
UNITED STATES DISTRICT COURT
District of Kansas

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 22-20055-01-DDC

MOHAMMAD RAFI,

Defendant.

PLEA FACTUAL BASIS

APPEAR NOW the United States of America, by and through undersigned counsel, and respectfully submits the following facts constitute the offense of Making a False Statement in violation of Title 18, United States Code, Section 1001(a)(2), as charged in Count 1 of the Indictment (doc. 10), to which the defendant is pleading guilty without a plea agreement.

Should this case proceed to trial, the United States would present the following evidence to prove the defendant's guilt.

I. ELEMENTS OF OFFENSE

The United States Tenth Circuit Court of Appeals provides the following

pattern jury instruction for violations of 18 U.S.C. § 1001. *See* Criminal Pattern Jury Instructions, 2.46.1.

First: the defendant made a false, fictitious, or fraudulent statement or representation to the government; specifically denying he ever associated with anyone involved in activities to further terrorism [as described in indictment];

Second: the defendant made the statement knowing it was false;

Third: the defendant made the statement willfully, that is deliberately, voluntarily, and intentionally;

Fourth: the statement was made in a matter within the jurisdiction of the executive, legislative, or judicial branch of the United States; and

Fifth: the statement was material to the United States Department of Defense [name government entity].

A fact is “material” if it has a natural tendency to influence or is capable of influencing a decision of the United States Department of Defense [name of government entity].

It is not necessary that the United States Department of Defense [government entity] was in fact influenced in any way.

II. FACTUAL BASIS

Mohammad Rafi (Rafi), the defendant, came to the attention of the

Federal Bureau of Investigation (FBI) due to a tip about his interactions with known members of ISIS-K, a “Foreign Terrorist Organization.” (On or about October 15, 2004, the United States Secretary of State designated al Qaeda in Iraq (“AQI”), then known as Jam’at al Tawhid wa’al-Jihad, as a Foreign Terrorist Organization (“FTO”) under Section 219 of the Immigration and Nationality Act (the “INA”) and as a Specially Designated Global Terrorist under section 1(b) of Executive Order 13224. On or about May 15, 2014, the Secretary of State amended the designation of AQI as an FTO under Section 219 of the INA and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224 to add the alias Islamic State of Iraq and the Levant (“ISIL”) as its primary name. The Secretary also added the following aliases to the FTO listing: the Islamic State of Iraq and al-Sham (i.e., “ISIS,” which is how the FTO will be referenced herein), the Islamic State of Iraq and Syria, ad-Dawla al Islamiyya fi al-`Iraq wa-sh-Sham, Daesh, Dawla al Islamiya, and Al-Furqan Establishment for Media Production. On September 21, 2015, the Secretary added the following aliases to the FTO listing: Islamic State, ISIL, and ISIS. To date, ISIS remains a designated FTO. On January 14, 2016, the Secretary designated the Islamic State’s Khorasan Province (ISIS-K), an affiliate of ISIS located in Afghanistan and Pakistan, as a Foreign

Terrorist Organization.)

When Rafi completed and submitted from Kansas the SF-86 “Questionnaire for National Security Positions” through the “Electronic Questionnaire for Investigative Processing” form on August 12, 2019, for a security clearance as a contract linguist with the United States Department of Defense, he answered a question falsely.

For the question on that “e-QIP” form, “Have you EVER associated with anyone involved in activities to further terrorism,” Rafi answered, “No.” Because the answer to that question is critical to granting a security clearance, Rafi’s answer is material to the Department of Defense’s decision to contract with him. (As part of the contract linguist application process, on June 17, 2019, Rafi completed an online screening interview form. For the question, “Are you now or have you EVER been a member of any organization, associated with or contributed to any movement or group that advocates the overthrow of the U.S. government,” Rafi answered, “No.”)

The e-QIP form warns of “Penalties for Inaccurate or False Statements” as “The U.S. Criminal Code (title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines and/or up to five (5) years imprisonment.” The e-QIP form included a

“Statement of Understanding,” providing “I have read the instructions and I understand that if I withhold, misrepresent, or falsify information on this form I am subject to the penalties for inaccurate or false statement (per U.S. Criminal Code, Title 18, section 1001), denial or revocation of a security clearance, and/or removal and debarment from Federal Service.” Rafi answered, “Yes.”

Similarly, on November 12, 2018, Rafi completed and signed the Form N-400 Application for Naturalization with the United States Department of Homeland Security. For the question, “Have you EVER been a member of, or in any way associated (either directly or indirectly) with a terrorist organization,” Rafi answered, “No.”

Relatedly, on April 26, 2019, Rafi completed the Form N-445 Notice of Naturalization Oath Ceremony and for the question, “Since your interview, have you joined, become associated, or connected with any organization in any way, including the Communist Party, a totalitarian organization, or terrorist group,” he answered, “No.”

Information from Rafi’s Facebook account from at least January 2018, his statements to a confidential human source since the fall of 2021, and his statements to investigators on October 10 and 11, established the answers to procure naturalization and citizenship, as well as to obtain the security

clearance, to be false.

In February 2019, the Afghanistan National Directorate of Security publicly announced the arrest of an individual for recruiting militants for ISIS-K and deploying them to a specific province within Afghanistan. On March 13, 2019, Rafi reposted a video on his Facebook account that referenced this arrest.

In July 2019, the Afghanistan National Directorate of Security publicly announced the arrest of another individual for recruiting students to join ISIS-K and encouraging them to carry out terrorist attacks. By July 25, 2019, Rafi reposted a video on his Facebook account that referenced both arrests.

Rafi's publicly available Facebook account revealed a pattern of reposting videos featuring both arrested ISIS-K recruiters, and other publicly identified members or recruiters for ISIS-K. In April 2018 and in May 2018, via direct messages on Rafi's Facebook account, he sought telephone numbers for ISIS-K recruiters. During that same time period, Rafi used direct messages on his Facebook account to direct money sent via Western Union from Lenexa, Kansas, to Afghanistan be delivered to one of the subsequently arrested ISIS-K recruiters. Records obtained from Western Union confirmed Rafi sent funds from Lenexa, Kansas, to Afghanistan consistent with these Facebook messages.

On or about October 11, 2019, the Department of Defense deployed Rafi to Afghanistan as a contract linguist. On or about November 10, 2019, military personnel caught Rafi as he attempted to sneak back onto the military base, as he left the base without permission.

During a conversation with a Confidential Human Source in the Fall of 2021, Rafi stated he knew of the ISIS-K recruiter's arrest and detention in July 2019, so he sought to facilitate that ISIS-K recruiter's release while deployed to Afghanistan a couple of months later. Rafi told the Confidential Human Source that he was attempting to facilitate the release of that ISIS-K recruiter when he was caught sneaking onto the U.S. military base in Afghanistan in November 2019. In a subsequent conversation with a Confidential Human Source, Rafi stated he sent money to the other arrested ISIS-K recruiter via Western Union.

During an interview with FBI agents on October 16, 2022, Rafi explained his Facebook posts supporting ISIS-K recruiters was his effort to become famous by posting content involving ISIS-K, as he believed following "bad" people would bring fame. When watching their speeches, it made Rafi feel emotional and hyper, as he specifically thought the violence of jihad taught by the ISIS-K recruiters was correct.

III. CONCLUSION

The government respectfully submits this summary of facts could be presented at a trial in this case and are sufficient to support the defendant's plea of guilty on December 30, 2024.

Respectfully submitted,

KATE E. BRUBACHER
United States Attorney
District of Kansas

By: s/Scott C. Rask
Scott C. Rask
Assistant United States Attorney
500 State Avenue, Suite 360
Kansas City, Kansas 66101
(913) 551-6730
(913) 551-6541 (fax)
Scott.Rask@usdoj.gov
Kan. S. Ct. No. 15643

CERTIFICATE OF SERVICE

I certify that on December 30, 2024, I electronically filed this Proposed Factual Basis with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to those attorneys who have entered their appearance in the matter.

Tim H. Burdick
Assistant Federal Public Defender
500 State Avenue, Suite 201
Kansas City, Kansas 66101
(913) 551-6712
(913) 551-6562 (fax)
Tim_Burdick@fd.org
Counsel for Defendant

By: s/Scott C. Rask
Scott C. Rask, #15643
Assistant United States Attorney