisfied himself that the passenger was a Muslim, he allowed him to return to his seat. Defendant Safarini then called forward another passenger who was a British citizen and who spent much of the rest of the hijacking kneeling in the front of the aircraft, certain that he would be the next passenger to be killed by defendant Safarini.

Defendant Safarini demanded that communications be established with the Pakistani authorities, but he did not know how to operate the cockpit radio. Eventually, Meherjee Kharas, a Pan Am maintenance employee who had been trapped on board the plane when it was seized, was enlisted to operate the radio for the defendant. Throughout the remainder of the day, defendant Safarini continued to demand the return of a flight crew to fly the aircraft to Larnaca, Cyprus, where Safarini and his co-defendants wanted to secure the release of Palestinian

prisoners being detained in Cyprus. During the cockpit to tower negotiations, defendant Safarini threatened to kill all of the passengers, stated that he possessed enough bombs to blow up the plane and all of its occupants, and said that the hijackers were carrying machine guns capable of killing a large number of people. He stated that he was the leader of the operation. He repeatedly turned down the pleas of the Pakistani authorities to release the women and children and certain passengers who were identified as being in poor health. These negotiations were conducted in Arabic and were tape recorded. A translation of the complete cockpit-to-tower negotiations can be found at Attachment A (also provided to the Court previously). These tape-recorded statements provide probably the most compelling evidence of defendant Safarini's state of mind during this horrific incident and his undisputed leadership role during the hijacking. Below are some representative excerpts from the taped statements made by defendant Safarini during the negotiations:

* * * If ever I discover that a trick or ruse is being planned, I will kill all the passengers. I possess enough bombs to blow up the plane, and all of its occupants. I will not show mercy to anyone in the plane if I felt that you are preparing a trick or attempting a deceitful act. Secondly, we are a group of commandos carrying out this task with full conviction. Our principles are clear. We are doing it for our usurped homeland. Do you hear me well? Therefore, we are suicidal. We are on our way to release some of our imprisoned friends. However, if we sense that there is any kind of deception, we will not hesitate to blow up the plane absolutely. We will blow it up. * * * We will not spare anybody in the plane, whether young or old if you do not cooperate. We will not leave anyone. We will kill all of them. * * * I am the leader of this operation. When the captain comes to the plane I will immediately release the children and the women. * * * However, if the captain does not come and if I feel that you are attempting to deceive or to play a trick and prepare a deception I will blow up the plane. We are carrying explosive sticks on our bodies and we are carrying machine guns capable of killing a large number which is something we do not wish to do. However, if we

are forced to do that and we felt there is deception then we will kill all the passengers and ourselves also. * * * And also if I felt there are American forces around the plane or their rapid deployment forces from anyplace, then again I will immediately blow up the plane. * * *

* * *

* * * There are many Muslim passengers on the plane. In the beginning I believed that the passengers will be all Americans or Zionists. But it turned out there are a large number of Pakistani Muslim and others on the plane. I do not want to harm any one of them. And when I did harm one of them a short while ago that was because I felt that they were playing games with me. They are telling me they don't know where the captain is and that he's not in the airport. I know that the captain fled the aircraft and I was not able to catch him. Now I have a group with me and later on you will know to what this group belongs to. We do not bargain. We do not seek a truce, we do not negotiate. Our principles and goals are clear. Now I do not want to kill the Muslims who are on board the plane. But I will repeat it for the last time, that if I feel that someone is playing games then I will kill all the people on the plane including ourselves. We are suicidal and capable of blowing ourselves up at any moment. We are carrying bombs on our bodies. Also explosives sticks in addition to hand grenades and machine guns. We are capable of blowing up the plane. We have now planted the entire plane with mines and we can by pushing a button blow up the plane. * * * I will kill all of them, and I will not show mercy toward any one of them if I felt the government is tricking me. * * * I will kill all including the children, old people, the women, young and old. * * * We are merciless people. We do not know tolerance. We have suffered a lot in our days. We have witnessed many tragedies in Lebanon and elsewhere. Therefore, it doesn't make any difference to us whether we die or live. On the contrary, we seek no more than death and martyrdom. * * *

* * *

* * * There will be many victims on the plane. The victims will be innocent children and women. Therefore if I sense that there is any kind of American approach or any kind of approach toward the plane, I will then blow up the plane and I will come out and fight them. I will not blow myself up, I will not blow myself up, I will fight them because they are my enemy. I will blow up the plane

and come out to fight them, I will not hesitate one moment to kill them until I die and become a Martyr. I will continue fighting them. The passengers will be the victims. * * *

Throughout the hijacking, defendant Safarini wore a wide belt around his waist, visible to the passengers and crew, consisting of the high explosive Semtex H. This explosive material had the capacity to destroy the entire aircraft if the belt had been detonated on board Pan Am flight 73.

The Final Massacre

The aircraft remained on the ground in Karachi throughout the day as negotiations between defendant Safarini and Pakistani government and Pan Am personnel continued. As the hours wore on and nightfall came, the lights on the aircraft began to dim and flicker. As the lights were fading, defendant Safarini told co-defendant Fahad that if commandos stormed the aircraft, co-defendant Fahad should shoot defendant Safarini.

Thereafter, at defendant Safarini's instruction, the hijackers herded the passengers and crew members into the center section of the aircraft, with some passengers literally on top of others. Defendant Safarini and co-defendant Fahad positioned themselves in front of the crowd of passengers in the right and left aisles, while co-defendants Khalil and Mansoor positioned themselves behind the crowd of passengers and crew in the right and left aisles. On defendant Safarini's signal, after the hijackers recited a martyrdom prayer in Arabic, and after the lights on the aircraft had gone out, the four hijackers opened fire on the assembled passengers and crew, throwing hand grenades into the crowd and spraying the trapped passengers with automatic weapons fire. In so doing, defendant Safarini and his fellow hijackers were attempting to kill as many passengers and crew members as possible. Defendant Safarini was shot by co-defendant

Fahad, as he had instructed. The shot did not hit nor detonate the explosives belt worn by defendant Safarini, as he had presumably intended.

Twenty identified passengers and crew were killed during this final deadly assault,³ including a second United States citizen, 50-year-old Surendra Patel, the father of three children, then ages 14, 12 and 7, two of whom were next to him on the aircraft when he was shot. The only reason that an even more catastrophic death count was avoided was that some of the passengers and flight attendants managed to force open two of the escape doors when the final barrage began, allowing many of those aboard to escape down an emergency chute or to run onto the wing of the aircraft. Many passengers and crew were forced to jump from the wing of the aircraft onto the tarmac in order to escape the hijackers. More than 100 passengers were injured or maimed.

Although there were claims, after the hijacking, by some Pakistani officials and by the hijackers that Pakistani “commandos” had raided the plane, in fact, to the contrary, as defendant Safarini admitted during his guilty plea, no Pakistani officials or commandos entered the plane until after the final deadly assault by the hijackers had ended and all passengers and crew who were physically able to evacuate themselves from the aircraft had done so.

Pakistani authorities arrested defendant Safarini’s three fellow hijackers on the grounds of the Karachi airport immediately following the final deadly assault as they were attempting to

³ At the time of the defendant’s plea proceeding, the government had death certificates identifying 20 people killed aboard Pan Am Flight 73, including Rajesh Kumar and 19 others during the final deadly assault. Since the plea proceeding, the government has identified the name of one additional Indian citizen who was killed on board the plane, bringing the total to 21 identified individuals. Newspaper accounts have frequently reported that 22

escape with fleeing passengers. Defendant Safarini was arrested a few hours later at a local hospital where he had been taken for medical treatment after being removed from the aircraft, still wearing the Semtex explosive belt around his waist. About one week later, Pakistani authorities arrested Wadoud Muhammad Hafiz Al-Turk, also known as Wadoud Muhammad Fahd Al-Turk, also known as Salman Ali El-Turki, also known as Sliman Ali El-Turki, also known as Bou Baker Muhammad (hereinafter referred to as “co-defendant Al-Turk”), as he was attempting to leave Pakistan.

The Defendant’s Background in the ANO

Defendant Safarini and his co-defendants committed the offenses charged in this case as members of the Abu Nidal Organization, also called the ANO, a foreign terrorist organization. The ANO, also known as the Fatah Revolutionary Council, Arab Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organization of Socialist Muslims, was founded by Sabri al-Banna, also known as Abu Nidal, in 1974. The ANO has mounted terrorist operations in 20 countries, killing about 300 people and wounding hundreds more. In the mid-1980s, the group was seen as the world’s most dangerous terrorist organization. Many of the group’s targets have been Israelis, PLO officials, and representatives of Arab governments it dislikes. Westerners were also targeted until the late 1980s. Among the group’s best-known attacks, prior to the hijacking of Pan Am Flight 73, were the hijacking of an EgyptAir flight, resulting in the death of 57 people in Malta in November 1985; attacks on the Rome and Vienna airports in December 1985, which killed 18 people and injured 111; and, in 1986, an attack on the Neve Shalom synagogue in Istanbul which killed 22 people. The ANO

people were killed, but the government has not to this point identified the name of any 22nd

wants the state of Israel to be eliminated, preferably through an international Arab revolution, and therefore supports “armed struggle” against Israel. It bitterly opposes Arab-Israeli peace negotiations, as well as the United States, the PLO, and moderate Arab regimes in Jordan, Egypt, and the Persian Gulf states. Iraq, Syria, and Libya have all harbored the group and given it training, logistical support, and funding, often using the ANO as guns for hire.

Defendant Safarini joined the ANO in 1979. By his own admission, he was aware that the ANO was widely viewed as an extremely violent organization. Defendant Safarini knew that ANO leaders traveled extensively, womanized and partied at discotheques, which was a lifestyle that was attractive to him. Between 1979 and 1986, defendant Safarini trained in ANO training camps in the use of weapons and explosives, among other things, and he served as a member of the organization, stationed at various times in Iraq, Lebanon and Syria.

Murder in Malta and Subsequent Escape

In 1981, defendant Safarini went on a mission to Malta for the ANO. His mission was to assassinate Abu Tarek, a PLO representative. Defendant Safarini made two trips to Malta in the spring of 1981 without finding his target. Then, on October 8, 1981, defendant Safarini saw a car that he believed belonged to his intended target. Defendant Safarini lay in waiting and, when he saw his target return to the car, defendant Safarini executed him with five shots, four to the chest and lung area. Safarini’s victim died of profuse hemorrhaging caused by the gunshot wounds. However, defendant Safarini was mistaken about whom he had killed. The man was actually Mohammed Ali Medhat Tamine, a 32-year-old Lebanese man – not the intended target.

Defendant Safarini fled the murder scene on foot, but he was chased by two Maltese

murder victim.

police officers, who caught him within about two blocks from the murder scene. Just prior to being caught, defendant Safarini dropped a plastic bag containing the murder weapon.

Defendant Safarini was taken to the police station, where he was advised that he was not obliged to answer any questions and that anything he said could be used against him as proof. Defendant Safarini then promptly confessed to the murder.

Eight months later, in June 1982, while he was still awaiting an adjudication of the charges against him in connection with the murder, defendant Safarini escaped from prison in Malta, along with another prisoner named Louis Bartolo. Defendant Safarini was aided by the ANO in this escape, as became clear when Bartolo later returned to Maltese authorities and gave a statement about the escape. Bartolo stated that defendant Safarini told him that if Safarini could succeed in getting a letter out of prison, “everything could be arranged, and that money would be no problem.” The defendant and Bartolo both wrote letters that were sent in one envelope addressed to a Post Office Box in Baghdad, Iraq. Bartolo stated that the letters contained a request for money to friends of the defendant in Iraq to be sent back to Malta to secure the prison escape. A return letter was sent to Malta which, according to Bartolo, indicated that everything requested would be provided.

Bartolo further stated that the Arab friends of the defendant sent him parcels containing a radio and items needed for the escape, and arranged for payment of money to a prison official involved in the escape plan. Bartolo also stated that, “to his surprise,” the parcel from “the Arabs” contained a Beretta gun 950S and 100 rounds of ammunition. Bartolo claimed that he did not ask for the gun, but he later learned that the defendant had asked for it. According to Bartolo, he and the defendant argued about the gun, since Bartolo did not want a gun to be used.

In his sworn statement to a Maltese Magistrate taken on July 25, 1987, Bartolo testified that he took four of the bullets and loaded them into the revolver, which was with him when he escaped.

Preparations for the Hijacking

Following his escape from jail in Malta, defendant Safarini returned to the ANO. In 1986, defendant Safarini, traveled to Damascus, Syria, where he met with an individual named Zuhair Rabaa, a leader of the ANO. Rabaa told defendant Safarini, "If you are ready to die for the cause, we have a mission." Defendant Safarini was informed that the ultimate goal of the mission, in addition to winning the release of Palestinian prisoners held in Cyprus and Israel, was to blow the plane up over Israel. This was to be the ANO's first suicide mission and was to demonstrate the ANO's commitment to the Palestinian cause. Rabaa provided defendant Safarini with passports and money for the hijacking mission through co-defendant Al-Turk

After meeting with Rabaa, defendant Safarini departed Syria and traveled to Bangkok, Thailand, where he stayed for approximately 10 days. On about August 8, 1986, defendant Safarini flew to Pakistan, using a falsified Bahraini passport. Safarini stayed in Karachi, Pakistan, at various hotels, using the false Bahraini passport as identification.

Co-defendant Al-Turk was a leader in the Special Missions Branch of the ANO and was a higher ranking member of the ANO than defendant Safarini. Co-defendant Al-Turk was responsible for providing the tactical and logistical plans for the mission to hijack Pan Am Flight 73. Co-defendant Al-Turk arrived in Pakistan on about July 22, 1986, ahead of the other team members, so that he could procure weapons and choose a target. To support the mission, co-defendant Al-Turk obtained and stashed weapons for the hijackers to use during the hijacking. Once defendant Safarini arrived in Karachi, he met with co-defendant Al-Turk at the Metropole

Hotel, where co-defendant Al-Turk provided the logistical and tactical plans for the operation to defendant Safarini, including the selection of Pan Am Flight 73 as the target. Defendant Safarini met with co-defendant Al-Turk numerous times throughout the period leading up to the hijacking.

The tactical plan which was related to defendant Safarini by co-defendant Al-Turk involved posing as Pakistani airport security guards. To accomplish this plan, co-defendant Al-Turk drove defendant Safarini to the Karachi airport in a rental car and showed defendant Safarini the gate where the hijackers were to gain entry to the tarmac. Defendant Safarini went to a local car rental agency in Karachi and rented a tan-colored Suzuki van that resembled the vehicles driven by security officials at the airport. Co-defendant Al-Turk took the rented van to a local mechanic and had it outfitted with a siren and other accessories to make it resemble even further an airport security van. Co-defendant Al-Turk also hired a local tailor to make three shirts for defendant Safarini and his fellow hijackers, to resemble the uniforms worn by Karachi airport security forces.

Co-defendants Fahad, Khalil and Mansoor arrived in Pakistan for the hijacking mission on about August 5, 1986. Co-defendant Al-Turk was in charge of hiding the hijackers in Karachi during the period leading up to the hijacking. Co-defendant Fahad had brought two explosives belts with him to Pakistan and provided one of them to defendant Safarini prior to the hijacking. On at least one occasion, co-defendant Fahad also accompanied defendant Safarini in conducting surveillance of the Karachi Airport in preparation for the hijacking.

On the morning of the hijacking, co-defendant Al-Turk accompanied defendant Safarini and his fellow hijackers to the Karachi Airport. Co-defendant Al-Turk collected the hijackers'

passports and extra money. Co-defendant Al-Turk later told defendant Safarini that, during the hijacking, he roamed the airport and tried unsuccessfully to get a flight to Tripoli, Libya.

The Defendant's Trial in Pakistan

At their joint trial in Pakistan, defendant Safarini, his three fellow hijackers and co-defendant Al-Turk, each of whom was represented by counsel, voluntarily submitted a 19-page statement to the Court, signed by each of them, in which the defendants admitted that they came to Pakistan to hijack an American airplane to draw the world's attention to the Palestinian cause. A copy of this joint statement can be found in Attachment B (also provided to the Court previously). The joint statement included the assertions that the aim of the hijackers was to fly the plane toward some "sensitive strategic centre of the Zionist enemy and to blow it there with us inside," and that they wanted to "destroy sensitive strategic centre of Zionists situated in Palestine through American weapon, i.e., explosion of American aeroplane," since they "wanted to strike at both enemies with one weapon at the same time." The joint statement expressed the disappointment of the hijackers that they had not achieved their goal of blowing up the aircraft over Palestine, stating that it was their "dream and desire to saturate the land of Palestine with our blood. That is why we planned to blow the plane over Palestine. No doubt, this time we failed but one day we will be successful."

Victim Impact Information

The defendant's actions on board Pan Am Flight 73 were nothing less than pure evil. Defendant has offered no explanation for his cold-blooded execution of the first American victim, Mr. Rajesh Kumar; for his repeated refusal to release the women, children, elderly and sick from the plane; or for the calculated massacre that he orchestrated and ordered against the

more than 380 hostages on board the aircraft. In undertaking this “mission,” defendant took the lives of at least 21 promising and accomplished people and irrevocably affected the lives of hundreds of others on board the aircraft, and countless family members who were not on board. The government respectfully submits to the Court a brief description of some of the victims of the defendant’s terrorist acts, so that the scope and magnitude of the crimes can be better appreciated.

The American Citizen Murder Victims of Pan Am Flight 73

Rajesh Kumar

Mr. Kumar was born on February 14, 1957, in Kenya. He was 29 years old at the time of his death. Although he had been born in Kenya, his family is Indian, originally from Surat in the western state of Gujarat in India. When Mr. Kumar was four years old, his family moved to England, and eventually to southern California in the United States. Many of his extended family members continue to live in India. Mr. Patel was married at the time of his death. Mr. Patel lived in southern California, at the time of his death, and had managed a motel with his father there. He then began working in real estate development and was an aspiring businessman.

Mr. Kumar had just become a United States citizen two months before the hijacking, and had been issued his United States passport on July 21, 1986. He was traveling on Pan Am Flight 73 with his 81-year-old grandmother, Kuverben Patel, and his aunt, both Indian nationals. He had been in India before this flight on his first overseas trip after achieving United States citizenship, and was escorting his grandmother back to the United States to celebrate his new citizenship. The passports of his grandmother and his aunt were found on his body when his

body was recovered from the tarmac. Mr. Kumar's grandmother was killed in the final assault by the hijackers on the aircraft, but his aunt survived. She passed away late in 2001.

Mr. Kumar had been one of three sons. His older brother had died at the age of 35 before the hijacking occurred. Within the past couple of years, Mr. Kumar's younger brother was also tragically killed in an automobile accident.

Mr. Kumar's first cousin submitted a victim impact statement on behalf of the family. He described Rajesh as "very humble and always looking for ways to serve the community." Rajesh's goals were "to be able to help his family in settling down any where they wanted." His cousin observed that Rajesh "was always the first to give a helping hand to others that deserved it. Looking for to help the weak as he alway[s] said." According to Mr. Kumar's cousin, in the time immediately following the hijacking, the family felt shock and anger, and Rajesh's parents were "under medication to help calm the shock." When asked how the hijacking has affected his beliefs and those of people close to him, Mr. Kumar's cousin expressed the following sentiment, "My immediate family has turned to God a lot more, and we live for the moment. Do not look to the future. One does not need to worry for tomorrow, because it may not come."

Surendra Manubhai Patel

Mr. Patel born on August 20, 1936, in India, and was 50 years old at the time of his death. He was married and had three children, all United States citizens: two daughters, ages 14 and 12, and a son, age 6 at the time of Mr. Patel's death. The family lived in southern California. Mr. Patel was the oldest of four sons in his family. He had a brother who lived in California, a brother who lived in Illinois and a brother who lived in England. His parents and other relatives lived in England. Extended family lived in India. Mr. Patel worked a number of jobs . He

worked for Arco as a computer programmer and was a manager. He also owned a video store and various rental properties. He did tax preparations. Additionally, he earned a Master's degree from the University of Southern California and taught business classes there. He enjoyed all types of sports, particularly football.

Mr. Patel was on Pan Am Flight 73 with his daughters, traveling home from a visit with relatives. They took an earlier flight than the one taken by his wife and son so that the girls would not miss the beginning of the school year in the United States. Mr. Patel's daughters were sitting next to him when he was killed. His younger daughter suffered a fractured skull as a result of a bullet that grazed her head during the final assault of the hijacking.

One of Mr. Patel's daughters submitted a victim impact statement in support of the sentencing of the defendant. In discussing the impact of the loss of her father to the family, she wrote:

. . . Growing up, the main thing I remember being different (other than not having my dad around, of course) was the change in my mom. She was required to take over all of the duties he had as our primary caretaker, while also being our mom. I remember seeing her struggling with how to deal with things, such as the rental properties and the video store my father owned and now had to manage. Due to this increase in her responsibilities, she wasn't around as much as she used to be when I got home from school.

* * *

While in high school and college, I often called myself a "substitute mom" for my little brother since I was usually tasked with taking him to his various team practices and games during the weekdays and on the weekends. Although I don't think my mom's additional work hours affected my upbringing, I have always felt that it made a huge impact on my brother. Not only didn't he have a father, he did not have a mom to come home to each day after school. . . .

* * *

The main area where I think the hijacking affected my life while growing up was

seeing the sadness in my mom's face every time a holiday or special occasion came around. For years she would cry at every holiday in remembrance of my father. She also cried at all of our graduations (junior high school, high school, college). While our family and friends were comforting her, they would always comment on how great my dad was and how everyone liked him. While I loved to hear people talk about him, it always made me very sad to hear that I had missed out on knowing such a wonderful person. I think that I will always feel this way.

Losing my father in the hijacking has made my relationship with my mom so important to me. I can't imagine not having her around in my life since she is the only parental figure I have had the past 20+ years (my grandparents have always lived in the UK and India). I rely on her to answer questions to the things I do not know, and I am constantly learning things from her. Because she is widowed, I am often concerned about her being lonely (both on a day-to-day basis any in the long-term). As a result, I continue to live with her even though I will be 30 this year. . . . I know that I don't have to worry about her, that I should live my own life, but I don't want her to be by herself the rest of her life. . .

The Non-American Citizen Murder Victims of Pan Am Flight 73

Although they are not specifically identified as victims charged in the superseding indictment, at least 19 other people were killed as a result of the final assault that Safarini and his co-defendants committed against the passengers and crew on board the aircraft. These victims include at least 14 Indian nationals, about some of whom we know little. At least seven of the victims have relatives living in the United States who are United States citizens. What we know about each victim is summarized below.

Kuverben Patel: an Indian citizen, grandmother of murder victim Rajesh Kumar, approximately 81 years old. Her grandson was escorting her and a daughter of hers to the United States from India.

Syed Nasar Ahmad: a Pakistani citizen, 43 years old. Mr. Ahmad was a legal permanent resident alien of the United States, having moved to the United States and Canada in 1965. He was married to a United States citizen and the father of a United States citizen who

was five years old at the time of his death. Mr. Ahmad was trained in philosophy in Pakistan, and after moving to North America, he received further training in philosophy, psychology, Islamic history and sociology. Mr. Ahmad was a researcher and sociologist who had taught at a number of colleges and universities in Pakistan and North America. He was traveling to New York on Pan Am 73 after attending the Eleventh World Congress of Sociology in New Delhi and presenting his dissertation submitted to the State University of New York at Binghamton in support of the degree of Doctor of Philosophy in Sociology, entitled “Origins of Muslim Consciousness in India, A World-System Perspective.” He had published numerous articles on third world development, the Middle East and South Asia before his death, and after his death, a book based on his dissertation was published. At the time of his death, Mr. Ahmad was a faculty member at Friends World College in Long Island, New York.

Kala Singh: a 36-year-old Indian citizen married to a United States citizen, returning from a trip to India with her husband and two of their four children, a 13-year-old daughter and an 8-year-old son. Both of the children are United States citizens. Mrs. Singh was an audiologist, had been a part-time teacher of audiology at Ohio University, and co-authored a major textbook on phonetics with her husband, “Principles and Practices of Phonetics.” She also assisted her husband with research and editing of other books and articles. Aside from her work in audiology, Mrs. Singh had opened, run and ultimately sold a thriving Indian boutique in the United States. After that sale, Mr. and Mrs. Singh started a book publishing company, College-Hill Press. They had just sold the company before embarking on their family trip to India in the summer of 1986 to show the children the parents’ ancestral roots.

After the hijacking, Mr. Singh wrote a 265-page manuscript entitled, “Death of a Lotus,”

which is a very personal account of his life with Kala Singh before the hijacking and of the family's life in the months after the murder of his wife. A copy of the manuscript was submitted to the Court as Mr. Singh's victim impact statement. His description of his wife's death on Pan Am Flight 73 during the final assault launched by the defendant is particularly poignant, capturing both the horror of the events and the relationship he had with her in life:

Kala was sitting slightly ahead and at an angle to me, and she was sitting tall. As I watched, both her hands reached out and folded in prayer. Who can tell all that she might have been thinking? I could think of nothing myself. We were beyond any maneuver that might have saved her life, although she saved both our children who were under her shield, crouching on the floor. I was not holding hands or saying, "I love you," or that, "I will see you in another life," or that, "We will be born again as lovers, no one can destroy our love." I wanted to say aloud a prayer about *Ganpati*, a Hindu god, but I was afraid the sound would attract an instant bullet. . . .

* * *

"Mommy, these are the last words you will ever hear. I love you." I knew we were all going to die. "Daddy, I love you. Didi [in Hindi, the older sister], I love you." These were [my son's] words, as he lay behind Kala, seconds before the shooting. His words froze Kala. Her head turned toward me. Her eyes were closed. . . .

The firing lasted about two minutes, and it was not continuous. They fired bursts, then stopped, then started up again. There were larger explosions of grenades, some of them fragmentation grenades. . . . One [piece of flying metal] hit [my daughter's] foot. Another grazed [my son's] head. And there was a great deal of smoke, the smoke that [my son] would remember months and months later in his nightmares. . . .

In his manuscript, Mr. Singh also described some of the lasting effects of the loss of his wife Kala on his children:

Both children wanted to sleep with me after we returned [home]. They were frightened to sleep in their own rooms, or even together. . . . They slept disturbed, tossing, turning, talking. In his sleep [my son] talked about the smoke that was in the airplane, and what happened after the shooting.

* * *

There was not a night when, after dinner, the children didn't become saddened and frightened just about the time they were ready to go to bed. . . . Now the children questioned all that is unquestionable for others. Our house could be demolished by earthquake, our car could be in an accident, a plane we rode in could crash, a bridge we crossed could collapse into the water. Normal sleep became a nightmare. Normal life was invaded by fear, even terror.

[My son] often said to me, "If I had one wish, do you know what it would be?" I always said, "Yes, I do, son." Then he said, with tear-filled eyes, and an averted face, "But I will never get that wish as long as I live!" [My son's] impressions of those last minutes of Flight 073 terrorized him daily. At someone's birthday party a balloon popped. He became frightened, and screamed and cried. He didn't want to hear explosions of any kind. He didn't want to play with a toy gun any more. He asked, "Who invented the gun? I wish he didn't invent it."

* * *

Remembering his mother is a problem for him, he told me. I ask him in what way. He said, "On the one hand, I want to remember Mommy in such a way that I can recall her in my mind any time I wish to. On the other hand, I don't want to remember her all the time, because that makes me sad."

* * *

Recently he made an elaborate painting. It was a reenactment of the hijacking scene, except this time he was in the driver's seat. He was part of an American military force with an arsenal of weapons surrounding a terrorist plane, which was up in the sky, but helplessly caught within shooting range.

* * *

[My daughter's] way of expressing her pain and anger was different. She woke up three and four times in a night, frightened about earthquakes. In long, involved trains of thought, she discussed with me the possibility of all of us perishing in a massive earthquake. I didn't say this was highly unlikely. She would have instantly responded, "Mother's death was also highly unlikely." The way she coped with our tragedy was a mystery to me. I wanted to see tears in her eyes But what I saw in reality was a fathomless emptiness, rejection of the world, negation of our surroundings, a disgust with where we lived, when we lived, how we lived, and why we lived. A sense of futility.

* * *

She looked pale, yet there was a dark shadow of sadness that overwhelmed her features. . . . Her smile was an expression of deep effort. There was nothing natural about her any longer.

* * *

Simple daily routine became difficult. She would wake and want to discuss clothing for the day with Mommy. Mommy wasn't there. She would want to go downstairs to the kitchen to discuss what [my son] should have for breakfast, as she had in the past. She started uncertainly down the steps. Halfway down she turned around and came back and sat down. She was looking but not finding.

* * *

A silent pain is more painful than a crying pain. [My daughter] chose to express by not expressing. . . . And yet with all this, she had some of her mother's strength. At midnight one night, when I couldn't sleep, I woke [my daughter] and wanted to talk to her. I took her head on my shoulder, but was asking her for help. That night, I was the child and she was the adult. . . .

* * *

[My daughter's] story of survival is harder to grasp. She has had the burden of growing from a little girl to a young lady, physically, intellectually, and emotionally, all at once. Not all of her has grown at the same speed or at the same time. She is constantly doing things, or talking about doing things. She talks about helping others. She is reading. She is writing. She is on the go. She reads three to four books a week. She reads to keep busy. She shops to keep busy. She talks to keep busy. She tries to be busy all the time, day and night. "Mommy was an active person," she says. "Mommy never sat still for a second. We should always be busy. We should always be dynamic rather than static, moving rather than sitting. Thinking, laughing, rejoicing – that's what Mommy was. That's what our lives were and that's how we should be." The way she puts it is eloquent, and if we could be like that it would be nice. But I am apprehensive that, in the depths of her psyche, there lies a strategy. She is coping with things differently than it might appear on the surface. . . .

Kala Singh's daughter, now grown, submitted a victim impact statement in which she described the devastating effect the loss of her mother had on the entire family:

After my mother's death my father became quite useless for a long period of time. His grief was, and is, insurmountable. It seemed to us that we would lose another parent from the sheer weight of his despair. My mother was, as

many mother's are, the nerve center of our home. In replacing her my father tried to hire a driver, cook, maid, sitter, accountant, etc... In the end he returned to us mentally and physically, chose to live well, and shouldered on. . . .

All of those people I counted on most were devastated by their loss. My maternal grandmother became an overnight whisper of a woman, her smile never again reached her eyes, and she could not be around my brother or me without crying indiscriminately. My uncles and aunts seemed perpetually saddened, and my family's closest friends continually lamented the loss of such a 'star'. While this continues to be a hard phenomenon to witness, it also has become simultaneously comforting and humbling to me that my mother lives on with such reverence and honor in their memories.

My personal experience of grief was postponed by the tremendous pressure of my father's sorrow and my brother's bewilderment. In the last year of college, while completing a thesis that entailed a tremendous amount of research and a minimal amount of sleep, I began to have horrific nightmares surrounding the loss of my mother. Never the hijacking, just my mother. * * * Years later, when first involved with my husband, I would awaken from sound sleep crying inconsolably as I relived the hijacking experience, noticing a different nuance each time. That also passed with time. * * * I do not know what future experiences my latent memories have in store for me as I age, but I do know that I am blessed with the friends and family one needs to move through those phases of life.

As I am sure you can imagine, all rites of passage have been melancholy with my mother's absence. My father wept at my high-school graduation, was inconsolable at my college graduation, and had to be physically carried at my wedding. He was as happy as any new grandfather could be at the birth of my first child, flying late in the night to reach us as the baby arrived. But as he arrived so did his unspoken wish for my mother to have been there as well. It is his grief more than any other single aspect of the hijacking that has the most long-lasting effect on me today.

Imran Rizvi: a 17-year-old Pakistani citizen who was the son of the Senior Commercial Analyst to the United States Consul General in Karachi, Pakistan. Imran Rizvi was traveling on Pan Am Flight 73 with his two sisters, ages 24 and 15, destined for the United States to visit their older brother who was living there. All three were seated in the first row of the economy section of the aircraft. A grenade was thrown directly in front of them, seriously injuring both sisters.

Although Imran Rizvi survived the assault, he suffered serious head wounds and was kept alive by life support systems. He ultimately died from his wounds.

Imran Rizvi's older sister described her brother as about 6 feet tall and an active sportsman. She recounted that her brother wanted to lead an attack against the hijackers, saying, "I don't want to die like a sitting duck without a struggle." She convinced him that this would not be wise, and that the hijackers were negotiating a release for the hostages. While the hijacking dragged on, the two sisters kept occupied by reading books of prayer. When the lights went out on the plane and the final assault approached, Imran Rizvi's sister said that Imran whispered, "[S]ister, say your last prayers as the hijacker has taken out the pin of his hand grenade and is going to throw it on us." According to this sister, within minutes, the bomb fell at their feet. The grenade exploded, severely damaging both sisters' feet and legs. Imran was conscious as he was pushed out of the plane, crying "[S]ister, I cannot breath[], I am dying, please help me." The physical condition of both sisters was so bad (both suffering amputations) that Imran's parents did not tell them about Imran's death until October 30, 1986. In the sister's words, "I wish even for my enemies not to face the pain and suffering what we have faced."

Imran Rizvi's father served in the United States Embassy for 28 years at the time of the hijacking. His former supervisor who remains a Department of Commerce employee, submitted a statement to the Court describing Mr. Rizvi's professional and personal commitment to his work and his dedicated service to the United States. On a personal note, his former supervisor characterized Mr. Rizvi as a "humble man" of "noble character." He further observed:

I also remember very well Mr. Rizvi's love for his children. Even though he was eligible to retire and relocate to the U.S. under a visa program for Foreign Service Nationals, he remained at the Consulate to provide for his children's education in Pakistan and in the U.S. He visited the U.S. during my assignment to look at

schools for his son. I will never forget how he described the United States and Americans in general as tolerant of minorities, and his recalling with surprise that a Chicago Muslim community he visited with used a local synagogue as its mosque.

* * *

Although I did not know his children well, they would have been as proud of their father as he was of them. He was fond of telling me of his dreams for his children. . . that they would be good students, good citizens and good Muslims. This is a man who gave meaning to the expression “salaam” (peace).

Mr. Rizvi described the devastating effects of the hijacking on his family in this fashion:

My eldest son. . . who was in the U.S. at the time and had a good job had to leave his job to take care of the two injured sisters who had arrived in the U.S. becoming his dependents for care and maintenance. They suffered physical pain, unforeseen poverty, and hunger, and a hopeless, bleak future. I had to sell all my assets and my property and get premature retirement and rushed to the U.S. to take care of the two daughters, and relieve my eldest son . . . who was in the U.S. to enable him to work. Meanwhile, my pension and gratuity and other dues helped our survival in the early period, and then loans from relatives came to our rescue.

Although Imran’s younger brother had initially hoped to attend the sentencing of the defendant, he ultimately decided that he could not attend, based upon the reaction of his father to this possibility. His father became very upset at the prospect and was hospitalized the following day for a heart condition. Imran’s younger brother did write the following in an e-mail:

Had I been able to come to the hearing, I would have liked to say to the judge that I want all the hijackers to get what they gave to my brother, nothing more, nothing less. My brother is dead because these terrorists thought they could kidnap and kill innocent people, regardless of their nationality, religion or race to get what they wanted. If nothing else, they should not be able to ever go free and enjoy even a day of freedom for they did not give my brother that same opportunity.

The reason I’m writing this email now is that I saw my brother, Imran, in my dream last night and he seemed upset about something. I now believe he wanted me to tell you that this man, the hijacker of that Pan Am flight, should never be let out free. He took away a son, a brother and a good friend to numerous people.

He took away the dreams of my family to settle in the U.S. and to make a better life together. . . .

I want the hijacker to know that he has destroyed not just one life for each person he has killed or injured, but he has shattered the lives of all those who had hopes and dreams for themselves and their loved ones.

Seetharamiah Krishnaswamy: a 61-year-old Indian citizen who was the retired Chief of Operations and Assistant Secretary to the Railway Ministry of the Western Railway in Bombay. Mr. Krishnaswamy obtained a bachelors and a masters degree in physics, and early in his career, he had been a lecturer in physics at BMS College in India. He was married and had four children, three of whom are naturalized United States citizens. He and his wife were traveling on Pan Am Flight 73 to attend a daughter's wedding in the United States.

One of Mr. Krishnaswamy's sons submitted a very powerful victim impact statement. He described his father as follows: "He was a caring husband, a devoted father, an admired and respected colleague, a consummate professional and a relentless perfectionist. He was very cultured and highly evolved and conducted himself with dignity and class in every situation that he encountered. . . ." As for the effects on the Krishnaswamy family, this son explained:

It took several years for each one of the five of us – my mother, my two sisters, brother and I to come to terms with what had happened, accept the loss and piece our lives back together. During that time, I did go back to India indefinitely to stay and take care of my mother. My graduate work was to be abandoned under the circumstance. But eventually, it was my mother who decided that we must move forward. I traveled with her this time, four months after the incident taking a completely different route and a non-American carrier. . . . We did celebrate my sister's wedding quietly, as there was an irreplaceable emptiness on the occasion without my father. After losing almost a year in graduate school, I did resolve to finish my doctoral degree, if only to dedicate it to my father's memory.

* * *

Tragedy is sometimes defined as the differences between "what is" and "what might have been." It is no different in our case as we wonder every day, if not

every hour of every day, what might have been had my parents never ran into the likes of the defendant. My father retired in 1983 and had spent a couple of years renovating the ancestral home and settling down in Bangalore finally in 1985. He was looking forward to enjoying his golden years sharing the success of his children and their families. The heinous acts of the defendant and his fellow terrorists robbed him and my mother of the enjoying . . . their years together. Every time I see my children or their cousins, I can only imagine the joy that they would have brought to his face. . . .

* * *

Even after 17 years, the pain inflicted by this murdering terrorist is so great, that no one else in my family wanted to recall the details of the impact it had on their lives. . . . Grief wells up from within as I recall details from the tragedy, and in spite of the nightmare, I did want to state for the benefit of the court how horrible the effects have been especially if any possibility of parole is ever[] considered for the defendant.

Trupti Dalal: a 28-year-old member of the Aavishkar dance troupe, traveling with her 12-year-old son and other members of the dance troupe to perform in the United States. Ms. Dalal was an Indian citizen, survived by her husband, her son and a brother. Her brother lives in the United States, employed as an architect.

Krishna Kumari Gadde: a 28-year-old Indian citizen, married and trained as a scientist. Ms. Gadde was working on a PhD in microbiology at the University of Missouri, Columbia, and was involved in research to develop a malaria vaccine at the time of her death. She had hoped to become either a doctor or a geneticist. She was on Pan Am Flight 73 after visiting family and friends because she missed an earlier flight that would have brought her back home to the United States. Ms. Gadde had three sisters and one brother. Three of her siblings live in the United States.

Ms. Gadde's father described her as "a child of high intelligence" who had a "very bright academic career." She had obtained a graduate degree in India with specialization in genetics.

According to her father, Ms. Gadde “dreamt of becoming a great genetic researcher and she was hoping to join one such research institute” when she returned to the United States. Ms. Gadde’s father stated that he has been “absolutely devastated by her death. It is a great loss to me and my family members. But the death of this geneticist with a great future is also a great loss to society.”

Several nephews and a niece of Ms. Gadde also submitted victim impact statements. Her niece eloquently described the relationship that Ms. Gadde had with her three sisters. She described the special bond she has with her aunts:

I have lived out my life knowing that if I was hurt, if my heart was troubled or my body disturbed, that I could call on my mother and her sisters to come – that my three mothers would surround me in a new-made womb of loving protection. But it should be four. I should be able to be blessed by four mothers. My mother’s younger sister, Krishna Kumari, the third of four daughters, was murdered when I was six Ever since then, there has always been an empty space, a vacancy, and a vacuum that I know floats in my family but that no one can acknowledge.

I know my mother’s other sisters . . . so intimately that I ache to know what I am missing. . . . What would my lost mother have gifted me with, what would she have taught me?

I can remember so little of her. I should have a thousand memories but all I am left with is three things I can remember. I have a blanket that she gave me because I liked the pattern. I remember that her skin was the same color as mine, darker than my other mothers. I remember that she once kissed my eyelids when I was asleep, under her blanket, on the floor of her first home. . . . I know that she was named after the river she was born near. . . .

I have only these fragments of her, my Krishnamma, my lost mother and it hurts me even more now that I know she moved like a song, like a poem. My father told me once that she was his best friend in the family – that she had a sweet heart and a face full of charm. . . Her death was my family’s tragedy and we all miss her more than we can say.

Meherjee Minocher Kharas: a Pakistani citizen in his late 20's at the time of his death.

Mr. Kharas was a Pan Am mechanic. Mr. Kharas was on the aircraft to check equipment before

the flight was due to leave Karachi and he was caught on the aircraft when it was stormed by Safarini and his co-defendants. The Pan Am station manager identified Mr. Kharas to Safarini as a person who could help operate the radio and establish electronic communication with the tower. Mr. Kharas also reportedly tried to restore power on board the aircraft when the generator and the auxiliary power unit began to fail, and he advised Safarini that power would be gone soon. After being so advised, Safarini began herding the passengers to the economy section. At the time of his death, Mr. Kharas had been married for three years. He is survived by his widow, his mother and his sister, who lives in the United States.

Mr. Kharas' widow said that he loved the aviation industry and thoroughly enjoyed his work. In her words, "As an individual, he was simple, humane, friendly, and he aspired to excel professionally in his field." Mr. Kharas was not actually on regular duty on the day of the hijacking, but substituted for a colleague who had taken time off. Speaking of the hijacking, Mrs. Kharas stated, "[t]hat day my life changed, from being a happily married wife, I became a widow as I had indeed lost my better half. To die a natural death is easy to accept, as it is inevitable but to die prematurely or an accidental death, rather a brutal murder is what brings unending pain to the one who survives." Mrs. Kharas also described in detail the lasting effects of her loss:

Physically, I never have till today recovered fully, initially with stress I was taken with a severe form of allergy which receded after several weeks. I have had in the past and still have sleeping problems, suffer from anxiety and stress related symptoms. Have taken and still am on medications, antidepressants, and anti-anxiety drugs. I feared flying and more so at night, but have now managed to cope with that.

The void this incident has created has left a deep negative impression in my life. From anger, frustration to utter helplessness is what I felt when I lost Meherjee mainly because I could not ascertain or hold liable any particular individual for

his death. I have not remarried, nor have committed myself to a new relationship. The last few years have gone by, where I feel that my life has been wasted, devoid of my companion, have felt incomplete. While in the West people are more open to new relationships, in the East our culture is a bit different, more so, in my nature, as Meherjee was very special in my life.

* * *

. . . The pain of untimely separation from your spouse is acute and the one who is affected knows its depth, this is beyond words. This is why I was initially reluctant to even put together this statement. . . .

A long-time friend of Mr. Kharas also submitted a statement, describing him as “the sweetest and kindest of boys, teenagers, men . . . he was a really, really nice guy. He had a fresh innocence and open-ness about him. He had many friends because he had a big heart. And he was fun! I always laughed when he was around. I think that is what I miss most, the absence of this joyful, laughing presence.”

Jose Alvarez Lamar Nunez: known to his colleagues as Pepe Lamar, Mr. Lamar was approximately 57 years old. He was a Mexican citizen, employed as a rig superintendent for an offshore oil drilling operation then underway in India. Mr. Lamar was working on the project for a Mexican drilling company called Protexa, with offices and projects in the United States. He was returning to the United States with three co-workers after completing 28 days of work on the offshore rig in India. Mr. Lamar survived the final assault on the aircraft and was hospitalized in Pakistan for several days before he died of his wounds there.

Ricardo Munoz Rosales: a Mexican citizen in his late 20's, employed as a derrick operator on an offshore drilling rig in India. Mr. Munoz was employed by a Mexican drilling company with offices and projects in the United States. He had stayed on the job beyond the 28-day shift to cover for another employee who failed to appear for his shift. Mr. Munoz was

returning to the United States with three co-workers on Pan Am Flight 73.

Neerja Mishra Bhanot: the 23-year-old senior purser of Pan Am Flight 73, assigned to the first class cabin of the aircraft. Ms. Bhanot helped to warn the cockpit crew when the hijackers first entered the plane, thereby allowing them to escape before the hijackers could order them to fly the aircraft out of Pakistan. She had substantial direct contact with defendant Safarini and the other hijackers on board the aircraft, and was responsible for making announcements to the passengers as authorized by the hijackers. Ms. Bhanot was an Indian citizen. She had been flying for Pan Am for ten months. She was also employed as a model. Her father was a journalist in Bombay, India. Ms. Bhanot's family received her coffin on September 7, 1986, which was her birthday. She is survived by her parents and her brother.

Ms. Bhanot's brother observed that his sister, a "young, delicate looking" girl "showed to the brutal terrorists on board, and to the world at large, that hate and threats of death cannot cow down a brave spirit and compassion for a fellow human being." One passenger on board recalled that, as the lights went out on the plane, Neerja had the presence and the nerve to make a dash for the emergency door and open the chute. Instead of escaping the aircraft at that time, she helped others off the plane, shielded three small children from gunfire and gave her life in this effort. Ms. Bhanot's brother stated that he was very close to his sister, who was six years younger. "We shared our hopes, our dreams, our aspirations, our sorrows. Our parents had taught us to be responsible, fearless and independent. And Neerja, especially, displayed these traits." In her name and in her honor, a trust was established after the hijacking which recognizes and rewards a "Neerja Heroine" every year.

Dr. Ganapathi Thanikaimoni: 48 years old, Dr. Thanikaimoni was an Indian citizen

who was known as Thani to his friends and colleagues. He was the Director of the Palynology Laboratory (the study of pollen grains) at the French Institute in Pondicherry, India. He was traveling on Pan Am Flight 73 to present a lecture at a symposium on marine palynology, as part of the UNESCO-sponsored Second International Conference on Paeoceanography at the Woods Hole Oceanographic Institute in Massachusetts. Dr. Thanikaimoni specialized in the study of the pollen of modern flora and fossil pollen. He wrote extensively in scientific publications and created a five-volume compilation of reference material for laboratory use. Dr. Thanikaimoni was married and had a young son and a young daughter at the time of his death.

Dr. Thanikaimoni's daughter observed:

My mother has lost a devoted husband and my brother and I have lost a loving father, his friends have lost a compassionate friend and the world has lost a brilliant and dedicated brain due to this mindless act of terrorism. Apart from being a world-renowned scientist, my father was known for his humility, compassion and respect for all living things. It is ironic that he should have fallen victim to terrorism. We, his family and the scientific community worldwide wholly condemn these barbaric acts which leave behind only innocent victims and irreparable loss to the world.

Bogby Thomachen Mellor: a seven-year-old boy traveling with his parents. He was an Indian citizen.

Thomachen Thoms Mellor: approximately 30 years old, believed to be the father of victim Bogby Thomachen Mellor. Mr. Mellor was an Indian citizen.

Aleyamma Skaria Nagatholy: a 39-year-old Indian citizen. Mrs. Nagatholy was married and had been a nurse by profession.

Ramikant Naik: approximately 55-year-old Indian citizen. Mr. Naik was traveling on Pan Am Flight 73 with his wife, who suffered gunshot wounds to her leg and was hit by shrapnel in her face.

Rupal Desai: approximately 26-year-old Indian citizen. Ms. Desai was a dancer with the Aavishkar dance troupe that was traveling to the United States to perform. She was engaged to be married at the time of her death.

Kodiyattu K. Kurian: approximately 25-30 year old male Indian citizen.

Gorgi Gopal: Indian citizen, married and traveling on Pan Am Flight 73 with her husband. Mrs. Gopal's husband suffered a gunshot wound to his hand and five bullet wounds in his left leg as a result of the final assault on the aircraft.

Surviving Victims of Flight 73

Aside from the two American citizens who were killed during the hijacking, there were approximately 76 other Americans on board the aircraft when it was taken over. Many of these Americans were families, some traveling with small children, and there were seven unaccompanied minors on the flight. Each of the American victims has been named in the superseding indictment as the victim of attempted murder by defendant Safarini. Among these victims, seven Americans are separately named as victims of serious bodily injury, due to the wounding they suffered as a result of the final assault on all the passengers and crew. These seven victims included three children: 10-year-old Gargi Devi, 15-year-old Ajay Patel and 16-year-old Nadya Hussain. Gargi Devi had been traveling with her 13-year-old sister but no parent; she suffered a very serious head injury. Ajay Patel had been traveling with his Indian national mother, who was also injured; Ajay Patel suffered a badly broken right shoulder, a gunshot wound to the right side of his chin and shrapnel wounds to his face and scalp. Nadya Hussein had been traveling with her grandmother; she suffered a facial gunshot wound, an exit wound, and the fracture of the right mandible and right humerus. She also had a history of

brain tumor and shunt.

In the statement of one of the children who was seriously injured, the passenger, now grown, reflected on the experience of surviving the attack:

. . . While the hijackers had been intent on slaughtering all the passengers in the pursuit of their religious goals, I firmly believed I would live. This certainty fueled my survival during both the escape and the subsequent coma. Though I endured years of severe pain, faltering memory, and heavy seizure medication due to my . . . injury, I felt fortunate just to be alive considering that my physicians had expected me to die. Embracing life, I developed the perseverance to overcome daunting obstacles.

Despite this remarkable attitude, this victim continues to suffer from Post Traumatic Stress Disorder as a result of the hijacking and has been undergoing therapy and taken medication for the past four years in order to attempt to overcome fully the repercussions of the experience. Continuing academic studies has been a constant challenge, due to an inability to focus on classwork, the occurrence of anxiety attacks and an understandable loss of confidence and self esteem. Other repercussions experienced by this victim described in an impact statement submitted to the Court include “overfixation, hyperalertness,” fear of crowded places, trouble sleeping and fear of unknown men, particularly when these men use harsh or profane language.

The adult American victims of serious bodily injury suffered a variety of injuries. David Gaiser was shot in the leg. John Harper had shrapnel wounds to both legs. Rana Khan suffered a bullet wound to the abdomen and two sprained ankles. Deepak Mehra received shrapnel wounds to his foot.

Many of the surviving passengers submitted victims impact statements for consideration at the defendant’s sentencing, and other victims, who chose not to submit additional statements,

gave the government permission to use earlier written submissions as victim impact statements. A number of victims simply could not bear to relive the horror of their experience by submitting newly created statements, and some could barely tolerate contact from government counsel advising them of the pendency of this case, since this contact revived unspeakable memories of the holocaust they suffered on the aircraft. As one seriously injured American victim stated in an e-mail message, “After speaking with [government counsel] about the hijacking of Pan Am, I have had nightmares and have found myself feeling anxious. I think I should just ‘put this incident behind me and get on with my life.’ It is simply too painful for me to rehash. I would have liked to have helped in your case, however, I feel that going back to that incident would do me harm and serve as an impediment to my health and life.”

Each of the statements received from victims, relatives of victims and colleagues reflect unique, moving sentiments about the effect of this crime on the victims and their families. Excerpts of some of those statements submitted to the Court and defendant in preparation for sentencing are included in this memorandum to underscore the magnitude of the loss suffered by each person on board Pan Am Flight 73 as well as that suffered by their loved ones and colleagues.⁴

The mother of five children was traveling on Pan Am flight 73 with her two youngest children, ages 3 and 2. Each member of her family provided a statement about the impact of the hijacking on their lives and the life of the family. In her 10-page statement, there are vivid descriptions of her experience on board the aircraft as well as the after-effects of the hijacking on

⁴ The names of these surviving victims are omitted from this Sentencing Memorandum, in respect for the victims’ privacy.

her and members of her family:

. . . The lights started dimming and almost went off. We started to feel weak, lacking energy, depressed, angry, helpless, and fearful. At that point the hijackers said some Arabic words like Allah hu Akbar, some thing else and started shooting. My children were asleep on the seats we were sitting on earlier and I was sitting on the floor between the seats and partly in the isle when the shooting started. I pulled them out of the seats and shoved them under the seat front of us, one on top of the other. They started screaming. I told them not to make any noise or they would kill us. The children were holding their breath so hard that I could not tell if they were dead or alive and they would not respond to my calls for fear of making noise. The passengers on the seats above my children's were hurt and my children were soaked in their blood. It was dark inside the plane and I could see sparks from the bullets flying toward us. At that point, I called the names of my children and they would not respond. I thought they had gotten killed because I felt blood all over them I blamed my self that I was too slow in pulling them off the seats. . . .

I started saying my prayers. I had no hope of surviving, and prayed that if I was killed my children would also be killed. At that point I was hoping that if we were to die, my children and I would die together. At that time, I felt that the three of us would all die here. If this happened, my other three children and my husband would be left alone. I didn't want them to live a life full of suffering from the loss of half of their family. I prayed instead that if the three of us were to die, then the rest of my family should die also so that no one would have to live a life full of suffering. We were very close to each other and living without each other would be like living in hell.

I was scared to death and sure that we were all going to die. I could hear people screaming and crying. I looked between the seats and could see the defendant shooting toward us. . . . I look toward the defendant and see him reload his machine gun. I took a chance, grabbed my children and ran toward the exit door right behind me. I jump outside and discovered that we were on the wing of the plane, but the slide was not open. . . .

This victim vividly described the varied impacts of the crime on her and her family:

I was worried for over a year that the hijackers would come after me because I had identified them. This fear made me feel unsafe in my own home. There were times when I would not open the drapes because of this fear. I kept checking to make sure the doors and windows were locked. I would look outside to see if anything was unusual. I was even afraid to pick up the phone when it rang thinking it could be someone coming after me. . . .

I would cry when no one was home. If someone was home, I would go to restroom and cry. I had tons of unanswered questions. Why did this happen? How did we survive? What will happen to my children? Will they get over this?

* * *

On the outside, I seemed okay, but inside, I was mad, scared, depressed, and afraid. One day I was driving my oldest daughter to school in the morning. I was going to make a protected left turn but instead of going into the left turn lane, I went into oncoming traffic. My daughter asked me where I was going, but I did not realize what happened. . . . I was lucky that no one was in that lane, but at the time, I was having flashbacks of the hijacking. That day I stopped driving the children to school. I was afraid I would do something like that again.

Another day I was driving to the hospital on the freeway and all of a sudden I was sure I saw a man with a gun coming to shoot me on my left shoulder. I pulled off the freeway and parked the car in the nearest parking lot. I stayed inside until I was able to pull myself together.

* * *

Our children to this day will not talk about it. Their lives were destroyed. . . . I had to be at their side at all times for years. . . They slept with us on our bed till the age of nine. . . .

One morning my husband and our two children . . . were eating breakfast. I had made toast and eggs. My son patted my shoulder and pointed toward his toast. My heart went out to him and I was mad at what I saw. He had eaten his toast in such a way that it made a shape of handgun, and he was only 2 ½ years old. . . .

This victim also suffered severe physical effects of the hijacking, due to a back injury she sustained from jumping onto the slide from the wing of the plane. Nine years of pain, disabling her for months at home, treated by extensive medication, ultimately resulted in her agreeing to risk major surgery in 1995. While the surgery alleviated much of her chronic pain and disability, the injury continues to limit her activities and movements in significant ways. She summed up her feelings as follows: “[L]ike they say[,] life is short and you only live once so make the best of it. But in this case defendant chose how we should live our life and took that one chance we

had to live the way we wanted to live, we can never get that back.”

A 49-year-old female surviving passenger wrote as follows:

I still grieve at the memory of the child who sat three seats in front of me. Because he sat directly behind the bulkhead, there was no chance of cover when the gunfire started. The stewardess who was forced to kneel in the aisle to the right of where I sat. I can still see the look on her face. She knew. What protection did she have? What court of appeal?

Oh, yes, memory, best left buried but not today. Memory; the guns have stopped and through the acrid haze to see again those so still in their seats. Never to move again, to love, to laugh, to strive, never to sit as I do this morning and hear the Red Bird sing. But today as he sings outside the open window I write this and cry once again.

To witness murder is to be forever changed. After the sustaining surge of anger and adrenaline drained from me grief set in. A grief that is always just below the surface. Tears flow easily, too easily. . . .

In addition to the hundreds of passengers victimized by the defendant and his co-defendants, there was a group of remarkably heroic flight attendants on board Pan Am Flight 73, who, even in the face of certain danger, took every effort to minimize the injury and death that defendant and his co-defendants caused on the aircraft. Several of these crew members were themselves injured as a result of the hijacking. They were all in their early 20's, all having become flight attendants less than a year before the hijacking, and all remarkably calm and professional in their actions after the defendant and his co-defendants commandeered the flight, trying to ensure that the attack would end peacefully.

Several of these flight attendants submitted statements in consideration of sentencing the defendant. One who spent a great deal of time with the defendant and who witnessed his cold-blooded murder of Rajesh Kumar in the front of the aircraft, described numerous enduring effects of the experience:

It took me years to sleep without nightmares. I had to wake my husband up to go with me even if it was to the washroom. On occasions I would wake up in the act of throwing things, at one time it was a heavy glass ashtray. . . I could not be left alone after dark. . . I was drinking alcohol a lot more than I should have too. I was unreasonably aggressive and got nasty for little or no reason with strangers and friends. I got into physical fights on the street if someone so much as touched me [b]y mistake, which on the crowded roads of Bombay is not easy.

It was many years later . . . when I got up the courage to have a baby. . . .

The worst of the incident was watching human behavior at its worst. The hijackers showed no remorse at all. When Kumar was shot[,] Mustafa [*i.e.*, the defendant] had the gall to curse and swear at him saying, they made me do it,” like someone else held his hand and forced him to kill Kumar. All the time Kumar was there he was treated like a dog. Mustafa kept kicking him and asking him “are you a man” because he was crying and begging for his life. What constitutes a man? A weapon? This so called man had me in front of him every time he entered the cockpit, every time the door was opened to communicate with the ground, every time he felt even the slightest exposure would harm him. He was so callous and uncaring with Kumar, he did not even flinch when he shot him. . . .

[Mustafa] was up front on my side of the aisle (left) and it was his shots that killed Neerja & Kharras and the lady who got shot in the scalp and toppled over thus covering me. There were so man injured, I will never forget the howling as people cried in terror when they started shooting. He has cut short so many peoples lives. . . Every person on that plane has suffered both physically and mentally. . . .

A flight attendant who was held by one of the defendant’s accomplices with a gun and a grenade to her head during the first few hours of the hijacking provided a powerful description of the emotional effects of the hijacking on her: [T]his hijacking has affected me emotionally, yet I fully cannot comprehend the magnitude of its effect on me. I used to enjoy life and socialized extensively, yet I was responsible and free spirited. This heinous crime wrenched me out of my cocoon of safety, happiness and comfort and forced me to grow up in 16 hours by engulfing and forcing me in a right of passage into life I never knew existed, one I did not seek nor wish on any person. I suffered bouts of sadness, anxiety, anger, intense and immense fear – I used to wake up in the middle of the night with clenched fists and locked jaws that resulted in aching finger bones and jaw bones. I’ve had nightmares and wake up in a state of panic and sweat. I feared the darkness and still do. After this incident, I have never been able to watch even moderately violent movies and definitely no movies with guns or loud noises. The hijack began with the hijacker getting my attention by holding a gun to my

head from the rear, hence I startle easily. I have literally screamed when friends have unintentionally and unknowingly covered my eyes from behind me to surprise me. Growing up in India, one of the biggest annual festivals is Diwali a festival of lights and firecrackers, firecrackers are lit from up to a month before the event leading to the festival day. Over the years, these have been months from hell, as certain blasts and sounds trigger emotions, I really wanted to bury and did not want to have to deal with.

Applicable Laws Pertaining to Parole

The sentencing in this case will take place under the pre-Sentencing Guidelines sentencing regime. While several of the charged offenses carry a possible “life” term, a “life” sentence under the pre-Guidelines regime did not mean life without parole. Rather, a “life” sentence meant that, with various good time credits, a defendant would be released on parole "after serving thirty [30] years of each consecutive term or terms of more than forty-five [45] years including any life term, whichever is earlier." 18 U.S.C. § 4206(d) (1986). For any term of years less than 45 years, a prisoner "shall be released after having served two-thirds of each consecutive term or terms" *Id.* Here, the agreed-upon sentence amounts to three consecutive life terms plus 25 years. Since each life term is equivalent to a term of 45 years, the sentence is equivalent to 160 years. Thus, under the governing statute, defendant Safarini would presumptively receive parole after two-thirds of that sentence – i.e., after 106 years and 8 months.

However, under the governing statute, a defendant's parole eligibility (i.e., right to a parole hearing) comes at an earlier date. Under Section 4205(a): “Whenever confined and serving a definite term or terms of more than one year, a prisoner shall be eligible for release on parole after serving one-third of such term or terms or after serving ten years of a life sentence or of a sentence of over thirty years, except to the extent otherwise provided by law.” 18 U.S.C. §

4205(a) (1986). The question of whether a prisoner becomes eligible for parole after a total of ten years – regardless of how many consecutive life sentences he is serving – has caused a split in the circuits. The Fifth, Ninth, Eighth, Tenth and Eleventh Circuits have ruled that sentencing judges have the ability to structure sentences in such a way to avoid a mandatory parole hearing after ten years. See United States v. Varca, 896 F.2d 900, 905-06 (CA5), cert. denied, 498 U.S. 878 (1990); United States v. Gwaltney, 790 F.2d 1378, 1388-89 (CA9 1986), cert. denied, 479 U.S. 1104 (1987); Rothgeb v. United States, 789 F.2d 647, 651-53 (CA8 1986); United States v. O’Driscoll, 761 F.2d 589, 595-98 (CA10 1985), cert. denied, 475 U.S. 1020 (1986); see also United States v. Berry, 839 F.2d 1487 (CA11 1988), cert. denied, 488 U.S. 1040 (1989). Ruling to the contrary are the First, Third, Sixth, and Seventh Circuits, which have held that § 4205 imposes a 10-year maximum before parole eligibility. See United States v. Castonguay, 843 F.2d 51, 56 (CA1 1988); United States v. DiPasquale, 859 F.2d 9, 13 (CA3 1988); United States v. Hagen, 869 F.2d 277 (CA6), cert. denied, 492 U.S. 911 (1989); United States v. Fountain, 840 F.2d 509, 521 (CA7), cert. denied, 488 U.S. 982 (1988).

The D.C. Circuit has not ruled on this issue. The position of the Bureau of Prisons is that § 4205 imposes a 10-year maximum before parole eligibility.

Defense Sentencing Memorandum

We will not spend much time addressing the defense sentencing memorandum because it does not warrant a lengthy response. The 45-page defense submission is noteworthy mostly for its lack of any real discussion of the crime the defendant committed and for the absence of any notion of the defendant’s truly accepting personal responsibility for his actions. Virtually the entire defense sentencing memorandum is devoted to describing defendant Safarini’s background

growing up in the context of the broader Palestinian struggle. No matter how accurate the memorandum's description of defendant's background may be, the government cannot accept the defense claim that this background was "determinative" of the defendant's fate and, by implication, determinative of his actions on board Pan Am Flight 73. (Def. Sentencing Memo at 6.) Clearly, to the extent that the defense is making an argument that the defendant had no real choice but to commit these murderous acts (cf. id. at 19 n.15), this argument proves too much, in that it would serve as an excuse for any act of terrorism by someone who grew up indoctrinated to hate Americans. Moreover, while the Palestinian context may be foreign to us, the defense reasoning is no different from claims made every day in this court and others that a particular defendant's background in a gang-infested or violence-ridden neighborhood explains his violent crimes. Such explanations simply cannot undermine each defendant's personal responsibility for his own actions. Whatever oppressions, real or perceived, the Palestinian people may have suffered, such oppressions can in no way be used to mitigate the defendant's personal responsibility for hijacking a planeload of innocent civilians and then murdering and attempting to murder all the passengers on board.

Conclusion

The defendant committed an unspeakably heinous crime and he should be punished accordingly. While his attorneys' sentencing memorandum attempts to offer explanations for his wantonly murderous conduct, the defendant did accept responsibility for his crimes by admitting guilty to all 95 counts against him and agreeing to the maximum sentence (other than death) on each count. The defendant has also agreed to cooperate with the government and to testify against his accomplices, should any of them come into United States custody. Further, the plea

agreement has given the victims an opportunity to pay tribute to their lost loved ones and to give voice to their own pain, rather than subject them to the rigors of an adversarial proceeding and years of litigation and uncertainty about the death penalty issue. In light of this record, the government respectfully asks this Court to impose the sentence agreed upon by the parties and to make the strongest recommendation possible to the Parole Commission that this defendant never be released on parole. In so doing, justice shall finally be done for this defendant for a terrorist act that will never be forgotten.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the "Government's Sentencing Memorandum" was delivered to the Federal Public Defender's drop box inside the U.S. Courthouse, as well as sent by fax (without attachments) to (202) 501-3829 to counsel for the defendant, Robert Tucker, Assistant Federal Public Defender, 625 Indiana Avenue, N.W., Suite 550, Washington, D.C. 20004, and by first class mail to counsel for the defendant, David I. Bruck, 1247 Sumter Street, Suite 201, P.O. Box 11744, Columbia, SC 29211, as well as sent (without attachments) by fax to (803) 765-1143, on this 30th day of April, 2004.

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