



Free Yezidi Foundation
Memorandum

19 September 2019

United States of America v Samantha Elhassani

Defendant Samantha Elhassani, a national of the United States, also known as Um Yusuf, is currently accused of violating Title 18 US Criminal Code 2339A(b)(1) and Title 18 US Criminal Code 2339B(a)(1).

Count 1 of the indictment states that Ms. Elhassani

“knowingly conspired to provide material support and resources...that is, personnel, including funds and tactical gear for such personnel to use, among other things, to work under the direction of the control of the Islamic State of Iraq and al-Sham (ISIS), which at all relevant times has been designated by the Secretary of State as a foreign terrorist organization, knowing that the organization was a designated terrorist organization, and knowing that the organization had engaged in, and was engaging in, terrorist activity and terrorism...”

Count 2 of the indictment states that Ms. Elhassani

“did knowingly provide material support and resources... that is, aiding and abetting Individual A and Individual B in providing themselves as personnel to ISIS, including by procuring tactical gear and funds for their use in fighting for ISIS, which at all relevant times has been designated by the Secretary of State as a foreign terrorist organization, knowing that the organization was a designated terrorist organization, and knowing that the organization had engaged in, and was engaging in, terrorist activity and terrorism...”

The United States Attorney indictment indicates that there is evidence to bring charges against the defendant for conspiring to support a designated terrorist organization, and that the defendant *knew* that this was a designated terrorist organization.

The Free Yezidi Foundation (FYF) concurs with the assessment that the Islamic State of Iraq and al-Sham (Daesh, ISIS, IS, Islamic State) is a known terrorist organization. Further, FYF contends that ISIS is an organization that committed severe human rights abuses, up to and including genocide, and material support furthering such crimes is itself a criminal violation. Title 18, United States Criminal Code, 2339A states:

“Whoever provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 229, 351, 831, 842(m) or (n), 844(f) or (i), 930(c), 956, 1091, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 1992, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, 2332f, 2340A, or 2442 of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), section 46502 or 60123(b) of title 49, or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B) or in preparation for, or in carrying out, the



concealment of an escape from the commission of any such violation, or attempts or conspires to do such an act, shall be fined under this title, imprisoned not more than 15 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life. A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.”

In addition to knowingly providing material support and resources to a designated terrorist organization, the defendant has also knowingly provided material support and resources to be used in preparation for and in carrying out violations of a number of US Criminal Codes, as outlined in 2339A. The specific violations supported by the defendant are outlined below.

FYF contends that the United States Attorney has an obligation to investigate and, if appropriate, indict the defendant not only for knowingly conspiring to provide material support and resources for a designated terrorist organization, but for knowingly conspiring to provide material support and resources to be used in preparing and carrying out all applicable violations of the US Criminal Code.

FYF urges the United States Attorney to fully investigate the defendant’s actions, to determine if she knowingly conspiring to provide material support and resources for the preparation and execution of heinous violations of the US Criminal Code. The United States Attorney has in this case a solemn duty to ensure that justice is done, and such alleged crimes do not go unpunished.

Background

In 2014, ISIS began a systematic and planned effort to attack Yezidis, an ethno-religious minority group. Yezidis live mostly in Northern Iraq and practice an indigenous monotheistic faith that is not of the Abrahamic traditions. The ISIS theological justification for the attacks against Yezidis, as well as guidelines for the implementation of human rights abuses against Yezidis, can be found in ISIS’ English language propaganda magazine, Dabiq, issue number four, published in October 2014. [Note – this is prior to the arrival of defendant Ms. Elhassani in Syria, allegedly in mid-2015.] In addition to the justification of the eradication of Yezidis, the magazine also contains detailed and explicit guidelines for human trafficking, sale and purchase of Yezidi women, and sexual violence to be perpetrated against captured and enslaved women and girls.

The systematic nature of the attack against Yezidis led the United States Holocaust Memorial Museum to declare this genocide, as published in November 2015. The United Nations Commission of Inquiry on Syria came to the same conclusion in June 2016. United States Secretary of State John Kerry stated in March 2016 that ISIS had committed genocide. In July 2018, Vice President Mike Pence reiterated the United States position that ISIS had committed genocide against Yezidis. Several governments and parliaments around the world have also recognized the ISIS attacks as genocide, including the European Parliament in February 2016.

The defendant has allegedly participated in the purchase and enforced confinement of Yezidi ‘slaves’ in a slave market in Syria, while she was allegedly a member of ISIS. It should be noted that her husband raped the Yezidi women who were held, against their will, in the house.



An American individual, organization, or company knowingly providing material support or resources to prepare for or carry out violations of the US Criminal Code must be held to account.

Relevant US Criminal Code violations associated with Title 18 US Criminal Code 2339A

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out a violation of Title 18 US Criminal Code 229 (*chemical weapons*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 842 (m) (n) (*explosives*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 844 (i) (*explosives*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 956 (*conspiracy to kill, kidnap, maim, or injure persons or damage property in foreign country*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 1091 (*genocide*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 1203 (*hostage taking*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 1366 (*destruction of energy facilities*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 2155 (*destruction of national defense materials*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 2332 (*homicide of US national, conspiracy to commit homicide of US national, physical violence to cause serious bodily injury to US national*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for



and carry out Title 18 US Criminal Code 2332b (*acts of terrorism transcending national boundaries*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 2332f (*bombings of places of public use*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 2340A (*torture*)

FYF contends that the defendant may have knowingly provided material support and resources to a foreign terrorist organization, knowing that the support and resources will be used to prepare for and carry out Title 18 US Criminal Code 2442 (*recruitment / use of child soldiers*)

Notes

1. US Attorneys are charging the defendant for actions taken prior and up to her alleged entry to Syria. No charges have been filed for her activities or behavior while in Syria. The charges above are therefore in reference to the defendant electing to provide resources and material support to a terrorist organization prior to arrival in Syria (mid-2015).
2. The violations pertaining particularly to human rights violations perpetrated against Yezidis are in bold.
3. The purpose of this memo is to provide legal rationale and justification indictment in reference to the defendant knowingly providing material to be used for such violations listed in USC 2339A (which would otherwise not be included in the judicial proceedings).
4. The Free Yezidi Foundation is grateful to those who provided legal advice and guidance for this memo.