

Approved: _____
VICTOR L. HOU
Assistant United States Attorney

Before: HONORABLE HENRY PITMAN
United States Magistrate Judge
Southern District of New York

- - - - -x
: UNITED STATES OF AMERICA : SEALED COMPLAINT
: :
: -v.- : Violation of
: : 18 U.S.C. § 2339B
: TARIK IBN OSMAN SHAH, :
: a/k/a "Tarik Shah," : COUNTY OF OFFENSE:
: a/k/a "Tarik Jenkins," : NEW YORK, BRONX
: a/k/a "Abu Musab," and :
: RAFIQ SABIR, :
: a/k/a "the Doctor," :
: Defendants. :
: :
- - - - -x

SOUTHERN DISTRICT OF NEW YORK, ss.:

BRIAN J. MURPHY, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, and charges as follows:

COUNT ONE

1. From at least in or about 2003, up to and including in or about May 2005, in the Southern District of New York and elsewhere, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," and RAFIQ SABIR, a/k/a "the Doctor," the defendants, and others known and unknown, unlawfully and knowingly combined, conspired, confederated and agreed together and with each other, within the United States, to provide material support and resources, as that term is defined in Title 18, United States Code, Section 2339A, to a foreign terrorist organization, namely, al Qaeda.

(Title 18, United States Code, Section 2339B.)

The bases for my knowledge and the foregoing charge are, in part, as follows:

2. I have been a Special Agent with the Federal Bureau of Investigation ("FBI") for the past seven years and am a member of the FBI/New York City Police Department Joint Terrorism Task Force ("JTTF"). I have been personally involved in the investigation of this case. I am currently assigned to a squad whose principal responsibility is to investigate the activities of al Qaeda and its founder Usama Bin Laden. I have been investigating the criminal activities of members and associates of al Qaeda for the last approximately four years. This affidavit is based upon my personal participation in this investigation, conversations with witnesses and other agents, law enforcement officers, and review of relevant documents, reports, audio recordings, and transcripts.

3. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part.

Background on Al Qaeda

4. Al Qaeda, an international terrorist group dedicated to opposing non-Islamic governments with force and violence, was founded in or about 1989 by Usama Bin Laden and other coconspirators not named as defendants herein. Members of al Qaeda pledged an oath of allegiance (called a "bayat") to Usama Bin Laden and al Qaeda. On or about October 8, 1999, al Qaeda was designated by the Secretary of State as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act, and has remained designated since that date.

5. Al Qaeda functions both on its own and through some of the terrorist organizations that operate under its umbrella, including the Egyptian Islamic Jihad, of which Ayman al Zawahiri, not named as a defendant herein, is a founder. Zawahiri, an Egyptian-born, Islamic radical with medical training, joined forces with Usama Bin Laden, and together in 1998, the two endorsed a fatwah (ruling on Islamic law) under the banner "International Islamic Front for Jihad on the Jews and Crusaders." This fatwah, printed in the publication Al Quds al-'Arabi on February 23, 1998, stated that Muslims should kill Americans -- including civilians -- anywhere in the world where they can be found. Later that year, on or about August 7, 1998, the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were bombed, resulting in the deaths of well over 200 people, including United States citizens, and the injury

of over 4,000 more persons. In connection with those bombings, a federal grand jury has returned indictments, including (S9) 98 Cr. 1023 (KTD), which charges, among other things, that Usama Bin Laden, Ayman al Zawahiri, and al Qaeda, in coordination with other terrorist groups, have declared war against Americans worldwide, specifically including the American civilian population. Four of the defendants charged in that indictment have already been convicted in the United States District Court for the Southern District of New York of participating in a conspiracy to kill American nationals. Zawahiri is recognized as Usama Bin Laden's principal deputy within al Qaeda.

6. From at least in or about 1989 until in or about 2001 and 2002, Usama Bin Laden and al Qaeda sponsored, managed and/or financially supported training camps in Afghanistan, Pakistan and elsewhere, which camps were used to instruct members and associates of al Qaeda and its affiliated terrorist groups in the use of firearms, explosives, chemical and biological weapons, and other weapons of mass destruction. In addition to providing training in the use of various weapons and explosives, these camps were used to conduct operational planning against United States targets around the world. The camps also taught surveillance techniques for potential targets of attack. Al Qaeda and its affiliated organizations are still involved in training members and associates in the Middle East.

7. Subsequent to the Embassy bombings referred to above, al Qaeda has conducted several other terrorist attacks against the United States and U.S. interests, including the October 2000 attack in Yemen on the U.S.S. Cole and the September 11, 2001 terrorist attacks on the World Trade Center in New York and the Pentagon in Virginia, which resulted in the deaths of thousands of people.

Evidence of Material Support

8. During the course of this investigation, and as set forth below, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," and RAFIQ SABIR, a/k/a "the Doctor," the defendants, engaged in multiple meetings and conversations (the vast majority of which were consensually-recorded) in which they discussed providing material support to al Qaeda. Specifically, SHAH agreed to provide training in martial arts and hand-to-hand combat to al Qaeda members and associates, while SABIR agreed to provide medical assistance to wounded jihadists. Ultimately, in order to express their loyalty to al Qaeda, SHAH and SABIR pledged an oath (referred to as

bayat) to al Qaeda and Usama Bin Laden, thereby essentially becoming members of the organization.

9. During the course of this investigation, I have interviewed on a number of occasions a confidential source ("CS-1").¹ CS-1 advised me and other law enforcement officers, in part and in substance, of the following: In or about Summer 2003, CS-1 was in contact with an individual later identified as the defendant TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab." During various conversations with CS-1 between in or about Summer 2003 and in or about October 2003, many of which were consensually recorded, SHAH discussed with CS-1 the duty of "jihad" (*i.e.*, holy war). In one conversation, in or about October 2003, SHAH informed CS-1 that he was a "professor" of the "martial arts" but that he was currently not "training" any "brothers" and noted that after September 11, 2001, various mosques had, in fact, prevented SHAH from continuing such training.

10. On or about December 11, 2003, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, was arrested by the City of Yonkers Police Department for petit larceny in connection with property damage which had been done to an apartment he had vacated. During an inventory search of SHAH's vehicle, the Yonkers police officers found several telephone numbers, including home and cellular telephone numbers for two individuals, "Individual-1," and Seifullah Chapman.² As set forth more fully below, Individual-

¹ In or about 1990, CS-1 was convicted of certain state crimes relating to robberies. While serving his state sentence, CS-1 agreed to cooperate with the Government regarding certain terrorism investigations and, in return, the Government wrote the state sentencing judge for sentencing consideration. After serving his sentence, CS-1 continued to cooperate with the Government and currently provides information as a paid informant. CS-1's information has proven to be reliable and has been corroborated by other sources of information, including surveillance and recordings.

² On or about March 4, 2004, Chapman and two of his co-conspirators were convicted in the Eastern District of Virginia of, among other charges, providing material support to a terrorist group in Pakistan. Chapman was a member of the Virginia Jihad Network in which members interested in jihad were trained in combat techniques, which involved, among other things, paintball exercises. At trial, Chapman testified on his own behalf and

1's identity is known to the FBI and it is believed that Individual-1 has trained at foreign terrorist camps.

11. On or about December 16, 2003, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, had a meeting with CS-1, which was consensually recorded. SHAH and CS-1 discussed the following subjects, among other things:

a. SHAH indicated that he was interested in obtaining a location where he could "train" in hand-to-hand combat and prepare Muslim "brothers [for jihad]."

b. SHAH stated that his expertise was in teaching martial arts and that the martial arts that he taught are "deadly and dangerous."

c. At the FBI's direction, CS-1 informed SHAH that CS-1 had access to a warehouse in Long Island (the "Warehouse") and suggested that SHAH might want to use the space for his "training." In response, SHAH discussed the potential for using the Warehouse and told CS-1, in substance, that he would have to "hang some tires [in the Warehouse] 'cause I teach, I teach the brothers how to use swords and machetes."

d. SHAH discussed how one has to "fight the jihad" and to "find those people" who are willing to press the fight. SHAH also indicated that he had previously discussed with other "brothers" how "we could pass" knowledge on to "brothers who are ready" [to fight jihad].

e. SHAH indicated that his "greatest cover has been" his career as a "professional" jazz musician.

f. SHAH complained that he is unable to get out of the country [the United States] because he has "no papers."³

admitted that he had attended a Lashkar-e-Taiba (a Pakistan-based terrorist group) training camp in or about 2001. Chapman was sentenced to 85 years' imprisonment.

³ According to New York State criminal records and information provided by New York State authorities, SHAH is subject to a court order regarding his failure to provide child support, and as a result, the New York State Family Court has prevented SHAH from traveling out of the country until he has complied with his financial obligations.

g. SHAH discussed his December 11, 2003 arrest for petit larceny and told CS-1 that if he had been arrested for terrorism, he would have attempted to fight the police.

12. On or about December 23, 2003, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, had a conversation with CS-1, which was consensually recorded. During this conversation, SHAH and CS-1 discussed, among other things, the suitability of the Warehouse for SHAH's training. SHAH also stated, in substance, that he needed a "headquarters" so that he could "really train brothers" and bring "people in there". SHAH indicated that he was looking for "other places" [for jihad training] too. SHAH also discussed the possibility of opening a machine shop in order to fabricate "many things," including weaponry, so that "you wouldn't have to depend on people" to make "your barrels [gun barrels], anything like that."

13. On or about December 31, 2003, CS-1 and TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, visited the Warehouse in order to determine its feasibility for "training." This visit was surveilled by FBI agents and was videotaped. In addition, conversation between SHAH and CS-1 was recorded. During their discussion at the Warehouse, SHAH indicated, among other things, that the facility was good for what he had in mind and that he liked the fact that the facility "had no windows" and would, in effect, conceal the training. However, SHAH expressed concerns with CS-1 about the location of the Warehouse given its distance from where SHAH was then residing.

14. Later, between in or about January 2004 and in or about February 2004, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, and CS-1 had several discussions regarding "training," which were consensually recorded. During these discussions, at the FBI's direction, CS-1 told SHAH that he was in contact with a recruiter for jihad from the Middle East (in reality, an FBI Special Agent acting in an undercover capacity ("UC-1")) and advised SHAH that the recruiter (UC-1) was interested in someone who could train a small number of individuals overseas in hand-to-hand combat and martial arts. SHAH advised CS-1, in substance, that he was interested and that he had a close associate, a "doctor," later identified as RAFIQ SABIR, a/k/a "the Doctor," the defendant, who lived in Florida, and who would also be interested in joining the jihad. SHAH suggested that CS-1 present SHAH and SABIR as, in essence, a "package" to the recruiter and indicated again that SHAH could provide martial arts services and his "partner," a

medical doctor, could provide medical services. SHAH also indicated that he would be interested in meeting with the "recruiter" (UC-1). Later, during these discussions, CS-1 told SHAH that UC-1 was willing to meet with SHAH alone and that the meeting would probably take place in Plattsburgh, New York, which is near the Canadian border. CS-1 also advised SHAH that UC-1 was part of a cell involved in jihad and was very security conscious.

15. In connection with this investigation, I have reviewed various telephone records obtained from telephone service providers and information obtained from pen registers authorized by the Magistrate Court in the Southern District of New York for the residence and cellular telephones of TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," and RAFIQ SABIR, a/k/a "the Doctor," the defendants. Based on those toll records, between in or about January 2004 and in or about February 2004, the time period in which SHAH had requested that CS-1 present to the jihad recruiter (UC-1), the names of SHAH and the "Doctor," i.e., SABIR, as a "package," there were over 70 calls between SHAH and SABIR.

16. On or about March 3, 2004, CS-1 and TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, boarded an Amtrak train at Penn Station in Manhattan bound for Plattsburgh, New York, in order to meet with the recruiter, UC-1.

17. On or about March 4, 2004, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, was introduced to UC-1 by CS-1 in Plattsburgh, New York, and met with UC-1 on or about March 4, 2004, and again on or about March 5, 2004.⁴ The meetings on both days were consensually recorded. During these meetings, and throughout his dealings with SHAH, UC-1 posed as a recruiter for "brothers" overseas who were seeking "brothers" to wage jihad. The following points were discussed, among others:

a. SHAH told UC-1 that SHAH has a "very very very close friend" that SHAH has known for over 20 years and that

⁴ CS-1 was not present for the entirety of all of the meetings. Because of "security concerns," UC-1 and SHAH, in essence, agreed that CS-1 (although trusted by SHAH) would pass messages between UC-1 and SHAH but that specific matters being discussed about SHAH's participation in jihad would not be discussed openly with CS-1, in order to protect CS-1.

his friend, who used to be one of SHAH's students, has "got the spirit to ... wanna be right in it." SHAH also indicated that this "friend" is willing to travel and that he is "more prepared to do that than I am right now," even though the friend "may actually have more eyes on him [i.e., law enforcement surveillance] than I have. . . ."

b. SHAH discussed how he and his "friend" attempted to go to the "mountains" [which appears to be a veiled reference to training camps in Afghanistan] in or about 1998 but were not able to reach their destination.

c. SHAH talked with UC-1 about the "end point" and indicated that he "may not really be interested in coming back here [the United States] ever." SHAH mentioned that the "very serious" brothers may see SHAH's "usefulness" and put him to use for jihad and the fight against the United States.

d. SHAH discussed his specialty in the "martial arts" and informed UC-1 that he has been trained in jujitsu, which he described as the Japanese art and culture of hand-to-hand combat, and knife and stick fighting, and that he was "blessed" to have studied with a Mujahadeen [a Muslim freedom fighter] who had previously fought a war in Malaysia in or about 1969.

e. UC-1 told SHAH that some of the "brothers" who were hand-to-hand combat trainers had been caught and were being held at Guantanamo Bay in Cuba and that they still needed trainers who could teach "close combat" at camps outside of the United States.

f. SHAH told UC-1 that he was conscious of surveillance by authorities and that, as a result, he did not talk on the phone often.

g. UC-1 discussed "the Doctor," (later identified as defendant RAFIQ SABIR, a/k/a "the Doctor") who had been "identified" to UC-1 by CS-1 after CS-1 had spoken with SHAH. SHAH indicated that his friend, the "Doctor," was experienced in "ER" and that he had spent the last twenty-five years in emergency rooms in hospitals all over New York until he moved out of the state.⁵ UC-1 indicated that physicians with

⁵ Based upon my review of computerized database records, I have learned that RAFIQ SABIR is a licensed physician and that he received a medical degree from Columbia University in New York. In

emergency room experience would be needed for brothers in training who get hurt. UC-1 promised to check with the "brothers" about approaching the "Doctor" in light of SHAH's recommendation on his behalf.

h. When asked by UC-1 whether SHAH was serious about going down "this path," SHAH stated that he was sure in his "thinking and my intellect," but acknowledged that although he had performed some "serious training," he had never been "camping" before and that this was not a situation he had been in before and that it was "unknown to me [SHAH]."

i. UC-1 agreed that caution was appropriate and told SHAH that he was pleased to have met with SHAH and would tell the "brothers" overseas about the meeting.

j. During the meeting, SHAH physically demonstrated to UC-1 how he had fashioned his prayer beads into a weapon and how the prayer beads could be used to strangle a person.

18. On or about March 11, 2004, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, and CS-1 had a conversation, which was consensually recorded, at SHAH's apartment. During this meeting, CS-1, at the direction of the FBI, informed SHAH that UC-1 wished to meet with SHAH and his friend, the "Doctor Rafiq," an individual later identified as the defendant RAFIQ SABIR, a/k/a "the Doctor," in Florida later in the month, if possible. SHAH indicated his availability to CS-1. Later, SHAH also brought CS-1 to the basement of his apartment and discussed its suitability for conducting martial arts training.

19. Toll and pen register records for telephones show that between the March 11 meeting of SHAH and CS-1 and on or

or about November 2002, the FBI learned the identity of SABIR from local police in Beacon, New York, the town where SHAH was then residing. According to the Beacon police, SABIR was pulled over near the local mosque, after residents had complained about suspicious activity near the mosque. SABIR was driving in a car with Florida license plates. After being stopped, SABIR presented to the Beacon police a North Carolina driver's license. Later in the investigation, based on this information, other agents and I obtained SABIR's photograph and showed it to CS-1, who confirmed that this individual was RAFIQ SABIR, the individual later introduced to CS-1 by SHAH.

about March 18, 2004, SHAH and SABIR made approximately 22 calls to each other. Prior to this flurry of calls in or about March 2004, the records show that the last telephone call between SHAH and SABIR was several weeks prior, on or about February 21, 2004.

20. On or about April 1, 2004, and on or about April 2, 2004, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, and UC-1 met in the vicinity of Orlando, Florida. These meetings were consensually recorded. The following was discussed, among other things:

a. At the outset of the meeting, SHAH informed UC-1 that his "partner" had to go out of the country at the last minute for a family emergency and could not attend the meeting and would be returning on or about April 12, 2004.⁶

b. SHAH indicated that he was not "fond" of traveling unless it was "absolutely necessary" and that he brought along his musical instrument [a bass] so as not to "bring attention" to himself.

c. UC-1 told SHAH that the reason for the meeting was to inform SHAH that UC-1 had told the "brothers" about SHAH and that UC-1 had "vouched" for SHAH. In addition, UC-1 told SHAH that, in light of SHAH's trust in his "friend," it was, in substance, an acceptable risk for UC-1 to meet SHAH's "friend."

d. UC-1 informed SHAH that the "brothers" needed "trainers" and wanted SHAH to make a demonstration videotape and to prepare a syllabus for what SHAH would be able to teach "brothers" about "close combat". Immediately after UC-1 mentioned the term "close combat," SHAH interrupted UC-1 and told him, in substance, "I understand. I understand a lot of it. You don't even have to speak to me about that." Further, SHAH stated, in substance, that "we, we, we on the same thing. We on, one hundred percent same page." SHAH indicated that just as he had told UC-1 before, "since I was pretty young, this has always been one of my dreams."

⁶ I have reviewed travel records which confirm that on or about April 1, 2004, RAFIQ SABIR, a/k/a "the Doctor," the defendant, traveled to Jamaica, and returned to the United States on or about April 12, 2004.

e. SHAH also discussed with UC-1 that he wanted to start a martial arts school only for Muslims, but that in America such an exclusive school would not be permitted because it was discriminatory unless SHAH were to open up the school as a private "social club." By opening up the school as a "social club," SHAH explained, "I can use the highest level of discrimination."

f. SHAH informed UC-1 that he would like to learn at the camps about "chemical stuff" and later SHAH specified that he wanted training about "explosives and firearms". UC-1 and SHAH also discussed training on AK-47 assault rifles and hand grenades.

g. SHAH explained to UC-1 that he had previously trained many "brothers" and that a "lot of my brothers" who were trained by him would "go over" and "got hooked up," although nobody ever came in and told SHAH that they were "gonna walk in a place and blow up." The "brothers," SHAH indicated, "don't even talk like that." SHAH and UC-1 then discussed martyrdom.

h. SHAH mentioned the names of several students who studied martial arts with SHAH and who had gone overseas to training camps in Afghanistan and Yemen, including Individual-1, whose name and telephone numbers were found in SHAH's possession, as discussed above in paragraph 9. In particular, SHAH indicated, in substance, that Individual-1 was "over there" [*i.e.*, in Afghanistan] on September 11, 2001, and had to keep on traveling to "different provinces and moving around in different places" [*i.e.*, safehouses] before ultimately being able to return to the United States. SHAH explained that Individual-1 had been given the names of people to contact in Afghanistan by a white American Muslim convert, believed to be Seifullah Chapman, whose name and telephone number were also found in SHAH's possession, as referenced above in paragraph 9. SHAH also stated that Individual-1 had told SHAH how difficult it was to be back in the United States and not to be in training.⁷ SHAH stated that he would call Individual-1 to enlist his help to prepare the demonstration video requested by UC-1 and assured UC-1 that Individual-1 had SHAH's trust. SHAH told UC-1 that Individual-1 could be trusted because he was a longtime student of SHAH who

⁷ Based upon Department of State travel records, it appears that Individual-1, who has been identified by the FBI, was on a return flight to the United States from Europe approximately nine months after September 11, 2001.

after leaving school, started "seeking the way to become Muhajadeen."

i. UC-1 informed SHAH that the "Sheikh" [i.e., Usama Bin Laden] was personally monitoring "all" operations, including who would be in charge.

j. UC-1 and SHAH also discussed the use of "code" in order to communicate with one another in the future so that SHAH could communicate to UC-1 that the demonstration video and syllabus for the training courses were complete.

21. During the April 1, 2004 meeting between TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, and UC-1, a girl standing nearby looked at SHAH and SHAH smiled back. SHAH then turned to UC-1 and stated, in substance, "I could be joking and smiling and then cutting their throats in the next second."

22. Based upon the toll and pen register records for telephones used by TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," and RAFIQ SABIR, a/k/a "the Doctor," the defendants, approximately four days prior to SHAH's trip to visit UC-1 in Orlando, Florida, SABIR called SHAH, and later on or about April 15, 2004, once SABIR had returned from Jamaica, SABIR placed two calls to SHAH. In addition, toll and pen register records show that on or about April 2, 2004, the date of one of the meetings in which SHAH told UC-1 that he would ask Individual-1, his former student, to help SHAH make the demonstration video, SHAH called a telephone registered to Individual-1.

23. Between on or about April 14, 2004, and on or about May 6, 2004, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, and CS-1 had several conversations, which were consensually recorded. During these conversations, SHAH and CS-1 discussed SHAH's e-mail communications with UC-1. In particular, SHAH told CS-1, in substance, how SHAH had recently received e-mails from UC-1 asking about the "Doctor" and that SHAH was troubled about how "open" the e-mail communications were and that UC-1 should not "allow words to flow here" because of the security risk such communications entailed.

24. Between in or about October 2004 and in or about early May 2005, RAFIQ SABIR, a/k/a "the Doctor," the defendant, was out of the United States and is believed to have been, at least during some of that time period, in Saudi Arabia, based

upon a review of flight records and immigration databases. In addition, there was a gap in communications between UC-1 and TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, as UC-1 informed SHAH that he would be traveling frequently and that he would be spending time in the Arabian "Peninsula."

25. On or about March 20, 2005, UC-1 called TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, using a cellular telephone with a Yemen country code. SHAH then stated, in substance, that he thought from looking at his cellular telephone that the call was from his "friend" [*i.e.*, RAFIQ SABIR, a/k/a "the Doctor," the defendant] who was in the Middle East.⁸ UC-1 told SHAH that he was traveling and SHAH said, in substance, that he could tell by the area code where UC-1 was calling from. UC-1 spoke with SHAH in code about the training manual and videotape. SHAH indicated that the video was not finished but that the handbook was almost complete and that he was still interested in UC-1's "business" proposal. SHAH further explained that he was moving into a new apartment and that CS-1 would be moving into SHAH's new apartment building. SHAH indicated to UC-1 that his friend "Rafiq" currently worked as a doctor at a hospital in Saudi Arabia and that perhaps Rafiq [SABIR] could meet with UC-1 in Saudi Arabia.

26. On or about March 28, 2005, and on or about April 14, 2005, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, and CS-1 had two conversations, which were both consensually recorded. During these conversations, SHAH mentioned to CS-1 that he had recently received an e-mail from UC-1 and had also spoken with UC-1 over the telephone. CS-1 inquired whether SHAH was still interested in UC-1's "proposal" and SHAH answered that he was but that his schedule had prevented him from being able to "put the rest of the stuff together that I have to put together [*i.e.*, the instructional manual and training video for martial arts and hand-to-hand combat]."

27. Based upon my review of flight records and immigration databases, on or about May 1, 2005, RAFIQ SABIR, a/k/a "the Doctor," the defendant, returned to the United States from Saudi Arabia. According to CS-1, who relayed this information to me in or about May 2005, upon SABIR's return to

⁸ From my own training and experience, I know that the country code for Saudi Arabia is 966 and that the country code for Yemen is 967.

the United States, SABIR was staying with TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, at SHAH's new apartment in the Bronx (the "Bronx Apartment"). UC-1 also notified SHAH by telephone that UC-1 would return to the United States and wished to meet with SHAH.

28. On or about May 20, 2005, TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," the defendant, met with CS-1 and UC-1 at CS-1's apartment which was on the first floor of the Bronx Apartment. Soon after the meeting had begun, RAFIQ SABIR, a/k/a "the Doctor," the defendant, arrived and joined the meeting.⁹ This meeting was consensually recorded. During this meeting, the following, among other things, was discussed:

a. UC-1 explained to SHAH and SABIR that UC-1 was going to Iraq in order to coordinate jihad efforts in that country.

b. SHAH and UC-1 discussed training camps in Yemen and spoke generally about jihad.

c. SHAH explained to UC-1 that he could not currently travel overseas at the time because of his legal troubles but that he was training people and attempting to persuade them to fight jihad. Specifically, SHAH told UC-1 that he had recently traveled to Phoenix, Arizona, in order to meet with an individual ("Individual-2") to discuss jihad but that SHAH's goals and Individual-2's goals were not the same and it did not work out.¹⁰

d. UC-1 discussed how much SHAH trusted SABIR and that UC-1 was glad to finally meet him. SABIR told UC-1 that he works at a Saudi military base in Riyadh as a doctor and that he was able to, in essence, move around freely with his credentials. UC-1 told SABIR that he had "brothers" in Riyadh and that the "brothers" could help SABIR if he needed assistance.

⁹ CS-1 was not present for the entire meeting. As before, given the "safety" concerns, CS-1 left the room soon after the meeting began.

¹⁰ In connection with this investigation, on or about September 9, 2004, law enforcement agents surveilled SHAH as he disembarked at the airport in Phoenix, Arizona, following a flight from New York. Later, on or about September 12, 2004, SHAH was surveilled at the airport in Phoenix boarding a flight back to New York.

e. UC-1 and SABIR discussed SHAH and SABIR's attempt to visit "the mountains," i.e., the training camps in Afghanistan, in or about 1998 and SABIR responded, in substance, that Allah allows you to go where he wants you to go and that the path at the time was not clear.

f. UC-1, SHAH, and SABIR discussed the problems facing those involved in jihad, including those "brothers" who are too "emotional" (i.e., those acting without orders) and those brothers who are in jail for life because of their "fervor." SHAH indicated his belief that those jailed "brothers" had been going about "things in a way that is too open."

g. UC-1 explained that Usama Bin Laden gives orders from the top and stated that he wanted only brothers who were committed to al Qaeda.

h. SHAH assured UC-1 that the room was "safe" and that nothing was "hooked up."

i. UC-1 indicated to SHAH and SABIR that "they" needed people like them and further explained that a doctor would be useful to treat "wounded brothers" overseas since they could not go to a hospital to receive treatment.

j. SHAH explained to UC-1 how SHAH and SABIR are close friends and how they have been persecuted for many years. In particular, SHAH recounted how SHAH and SABIR had been kicked out of a mosque in the Bronx, where SABIR was an assistant Imam, after SABIR brought SHAH and another individual to the mosque in order to teach urban warfare to other "brothers".

k. SHAH and SABIR both complained about law enforcement scrutiny. SHAH indicated that he had once taken a call from Queens and thought that someone was attempting to record the call and, as a result, did not call the person back. SABIR stated, in substance, that upon his recent return to the United States from the Middle East, he was questioned for approximately three hours and was asked about contact numbers in his possession. SABIR also explained that the United States government was attempting to train their agents to pose as "Muhajadeen" and SHAH added that the "Jews" were already doing this.

l. SABIR asked UC-1 to have a "brother" in Riyadh contact him over there and wrote down SABIR's number on a piece of paper for UC-1 so that a "brother" could contact him in

Saudi Arabia. Shortly thereafter, SHAH took the paper back, which was then ripped up, and told SABIR to write down an alias on a new piece of paper with his telephone number instead. UC-1 then explained to SABIR and SHAH how to use a numeric code in order to safely pass messages. Later, UC-1 told SHAH and SABIR that UC-1 would be in the Middle East. SHAH asked how they would be able to contact UC-1 and UC-1 told them that they would not be able to contact him directly but that another "brother" would contact SHAH and SABIR. UC-1 then gave a "code" so that SHAH and SABIR could, in essence, identify the "brother" who contacted them and/or give them orders.

m. SHAH asked UC-1 whether he was familiar with the "brothers" in Washington, D.C., and then indicated that SHAH knew one of the brothers who was "fully prepared." SHAH indicated that this brother was a paramedic and that SHAH was happy because this brother followed his orders. SHAH stated that the paramedic took SHAH to meet with another brother in D.C., right after September 11 and that he met a "white brother" [Seifullah Chapman, referenced above] who had done training with the "Muhajadeen" and had extensive knowledge about al Qaeda. SHAH also indicated, in substance, that the "brother was taking brothers out" for paintball training exercises.

n. SHAH indicated to UC-1 that he had the training manual and videotapes "from past stuff" but that he did not have it here [i.e., CS-1's apartment] and assured UC-1 that they were in a safe place. SHAH stated that the "book" was not finished yet. SHAH also indicated that the videotape that he had in his possession had depicted SHAH without a mask and that he would have to make another tape with a mask for safety reasons.

o. UC-1 told SHAH and SABIR that he would tell his people that SABIR was willing to assist wounded brothers and thanked SABIR for volunteering, adding that he might never get called. UC-1 also stated that "Sheikh Usama" (i.e., Usama Bin Laden) considered doctors to be very important to the cause. In response, SABIR stated that UC-1 should not expect him to "give you anybody else's name since I do not feel comfortable selecting" anyone else and that "I am only going to give myself."

p. UC-1 told SHAH and SABIR that al Qaeda needed trusted people in the organization and that he was authorized to deliver a message from his leader. UC-1 explained to SHAH and SABIR that he was authorized to give bayat, i.e., the oath of loyalty to al Qaeda. UC-1 further explained that "brothers" had caused problems by attempting to commit jihad and martyrdom without permission from the leadership and that "Sheikh Usama"

(i.e., Usama Bin Laden) and "Dr. Ayman" (i.e., Ayman al Zawahiri) would give the orders, which would help to limit infiltration. UC-1 stated that they must be willing to accept these principles of bayat before taking it and if they did not wish to take bayat, then there would not be a problem. In response, SHAH stated, in substance, that he had been "preparing this for a long time" and that he had been listening to Usama Bin Laden's speeches from the camps and during Ramadan.

q. UC-1 explained bayat and then SHAH committed himself to the path of Holy War, to the oath of secrecy, and to abide by the directives of al Qaeda. SHAH indicated that he understood the oath and agreed that he would obey the guardians of the oath, namely Sheikh Usama Bin Laden.

r. UC-1 then indicated that he was prepared to offer bayat to SABIR but that it was up to SABIR whether he wanted to take it or not. In response, SABIR stated, in substance, that SABIR and SHAH had spoken about this for a long time and that he would be abandoning his brother about "everything that we had agreed upon," if he didn't proceed. SABIR also stated, in substance, that in the "very beginning we agreed upon it in the first place." SHAH answered, in substance, that SABIR would not be abandoning him since they were "partners."

s. Thereafter, UC-1 asked SABIR whether he understood the full meaning of bayat. In response, SABIR indicated that he understood bayat and that it came from the Koran and meant "pledging support." SABIR also stated that both he and SHAH had asked Allah for the oath and now they both had it. SABIR also stated, in substance, that "we have a saying that you should be careful what you ask for because you might get it; I cannot complain in what I ask for." Thereafter, SABIR pledged his loyalty to al Qaeda and took bayat in the same manner as SHAH.

t. After taking bayat, both SHAH and SABIR embraced UC-1. Before UC-1 left to go to the "airport," SHAH brought UC-1 down to the basement of the Bronx Apartment to show UC-1 where they could train "brothers." SHAH stated that to avoid suspicion, he would also train "outsiders" too while secretly training the "brothers." SHAH also escorted UC-1 up to his apartment in order to show UC-1 some of his books, including one entitled "Path to Jihad." At SHAH's apartment, SHAH showed UC-1 a weapon and told UC-1 how SHAH could use the weapon to hit someone in the face.

29. Based upon my review of flight records and conversations with other law enforcement agents, I learned that RAFIQ SABIR, a/k/a "the Doctor," the defendant, has reservations on or about June 2, 2005, for a flight leaving from Florida to JFK Airport in New York, and transferring to a subsequent flight from JFK to Saudi Arabia.

WHEREFORE, deponent prays that arrest warrants issue for TARIK IBN OSMAN SHAH, a/k/a "Tarik Shah," a/k/a "Tarik Jenkins," a/k/a "Abu Musab," and RAFIQ SABIR, a/k/a "the Doctor," the defendants, and that they be imprisoned or bailed, as the case may be.

BRIAN J. MURPHY
Special Agent
Federal Bureau of Investigation

Sworn to before me this
27th day of May, 2005

HENRY PITMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK