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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal Case No. 02-399-02-JO
)	
v.)	
)	
PATRICE LUMUMBA FORD,)	PLEA AGREEMENT
aka "Lumumba,")	
aka "Larry Jackson,")	
)	
Defendant.)	
_____)	

COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through its attorneys, Karin J. Immergut, United States Attorney, and Charles F. Gorder, Jr., Pamala R. Holsinger, and David L. Atkinson, Assistant United States Attorneys, and the defendant, PATRICE LUMUMBA FORD, by and through his attorneys, Stanley L. Cohen and Marc

Sussman, and hereby enter into the following plea agreement contingent upon the acceptance of a similar agreement by co-defendant Jeffrey Battle:

1. Defendant PATRICE LUMUMBA FORD will enter a plea of guilty to Count One of the Superseding Indictment. The maximum penalty for this count is 20 years in prison, a fine of \$250,000.00, a mandatory penalty assessment of \$100.00, and a three-year term of supervised release.

2. In payment of the \$100.00 mandatory penalty assessment, the defendant PATRICE LUMUMBA FORD will present the Court with a cashier's check in the amount of \$100.00 (One-Hundred Dollars) made payable to the "Clerk, United States District Court," at or before the time of sentencing.

3. The parties stipulate that the elements of the offense charged in Count One are that (1) in the United States two or more persons agreed to try to accomplish a common and unlawful plan, namely, to use force to engage in activities of war against the armed forces of the Government of the United States in Afghanistan, and (2) defendant, knowing the unlawful purpose of the plan, joined in it.

4. The parties agree that the following factual basis for the plea of guilty to Count One of the Superseding Indictment is accurate and supports each and every element of the offenses to which the defendant is pleading guilty:

A. During the Summer of 2001, defendant PATRICE LUMUMBA FORD and others conducted martial arts training in order to prepare themselves to fight a violent jihad in Afghanistan or in another location at some point in the future.

B. On September 11, 2001, in a coordinated attack against the United States, persons affiliated with the foreign terrorist organization known as Al-Qaida hijacked four commercial airplanes. They flew two of the planes into the World Trade Center towers in Manhattan, and one into the Pentagon in Virginia. The fourth plane crashed in Pennsylvania. Thousands of victims were killed or injured, and there was enormous destruction of property.

C. In response to the September 11, 2001, attacks, President George W. Bush declared a national emergency and issued an ultimatum to the Taliban government in Afghanistan to turn over Osama bin Laden and other Al-Qaida leaders. After the Taliban refused to comply with the demands of the United States, the United States and allied forces began bombing targets in Afghanistan in an effort to root out bin Laden and Al-Qaida elements and United States armed forces and other allied personnel entered the conflict.

D. Defendant PATRICE LUMUMBA FORD and others, including co-defendants Jeffrey Battle, Ahmed Bilal, Muhammad Bilal, Maher Hawash, and Habis Al Saoub met at various times in the Portland, Oregon area and agreed with each other that they would all leave the United States and travel overseas to fight in Afghanistan against the armed forces of the United States. Defendant FORD knew that what he and the others were planning to do was a violation of law.

E. Following the attacks on the World Trade Center and the Pentagon on September 11, 2001, by Al-Qaida, and in order to prepare for war against the armed forces of the United States, defendant PATRICE LUMUMBA FORD bought a shotgun and went shooting at a gravel pit in Washougal, Washington, with defendants Ahmed and Muhammad Bilal. On a second occasion (September 29, 2001), defendant PATRICE LUMUMBA FORD, in order to prepare for war in Afghanistan against the armed forces of the United States, along with co-defendants Ahmed Bilal, Jeffrey Battle, Al Saoub, and others went to the same gravel pit in Washougal, Washington to conduct shooting practice.

F. On October 20, 2001, while United States military forces were conducting operations against Al-Qaida and the Taliban in Afghanistan, defendant PATRICE LUMUMBA FORD went to the Portland airport and flew to Hong Kong with co-defendants Ahmed and Muhammad Bilal where they met up with defendants Al Saoub and Battle, and later Hawash.

G. The group decided that the best way to get to Afghanistan to fight American forces was to go through China into Pakistan and then to Afghanistan. After obtaining a visa in Hong Kong for the People's Republic of China, defendant PATRICE LUMUMBA FORD, accompanied by defendants Battle, Hawash, Ahmed and Muhammad Bilal, and Al Saoub entered mainland China, flew to Urumqi in Western China, and took a train from Urumqi to Kashgar. With defendant PATRICE LUMUMBA FORD acting as their interpreter, the group then spent several days in Kashgar unsuccessfully trying to gain entry into Pakistan through several different methods. They hired a local person to drive them across the Pakistani border for \$600, but eventually the local person said he could not get them to the border. They heard that there were large numbers of Chinese soldiers blocking the route into Pakistan. They attempted to purchase bus tickets from Kashgar to Pakistan, but the Chinese would not let them get on

the bus. The group later decided to go to Beijing to obtain an entry visa from the Pakistani Embassy. The group traveled by train to Beijing. In Beijing, defendants PATRICE LUMUMBA FORD, Ahmed and Muhammad Bilal, and Battle went to the Pakistani Embassy to obtain visas for Pakistan but were turned down.

H. After it became clear that the group would not be able to obtain entry into Pakistan from China, defendant PATRICE LUMUMBA FORD returned to the United States in November 2001. To further defendant Al Saoub's continued efforts to get to Afghanistan to fight American forces, defendant PATRICE LUMUMBA FORD wired \$500 through Western Union to defendant Al Saoub (in the name of "Habes Saoub") in Guangzhou, China, and \$200 to defendant Ahmed Bilal in Indonesia. In January 2002 defendant PATRICE LUMUMBA FORD wired an additional \$483 through Western Union to defendant Al Saoub in Guangzhou, China.

5. Rights Waived by Pleading Guilty. Defendant represents to the Court that he is satisfied with the representation provided by his attorney. Defendant understands that, by pleading guilty, he knowingly and voluntarily waives the following rights:

- a. The right to plead not guilty, and to persist in a plea of not guilty;
- b. The right to a speedy and public trial before a jury of defendant's peers;
- c. The right to the effective assistance of counsel at trial, including, if defendant could not afford an attorney, the right to have the Court appoint one for defendant;
- d. The right to be presumed innocent until guilt has been established at trial, beyond a reasonable doubt;
- e. The right to confront and cross-examine witnesses against defendant;
- f. The right to compel or subpoena witnesses to appear on defendant's behalf;
- g. The right to testify or to remain silent at trial, which such silence

could not be used against defendant; and

h. The right to appeal a finding of guilt or any pretrial rulings.

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6. Dismissal of Remaining Counts. In return for defendant PATRICE LUMUMBA FORD entering the plea of guilty pursuant to this Agreement, upon the District Court's acceptance of defendant PATRICE LUMUMBA FORD's plea of guilty and upon defendant PATRICE LUMUMBA FORD's compliance with the other terms and conditions of this Agreement, the UNITED STATES OF AMERICA will move to dismiss the remaining counts against defendant PATRICE LUMUMBA FORD of the Superseding Indictment at the time of sentencing. Defendant agrees and acknowledges that the charges to be dismissed are based on fact and do not provide defendant with a basis for any future claims as a "prevailing party" under the "Hyde Amendment," Pub.L. No. 105-119 (1997).

7. Guideline Calculations and Recommendations. The plea of guilty is entered pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). The parties stipulate to the following calculation of the applicable sentencing guideline range for these offenses, using the November 2001 edition of the Sentencing Guidelines: The defendant has a Criminal History Category of I. There is no applicable guideline for a violation of Title 18, United States Code, Section 2384. Based upon the underlying facts in this case, the most analogous guideline for this offense is U.S.S.G. § 2M1.1 (a)(1) (Treason) which establishes a base Offense Level of 43. The parties stipulate, and will jointly move at the time of sentencing, that pursuant to U.S.S.G. § 2X1.1 (b)(2) that the offense level should be reduced by three levels for conspiracy, to Level 40. The government will recommend a three-level reduction for acceptance of responsibility. The government reserves the right to change this recommendation if defendant, between plea and sentencing, acts inconsistent with acceptance of responsibility,

including committing new crimes, as explained in U.S.S.G. § 3E1.1. With a three-level reduction for acceptance of responsibility, the final Offense Level is 37 and the applicable sentencing range is 210-262 months. The government agrees not to seek any other upward departures or adjustments, except as specified in this agreement. Defendant agrees not to seek any downward departures or adjustments, except as specified in this agreement. The Court is not bound by the recommendations of the parties or of the Presentence Report (PSR) writer. Because this agreement is made under Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, defendant may not withdraw his guilty plea or rescind this plea agreement if the Court does not follow the agreements or recommendations herein.

8. Sentencing Recommendations. If defendant remains in compliance with this agreement, the government will recommend a sentence of 18 years (216 months). The defendant agrees not to request a sentence less than 18 years (216 months).

9. Additional Sentencing Recommendations.

a. The government will recommend that defendant receive credit for all time he has served in custody from October 4, 2002. Defendant understands, however, that the final calculation of his statutory time-served credit will be made by the Bureau of Prisons and cannot be controlled by this Plea Agreement.

b. The government will join in the defendant's request for a Court recommendation to the Bureau of Prisons (BOP) that he be designated to serve the balance of his prison sentence at a facility other than the highest administrative security facility, ADX Florence, CO, if the BOP determines that he is eligible for such a designation. Defendant understands, however, that the final designation decision will be made by the BOP and cannot be controlled by this Plea Agreement. The government is free to make any information in its possession concerning the defendant or the offense available to the BOP in connection with its designation decision.

10. Waiver of Appeal/Post-Conviction Relief. Defendant waives the right to appeal from his conviction and sentence unless the sentence imposed exceeds the statutory maximum. Should defendant seek an appeal, despite this waiver of that right, the government may take any position on appeal. Defendant also waives the right to file a motion pursuant to 28 U.S.C. § 2255 to set aside the conviction and sentence, except on grounds of ineffective assistance of counsel.

11. Revocation of Plea Agreement.

a. If defendant commits a material violation of any of his obligations under this Plea Agreement, then the government may elect to move the District Court to find a material breach of this Plea Agreement. The government and defendant agree that the preponderance of the evidence standard of proof applies to all violations of this Plea Agreement.

b. If the District Court makes a finding of material breach, defendant agrees that the government will be released from its commitments under this Plea Agreement. Defendant further agrees that the government may then prosecute defendant for any and all federal crimes that he has committed, including the charges dismissed pursuant to this Plea Agreement, and upon conviction may recommend to the Court any sentence for such crimes up to and including the maximum sentence. Defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. In addition, defendant agrees that, in any such prosecution, all admissions he makes in this Plea Agreement and in open court may be used directly and indirectly against him, regardless of any constitutional provision, statute, rule, guideline provision, prior agreement, or other term of this Plea Agreement to the contrary. Finally, defendant understands that his violation

of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea to the charge in the Superseding Indictment.

12. Forfeiture. In settlement of the forfeiture claims alleged in Count 15 of the Superseding Indictment, defendant PATRICE LUMUMBA FORD agrees to immediately forfeit all right, title, and interest in the following asset which is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(G) and 28 U.S.C. § 2461(c): the Remington Shotgun seized from his residence, which defendant admits is property belonging to him and is subject to forfeiture. Defendant agrees to fully assist the government in the forfeiture of the shotgun, including but not limited to execution of any documents necessary to transfer his interest in any of the above property to the United States.

Defendant agrees not to file a claim to any of the listed property in any civil proceeding, administrative or judicial. Defendant further agrees to waive his right to notice of any forfeiture proceeding involving this property, and agrees not to assist others in filing a claim in that forfeiture proceeding.

Defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of assets. Defendant knowingly and voluntarily waives all constitutional, legal and equitable defenses to the forfeiture of these assets, including any claim or defense under the Eighth Amendment to the United States Constitution, and any rights under Rule 32.2 of the Federal Rules of Criminal Procedure. Defendant further agrees forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the defendant in addition to forfeiture.

13. The defendant PATRICE LUMUMBA FORD and his attorney further stipulate that the defendant is entering his guilty plea freely and voluntarily and with full knowledge of the consequences and without reliance on any discussions with representatives of the UNITED STATES OF AMERICA except as to those concessions

contained in this Plea Agreement and without any threats, force, intimidation or coercion of any kind.

14. This is the entire plea agreement among the parties.

Dated: October 16, 2003.

For Plaintiff United States of America:

CHRISTOPHER A. WRAY
Assistant Attorney General
Criminal Division
U.S. Department of Justice

KARIN J. IMMERGUT
United States Attorney
District of Oregon

By: _____
CHARLES F. GORDER, JR.
PAMALA R. HOLSINGER
DAVID L. ATKINSON
Assistant United States Attorneys

I have read this agreement carefully and reviewed every part of it with my attorney. I understand the agreement and voluntarily agree to it. I am satisfied with the legal assistance provided to me by my attorney.

Defendant PATRICE LUMUMBA FORD

I represent defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge defendant's decision to enter into this agreement is an informed and voluntary one.

STANLEY L. COHEN
MARC SUSSMAN
Attorneys for PATRICE LUMUMBA FORD