

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

JAMAL AHMED MOHAMMED ALI AL-BADAWI, : INDICTMENT
a/k/a "Abu Abed Al Rahman Al-Badawi," : S12 98 Cr. 1023
and : (KTD)

FAHD AL-QUSO, :
a/k/a "Abu Hathayfah Al-Adani," :

Defendants. :

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INTRODUCTION

The Grand Jury charges:

Background: Al Qaeda

1. At all relevant times from in or about 1989 until the date of the filing of this Indictment, an international terrorist group existed which was dedicated to opposing non-Islamic governments with force and violence. This organization grew out of the "Mekhtab al Khidemat" (the "Services Office") organization which had maintained offices in various parts of the world, including Afghanistan, Pakistan (particularly in Peshawar) and the United States. The group was founded by Usama Bin Laden, together with other coconspirators not named as defendants herein. From in or about 1989 until the present, the group called itself "al Qaeda" ("the Base"). From 1989 until in or about 1991, the group (hereafter referred to as "al Qaeda") was headquartered in Afghanistan and Peshawar, Pakistan. In or about

1991, the leadership of al Qaeda, including its "emir" (or prince) coconspirator Usama Bin Laden, relocated to the Sudan. Al Qaeda was headquartered in the Sudan from approximately 1991 until approximately 1996 but still maintained offices in various parts of the world. In 1996, Usama Bin Laden and other members of al Qaeda relocated to Afghanistan. At all relevant times, al Qaeda was led by its emir, Usama Bin Laden. Members of al Qaeda pledged an oath of allegiance (called a "bayat") to Usama Bin Laden and al Qaeda. On 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 was redesignated as such on or about October 5, 2001.

2. Bin Laden and al Qaeda violently opposed the United States for several reasons. First, the United States was regarded as an "infidel" and its citizens as "crusaders" because the United States was not governed in a manner consistent with the group's extremist interpretation of Islam. Second, the United States was viewed as providing essential support for other "infidel" governments and institutions, particularly the governments of Saudi Arabia and Egypt, the nation of Israel and the United Nations organization, which were regarded as enemies of the group. Third, al Qaeda opposed the involvement of the United States armed forces in the Gulf War in 1991 and in Operation Restore Hope in Somalia in 1992 and 1993, which were

viewed by al Qaeda as pretextual preparations for an American occupation of Islamic countries. In particular, al Qaeda opposed the continued presence of American military forces in Saudi Arabia (and elsewhere on the Arabian peninsula) following the Gulf War. Fourth, al Qaeda opposed the United States Government because of the arrest, conviction and imprisonment of persons belonging to al Qaeda or its affiliated terrorist groups or with whom it worked, including coconspirator Sheik Omar Abdel Rahman.

3. One of the principal goals of al Qaeda was to drive the United States armed forces out of Saudi Arabia (and elsewhere on the Arabian peninsula, including Yemen) and Somalia by violent attacks.. Members of al Qaeda issued fatwahs (rulings on Islamic law) indicating that such attacks were both proper and necessary.

4. Al Qaeda functioned both on its own and through some of the terrorist organizations that operated under its umbrella, including: Egyptian Islamic Jihad, and at times, the Islamic Group (also known as "el Gamaa Islamia" or simply "Gamaa't"), led by Sheik Omar Abdel Rahman and later by Ahmed Refai Taha, a/k/a "Abu Yasser al Masri," named as co-conspirators but not as defendants herein; and a number of jihad groups in other countries, including Egypt, Saudi Arabia, Yemen, Afghanistan, Pakistan, and elsewhere. To facilitate its activities, al Qaeda also maintained cells and personnel in a

number of countries to facilitate its activities, including in Yemen, and the United States.

5. Al Qaeda had a command and control structure which included a majlis al shura (or consultation council) which discussed and approved major undertakings, including terrorist operations. Al Qaeda also had a "military committee" which considered and approved "military" matters. Saif Al Adel, a/k/a "Saif," a coconspirator not named as a defendant herein, was among those who served on the military committee.

6. Since at least 1989, until the date of the filing of this Indictment, Usama Bin Laden and al Qaeda sponsored, managed, and/or financially supported training camps in Afghanistan, which camps were used to instruct members and associates of al Qaeda and its affiliated terrorist groups in the use of firearms, explosives, chemical 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.

7. From in or about 1996 through at least the autumn of 2001, Usama Bin Laden and others operated al Qaeda from their headquarters in Afghanistan. During this time, Bin Laden and others forged close relations with the Taliban in Afghanistan. To that end, Bin Laden informed other al Qaeda members and

associates outside Afghanistan of their support of, and alliance with, the Taliban. Bin Laden also endorsed a declaration of jihad (holy war) issued by the "Ulema Union of Afghanistan."

The Defendants

8. JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," ("BADAWI"), the defendant, is a national of Yemen who, in or about 1998 traveled to Afghanistan where he trained in an al Qaeda camp under the direction of, among others, Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," ("Khallad"), a coconspirator not named as a defendant herein.

9. FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," ("QUSO"), the defendant, is a national of Yemen who trained in al Qaeda camps in Afghanistan, and frequented al Qaeda guesthouses where he became familiar with the defendant Khallad, as well as with high ranking figures in al Qaeda and its affiliated groups, including Usama Bin Laden, Saif al Adel, Ayman al Zawahiri, and Muhammed Atef, coconspirators not named as defendants herein. At these guesthouses QUSO was among those instructed by Usama Bin Laden to eliminate the infidels from the Arabian Peninsula.

COUNT ONE:

CONSPIRACY TO KILL UNITED STATES NATIONALS

10. From at least 1989 until the date of the filing of this Indictment, in Afghanistan, Saudi Arabia, Yemen, and

elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif Al Adel, a/k/a "Saif," Mushin Musa Matawalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal" ("Nasheri"), coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully and knowingly combined, conspired, confederated and agreed to kill nationals of the United States.

11. It was a part and an object of the said conspiracy that the defendants, and others known and unknown, would and did: (i) murder United States nationals anywhere in the world, including in the United States; (ii) kill United States nationals employed by the United States military who were serving in their official capacity in Yemen and elsewhere on the Arabian peninsula; and (iii) engage in conduct to conceal the activities and means and methods of the co-conspirators by, among other things, establishing front companies, providing false identity

and travel documents, engaging in coded correspondence, and providing false information to the authorities in various countries, in violation of Section 2332b of Title 18, United States Code.

Overt Acts

12. In furtherance of the said conspiracy, and to effect the illegal objects thereof, the following overt acts, among others, were committed:

The Provision of Guesthouses and Training Camps

a. At various times from at least as early as 1989, Usama Bin Laden, and others known and unknown, provided training camps and guesthouses in various areas, including Afghanistan, Pakistan, the Sudan, Somalia, Kenya, and Yemen for the use of al Qaeda and its affiliated groups.

Khallad

b. In or about the early and mid-1990's, Khallad, a coconspirator not named as a defendant herein, received training (including explosives training) in various camps in Afghanistan, including al Qaeda camps, joined al Qaeda, and agreed to follow the orders of Usama Bin Laden.

c. From in or about the 1990's through the date of the filing of this Indictment, Khallad remained a member of al Qaeda, worked within Bin Laden's inner circle, and traveled on behalf of al Qaeda throughout Yemen and elsewhere on the Arabian

Peninsula, Afghanistan, Thailand, Malaysia, and elsewhere.

d. In or about the mid-1990's Khallad engaged in combat on behalf of al Qaeda in Afghanistan, and while so engaged was wounded and lost his left leg below the knee.

e. At various times relevant to this Indictment, Khallad served as one of Bin Laden's bodyguards, and engaged in and supervised various terrorist operations on behalf of al Qaeda.

Nasheri

f. In or about the mid-1990's Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal" ("Nasheri"), a coconspirator not named as a defendant herein, traveled to Afghanistan, joined al Qaeda, and agreed to follow the orders of Usama Bin Laden.

g. In or about the mid-1990's Nasheri attended al Qaeda training camps in Afghanistan and engaged in combat in Afghanistan on behalf of al Qaeda.

The Training

h. At various times from at least as early as 1990, Khallad, Saif al Adel, and Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," co-conspirators not named as defendants herein, and others known and unknown, provided military and intelligence training in various areas, including

Afghanistan, Pakistan and the Sudan, for the use of al Qaeda and its affiliated groups.

Financial and Business Dealings

i. At various times from at least as early as 1989 until the date of the filing of this Indictment, coconspirator Usama Bin Laden, and others known and unknown, engaged in financial and business transactions on behalf of al Qaeda, including, but not limited to: purchasing land for training camps; purchasing warehouses for storage of items, including explosives; purchasing communications and electronics equipment; transferring funds between corporate accounts; and transporting currency and weapons to members of al Qaeda and its affiliated groups. To carry out some of these transactions, the defendants BADAWI, and QUSO traveled on behalf of al Qaeda and its affiliated groups to various places, including, Saudi Arabia, Yemen and Thailand.

The Fatwahs Against American Troops in Saudi Arabia and Yemen

j. At various times from in or about 1992, coconspirator Usama Bin Laden, working together with members of the fatwah committee of al Qaeda, disseminated fatwahs (rulings on Islamic law) to other members and associates of al Qaeda that the United States forces stationed on the Arabian peninsula, including both Saudi Arabia and Yemen, should be attacked.

The Fatwah Against American Troops in Somalia

k. At various times from in or about 1992 until in or about 1993, Usama Bin Laden, working together with members of the fatwah committee of al Qaeda, disseminated fatwahs to other members and associates of al Qaeda that the United States forces stationed in the Horn of Africa, including Somalia, should be attacked.

The August 1996 Declaration of War

l. On or about August 23, 1996, a Declaration of Jihad indicating that it was from the Hindu Kush mountains in Afghanistan entitled "Message from Usamah Bin-Muhammad Bin-Laden to His Muslim Brothers in the Whole World and Especially in the Arabian Peninsula: Declaration of Jihad Against the Americans Occupying the Land of the Two Holy Mosques; Expel the Heretics from the Arabian Peninsula."

The February 1998 Fatwah Against American Civilians

m. In February 1998, Usama Bin Laden endorsed a fatwah under the banner of the "International Islamic Front for Jihad on the Jews and Crusaders." This fatwah, published 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.

Bin Laden Endorses the Nuclear Bomb of Islam

n. On or about May 29, 1998, Usama Bin Laden issued a

statement entitled "The Nuclear Bomb of Islam," under the banner of the "International Islamic Front for Fighting the Jews and the Crusaders," in which he stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God".

BADAWI is Enlisted in Yemen

o. In or about the spring of 1999 in Yemen, Nasheri presented BADAWI with a letter from Khallad enlisting BADAWI to assist Nasheri in an operation.

Usama Bin Laden Issues Further Threats in June 1999

p. In or about June 1999, in an interview with an Arabic-language television station, Usama Bin Laden issued a further threat indicating that all American males should be killed.

The Madinat al Sha'ab Location

q. In or about the summer of 1999, BADAWI located, at Nasheri's request, a residence that afforded privacy in the Madinat al Sha'ab area of Aden, Yemen.

r. In or about the summer of 1999, Nasheri, using the name "Abda Hussein Mohammed," leased the Madinat al Sha'ab property for an initial six month term.

s. In or about the summer of 1999, Nasheri directed BADAWI to procure a boat and a truck to tow the boat to Aden Harbor in Aden, Yemen.

t. In or about the summer of 1999, Nasheri asked the landlord of the Madinat al Sha'ab location to install a gate in the entrance to the wall surrounding the property in order to secure a boat there.

u. In or about the summer and fall of 1999, Nasheri and others known and unknown, secured a white boat with a red velvet deck cover within the premises of the Madinat al Sha'ab location.

v. In or about the fall of 1999, Nasheri and others known and unknown, transported explosives from Sa'dah, Yemen, to the Madinat al Sha'ab location in a 1979 Shaus truck.

The Attempted Attack on the United States Naval Vessel the USS The Sullivans

w. On or about January 3, 2000, Nasheri and others known and unknown, transported a bomb-laden boat from the Madinat al Sha'ab location to the beach front of Aden Harbor, in Aden, Yemen.

x. On or about January 3, 2000, as the United States Navy Vessel the USS The Sullivans was refueling in Aden Harbor, Nasheri and others known and unknown, launched from the beach in Aden Harbor an explosives-laden boat, which sank shortly after launching.

y. On or about January 4, 2000, Nasheri and others known and unknown, returned to the beach area of Aden Harbor and

salvaged the sunken boat and explosives.

z. In or about the spring and summer of 2000, Nasheri apprised BADAWI of the aborted effort to attack the *USS The Sullivans*, and of the ongoing plot to comply with Usama Bin Laden's edicts to drive American forces from the Arabian Peninsula, by attacking a United States naval vessel.

QUSO and Nibrass Meet Khallad in Bangkok

aa. In or about January 2000, QUSO and Ibrahim Al-Thawar, a/k/a "Nibrass," a coconspirator not named as a defendant herein, traveled to Bangkok, Thailand.

bb. In or about January 2000, and prior to departing for Bangkok, Thailand, Nibrass instructed QUSO, the defendant, to shave and to wear western clothes so as not to attract the attention of law enforcement while they were on their trip.

cc. In or about January 2000, QUSO and Nibrass delivered approximately \$36,000 to Khallad in Bangkok, Thailand.

The Al-Burayqat Kud Al-Namer Safehouse

dd. In or about the summer of 2000, Hassan Awadh Al-Khamri, a/k/a "Hasan Al-Ta-Efi," a/k/a "Hasan," a co-conspirator not named as a defendant herein, leased a safehouse in the Al-Burayqat Kud Al-Namer area of Aden, Yemen.

The Al-Tawahi Observation Post

ee. In or about the summer of 2000, coconspirator Hassan Awadh Al-Khamri, leased an apartment perched on the hills

of the Al-Tawahi area of Aden, Yemen, overlooking Aden Harbor where the *USS Cole* would later be berthed.

Usama Bin Laden Calls for "Jihad" to Free Imprisoned Terrorists

ff. In or about September 2000, in an interview with an Arabic-language television station, Usama Bin Laden called for a "jihad" to release the "brothers" in jail "everywhere."

Preparations for the Attack on the United States Naval Vessel The *USS Cole*

gg. In or about the spring and summer of 2000, Khallad and Nasheri met with Usama Bin Laden and others known and unknown, in and around Qandahar, Afghanistan.

hh. In or about the summer and fall of 2000, Nasheri and Mushin Musa Matawalli Atwah, a/k/a "Abdel Rahman al Muhajer," coconspirators not named as defendants herein, tested explosives at a camp used by al Qaeda near Qandahar, Afghanistan.

ii. In or about the summer and fall of 2000, Nasheri and others known and unknown successfully tested the explosives that had sunk in January 2000.

jj. In or about the summer and fall of 2000, at the Madinat al Sha'ab location, Nasheri and others known and unknown, refitted the boat that had sunk in January 2000 to strengthen the hull and increase the number of fuel tanks.

kk. In or about September and October 2000, BADAWI enlisted and trained QUSO to film the attack on the *USS Cole* from

the Tawahi apartment.

ll. In or about September or October 2000, BADAWI provided a pager to QUSO.

mm. In or about September or October 2000, BADAWI advised QUSO that QUSO would receive on the pager a predetermined code that would indicate an imminent attack on the *USS Cole* and signal QUSO to depart for the Tawahi apartment.

Khallad Flees Yemen

nn. At various times relevant to this Indictment Khallad traveled between Afghanistan and Yemen to engage in activities on behalf of al Qaeda.

oo. In or about September or early October 2000, Usama Bin Laden arranged for Khallad to return from Yemen to Afghanistan.

The Attack on the United States Naval Vessel The *USS Cole*

pp. In or about the morning of October 12, 2000, Nibrass, Hasan, and others known and unknown, caused a white boat, laden with explosives including TNT and RDX, to be towed by a truck from the Al-Burayqat Kud Al-Namer location to Aden Harbor in Aden, Yemen.

qq. At or about 11:00 on the morning of October 12, 2000, QUSO departed his residence in Aden for the Tawahi apartment.

rr. At or about 11:00 on the morning of October 12,

2000, Nibrass and Hasan boarded the white boat at the beach front of Aden Harbor and launched in the direction of the United States naval vessel the *USS Cole*, which was then berthed in Aden Harbor.

ss. At or about 11:22 on the morning of October 12, 2000, as the *USS Cole* was being serviced in Aden Harbor, Nibrass and Hasan piloted the bomb-laden boat along side the *USS Cole* at midship, offered friendly gestures to several crew members, and detonated the bomb, ripping a hole in the side of the *USS Cole* approximately 40 feet in diameter, murdering seventeen crew members, and wounding at least forty other crew members. Nibrass and Hasan died in the attack.

tt. Shortly after the bombing of the *USS Cole*, BADAWI, the defendant, contacted QUSO, the defendant, and asked him to retrieve and then, to conceal the car and trailer used to tow the attack boat, which had been abandoned by Nibrass and Hasan in the vicinity of Aden Harbor.

Al Qaeda and Usama Bin Laden Accept Responsibility for the Attack on the *USS Cole*

uu. In or about mid-October 2000, Usama Bin Laden, Saif al Adel, and others known and unknown met in Qandahar, Afghanistan and discussed the attack on the *USS Cole*.

vv. In or about April 2001, while at one of Usama Bin Laden's guesthouses in Qandahar, Afghanistan, Nasheri apprised a coconspirator not named as a defendant herein, of the details of

the attack on the *USS Cole*, identified the two suicide bombers as Nibrass and Hasan, and indicated that Usama Bin Laden had planned the attack.

ww. In or about the spring or summer of 2001, while en route to the al Farooq camp, and near Qandahar, Afghanistan, Khallad discussed the costs of the attack on the *USS Cole* with a coconspirator not named as a defendant herein.

xx. In or about the spring and summer of 2001, while at the al Farooq training camp in Afghanistan, Usama Bin Laden praised Nibrass and Hasan for their successful suicide mission against the *USS Cole* and exhorted the trainees at the camp to follow their example in future operations.

yy. In or about the spring of 2001, Saif al Adel and others known and unknown, set out to produce an al Qaeda propaganda and recruitment video that included a re-enactment of the attack on the *USS Cole*.

zz. In or about June 2001, Usama Bin Laden appeared in a video in which he praised the attack on the *USS Cole*.

(Title 18, United States Code, Section 2332(b).)

COUNTS TWO THROUGH EIGHTEEN:

MURDER OF UNITED STATES NATIONALS

13. On or about October 12, 2000, in the vicinity of Aden, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI,

a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matawalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafiq Muhammed Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully and knowingly killed United States nationals while such nationals were outside the United States. Namely, the defendants caused the deaths of the following persons, all of whom were United States nationals, by bombing the United States naval vessel the USS Cole:

| <u>Count</u> | <u>Victim</u> |
|--------------|--------------------------|
| 2 | KENNETH CLODFELTER |
| 3 | RICHARD COSTELOW |
| 4 | LAKEINA MONIQUE FRANCIS |
| 5 | TIMOTHY LEE GAUNA |
| 6 | CHERONE LOUIS GUNN |
| 7 | JAMES RODERICK McDANIELS |
| 8 | MARC IAN NIETO |
| 9 | RONALD SCOTT OWENS |

| | |
|----|-------------------------|
| 10 | LAKIBA NICOLE PALMER |
| 11 | JOSHUA PARLETT |
| 12 | PATRICK HOWARD ROY |
| 13 | KEVIN SHAWN RUX |
| 14 | RON MANAGAN SANTIAGO |
| 15 | TIMOTHY LAMONT SAUNDERS |
| 16 | GARY GRAHAM SWENCHONIS |
| 17 | ANDREW TRIPLETT |
| 18 | CRAIG BRYAN WIBBERLEY |

(Title 18, United States Code, Section 2332(a)(1) and 2.)

COUNT NINETEEN

CONSPIRACY TO MURDER UNITED STATES MILITARY PERSONNEL

The Grand Jury further charges:

14. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

15. From at least 1989 until the date of the filing of this Indictment, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein

Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully and knowingly combined, conspired, confederated and agreed unlawfully to kill individuals.

16. It was a part and an object of the said conspiracy that the defendants, and others known and unknown, would and did kill officers and employees of the United States and agencies and branches thereof, while such employees were engaged in, and on account of, the performance of their official duties, and persons assisting such employees in the performance of their duties, in violation of Section 1114 of Title 18, United States Code, including members of the American military stationed in and deployed around the Arabian Peninsula, including Yemen, and elsewhere.

Overt Acts

17. In furtherance of the said conspiracy, and to effect the objects thereof, the overt acts set forth in Count One of this Indictment, which are fully incorporated by reference herein, were committed.

(Title 18, United States Code, Sections 1111, 1114 and 1117.)

COUNTS TWENTY THROUGH THIRTY-SIX:

MURDER OF UNITED STATES MILITARY PERSONNEL ABOARD THE USS COLE

The Grand Jury further charges:

18. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

19. On or about October 12, 2000, in the vicinity of Aden, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, deliberately, with malice aforethought, and with premeditation, did murder officers and employees of the United States Government, while such officers and employees were engaged in and on account of the performance of their official duties, and persons assisting such United States Government officers and

employees in the performance of their duties, on account of that assistance. Namely, the defendants caused the deaths of the following persons by bombing the United States naval vessel the *USS Cole*:

| <u>Count</u> | <u>Victim</u> |
|--------------|--------------------------|
| 20 | KENNETH CLODFELTER |
| 21 | RICHARD COSTELOW |
| 22 | LAKEINA MONIQUE FRANCIS |
| 23 | TIMOTHY LEE GAUNA |
| 24 | CHERONE LOUIS GUNN |
| 25 | JAMES RODERICK McDANIELS |
| 26 | MARC IAN NIETO |
| 27 | RONALD SCOTT OWENS |
| 28 | LAKIBA NICOLE PALMER |
| 29 | JOSHUA PARLETT |
| 30 | PATRICK HOWARD ROY |
| 31 | KEVIN SHAWN RUX |
| 32 | RON MANAGAN SANTIAGO |
| 33 | TIMOTHY LAMONT SAUNDERS |
| 34 | GARY GRAHAM SWENCHONIS |
| 35 | ANDREW TRIPLETT |
| 36 | CRAIG BRYAN WIBBERLEY |

(Title 18, United States Code, Sections 1111, 1114 and 2.)

COUNT THIRTY-SEVEN:

ATTEMPTED MURDER OF UNITED STATES
MILITARY PERSONNEL ABOARD THE USS COLE

The Grand Jury further charges:

20. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

21. On or about October 12, 2000, in the vicinity of Aden, Yemen, and elsewhere out of the jurisdiction of any particular state or district, TAFIQ MUHAMMED SALEH BIN ROSHAYD BIN ATTASH, a/k/a "Khallad," a/k/a "Silver," JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, deliberately, with malice aforethought, and with premeditation, attempted to murder officers and employees of the United States Government, while such officers and employees were engaged in and on account of the performance of their official duties while aboard the United States naval vessel the USS Cole while it was berthed in the vicinity of Aden, Yemen.

(Title 18, United States Code, Sections 1111, 1114 and 2.)

COUNT THIRTY-EIGHT:

ATTEMPTED MURDER OF UNITED STATES
MILITARY PERSONNEL ABOARD THE USS THE SULLIVANS

The Grand Jury further charges:

22. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

23. On or about January 3, 2000, in the vicinity of Aden, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," the defendant, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, deliberately, with malice aforethought, and with premeditation, attempted to murder officers and employees of the United States Government, while such officers and employees were engaged in and on account of the performance of their official duties while aboard the United States naval vessel the *USS The Sullivans* while it was berthed in the vicinity of Aden, Yemen.

(Title 18, United States Code, Sections 1111, 1114 and 2.)

COUNT THIRTY-NINE:

CONSPIRACY TO USE WEAPONS OF MASS DESTRUCTION
AGAINST NATIONALS OF THE UNITED STATES

The Grand Jury further charges:

24. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

25. From at least 1989 until the date of the filing of this Indictment, in the Southern District of New York, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, the defendants, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully and knowingly combined, conspired, confederated and agreed to use weapons of mass destruction, to wit, bombs, against nationals of the United States while such

nationals would be outside the United States and against property that is owned, leased and used by the United States and by departments and agencies of the United States.

26. It was a part and an object of the said conspiracy that the defendants, and others known and unknown, would and did attack American military facilities and ships in and around the Arabian Peninsula, and members of the American military stationed and deployed in and around Saudi Arabia, Yemen, Somalia and elsewhere, with bombs, in violation of Title 18, United States Code, Section 2332a(a)(1) and (a)(3).

Overt Acts

27. In furtherance of the said conspiracy, and to effect the objects thereof, the overt acts set forth in Count One of this Indictment, which are fully incorporated by reference herein, were committed.

(Title 18, United States Code, Sections 2332a(a)(1) and (a)(3).)

COUNT FORTY:

USE AND ATTEMPTED USE OF WEAPON OF MASS DESTRUCTION
AGAINST NATIONALS OF THE UNITED STATES ABOARD THE USS
COLE

The Grand Jury further charges:

28. The allegations contained in paragraphs 1 through 9 are realleged and repeated as if fully set forth herein.

29. On or about October 12, 2000, in the vicinity of Aden, Yemen, and elsewhere out of the jurisdiction of any

particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafiqa Muhammed Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and knowingly, did use and attempt to use a weapon of mass destruction against nationals of the United States, namely, United States Military personnel, while such nationals were outside the United States, and against property that was owned, leased and used by the United States, and by an agency of the United States, to wit, the United States naval vessel the USS Cole, which use and attempted use of such weapon of mass destruction resulted in death.

(Title 18, United States Code, Sections 2332a(a)(1), (a)(3) and 2.)

COUNT FORTY-ONE:

ATTEMPTED USE OF WEAPON OF MASS DESTRUCTION AGAINST
NATIONALS OF THE UNITED STATES ABOARD THE USS THE SULLIVANS

The Grand Jury further charges:

30. The allegations contained in paragraphs 1 through 9 are realleged and repeated as if fully set forth herein

31. On or about January 3, 2000, in the vicinity of Aden, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," the defendant, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and knowingly, attempted to use a weapon of mass destruction against nationals of the United States, namely, United States Military personnel aboard the United States naval vessel the *USS The Sullivans*, while such nationals were outside the United States, and against property that was owned, leased and used by the United States, and by an agency of the United

States, to wit, the *USS The Sullivans*.

(Title 18, United States Code, Sections 2332a(a)(1), (a)(3) and 2.)

COUNT FORTY-TWO:

CONSPIRACY TO DESTROY BUILDINGS AND PROPERTY OF THE UNITED STATES

The Grand Jury further charges:

32. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

33. From at least 1989 until the date of the filing of this Indictment, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully and knowingly combined, conspired, confederated and agreed to maliciously

damage and destroy, by means of fire and explosives, buildings, vehicles and other personal and real property in whole or in part owned and possessed by, and leased to, the United States and departments and agencies thereof.

34. It was a part and an object of the said conspiracy that the defendants would and did: (i) bomb United States naval vessels, including the *USS The Sullivans* and the *USS Cole*, in and around the Arabian Peninsula, including Yemen, and elsewhere; (ii) attack military installations, including naval vessels, and members of the American military stationed on such vessels, in and around the Arabian Peninsula, including Yemen, and elsewhere with bombs; and (iii) engage in conduct with the result of such conduct directly and proximately causing the death of persons, in violation of Title 18, United States Code, Sections 844(f)(1) and (f)(3).

Overt Acts

35. In furtherance of the said conspiracy, and to effect the objects thereof, the overt acts set forth in Count One of this Indictment, which are fully incorporated by reference herein, were committed.

(Title 18, United States Code, Section 844 (f)(1), (f)(3), and (n).)

COUNT FORTY-THREE:

DAMAGING AND DESTROYING THE USS COLE

The Grand Jury further charges:

36. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

37. On or about October 12, 2000, in the vicinity of Aden, Yemen, and outside the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafiqa Muhammed Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and knowingly did maliciously damage and destroy, and attempt to damage and destroy, by means of fire and an explosive, buildings, vehicles and other personal and real property in whole and in part owned and possessed by, and leased to, the United States, to wit, the defendants, together with other members and associates of al

Qaeda and its affiliated groups, detonated an explosive device that damaged the United States naval vessel the *USS Cole* in Aden, Yemen, and as a result of such conduct directly and proximately caused the deaths of 17 crew members, all United States military personnel as listed in Counts 2 to 18.

(Title 18, United States Code, Sections 844(f)(1), (f)(3) and 2.)

COUNT FORTY-FOUR:

ATTEMPTING TO DAMAGE AND DESTROY THE *USS THE SULLIVANS*

The Grand Jury further charges:

38. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

39. On or about January 3, 2000, in the vicinity of Aden, Yemen, and outside the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," the defendant, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafiqa Muhammed Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and

knowingly maliciously attempted to damage and destroy, by means of fire and an explosive, buildings, vehicles and other personal and real property in whole and in part owned and possessed by, and leased to, the United States, to wit, the defendants, together with other members and associates of al Qaeda and its affiliated groups, attempted to detonate an explosive device and to thereby damage the United States naval vessel the *USS The Sullivans* in the vicinity of Aden, Yemen.

(Title 18, United States Code, Sections 844(f)(1) and 2.)

COUNT FORTY-FIVE:

CONSPIRACY TO ATTACK NATIONAL DEFENSE UTILITIES

The Grand Jury further charges:

40. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

41. From at least 1989 until the date of the filing of this Indictment, in the Southern District of New York, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a

"Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully and knowingly, and with intent to injure, interfere with and obstruct the national defense of the United States, combined, conspired, confederated and agreed to injure, destroy, contaminate, and infect national-defense material, national-defense premises and national defense utilities of the United States.

42. It was a part and an object of the said conspiracy that the defendants would and did: (i) bomb United States naval vessels, including the *USS The Sullivans* and the *USS Cole*, in and around the Arabian Peninsula, including Yemen, and elsewhere; and(ii) attack military installations, including naval vessels, and members of the American military stationed on such vessels, in and around the Arabian Peninsula, including Yemen, and elsewhere with bombs, in violation of Title 18, United States Code, Sections 2155(a) and (b).

Overt Acts

43. In furtherance of the said conspiracy, and to effect the objects thereof, the overt acts set forth in Count One of this Indictment, which are fully incorporated by reference

herein, were committed.

(Title 18, United States Code, Sections 2155(a) and (b).)

COUNT FORTY-SIX:

USING AND CARRYING A DANGEROUS DEVICE
DURING THE ATTACK ON THE USS COLE

44. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

45. In or about October 2000, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and knowingly, and during and in relation to a crime of violence for which they may be prosecuted in a Court of the United States, namely, the bombing of the *USS Cole*, in violation of Title 18, United States Code, Sections 844(f)(1) and 844(f)(3), as set

forth in Count Forty-three of this Indictment, which is incorporated by reference herein, did use and carry a firearm, as that term is defined in Title 18, United States Code, Section 921(a) to include any destructive device, to wit, the defendants did use and carry an explosive device during and in relation to the bombing of the *USS Cole* set forth in Count Forty-three of this Indictment.

(Title 18, United States Code, Sections 924(c) and 2.)

COUNT FORTY-SEVEN:

USING AND CARRYING AN EXPLOSIVE DURING THE ATTACK ON THE *USS COLE*

The Grand Jury further charges:

46. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

47. In or about October 2000, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of

al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and knowingly did use and carry an explosive, as that term is defined in Title 18, United States Code, Section 844(j), during the commission of a felony for which they might be prosecuted in a court of the United States, namely, the bombing of the *USS Cole*, in violation of Title 18, United States Code, Sections 844(f)(1) and (f)(3), as set forth in Count Forty-three of this Indictment, which is incorporated by reference herein, to wit, the defendants used and carried a bomb in connection with the attack on the United States naval vessel the *USS Cole* in October 2000 in the vicinity of Aden, Yemen.

(Title 18, United States Code, Sections 844(h)(1), 844(h)(2) and 2.)

COUNT FORTY-EIGHT:

USING AND CARRYING A DANGEROUS DEVICE
DURING THE ATTEMPTED ATTACK ON THE *USS THE SULLIVANS*

48. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

49. In or about January 2000, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," the defendant, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa

Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and knowingly, and during and in relation to a crime of violence for which they may be prosecuted in a Court of the United States, namely, the attempted bombing of the *USS The Sullivans*, in violation of Title 18, United States Code, Sections 844(f)(1) and 844(f)(3), as set forth in Count Forty-four of this Indictment, which is incorporated by reference herein, did use and carry a firearm, as that term is defined in Title 18, United States Code, Section 921(a) to include any destructive device, to wit, the defendant did use and carry an explosive device during and in relation to the attempted bombing of the *USS The Sullivans* set forth in Count Forty-four of this Indictment.

(Title 18, United States Code, Sections 924(c) and 2.)

COUNT FORTY-NINE:

CARRYING AN EXPLOSIVE DURING THE
ATTEMPTED ATTACK ON THE USS THE SULLIVANS

The Grand Jury further charges:

50. The allegations contained in paragraphs 1 through

9 are repeated and realleged as if fully set forth herein.

51. In or about January 2000, in Afghanistan, Saudi Arabia, Yemen, and elsewhere out of the jurisdiction of any particular state or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," the defendant, together with Usama Bin Laden, Saif al Adel, a/k/a "Saif," Mushin Musa Matwalli Atwah, a/k/a "Abdel Rahman al Muhajer," Tafi Muhammad Saleh Bin Roshayd Bin Attash, a/k/a "Khallad," a/k/a "Silver," and Abdul Rahim Mohammed Hussein Abda Al-Nasheri, a/k/a "Mohammed Omar Harazi," a/k/a "Abu Bilal Al-Maki," a/k/a "Mullah Billal," coconspirators not named as defendants herein, other members and associates of al Qaeda and its affiliated groups, and others known and unknown, at least one of whom was first brought to and arrested in the Southern District of New York, unlawfully, wilfully, and knowingly did carry an explosive, as that term is defined in Title 18, United States Code, Section 844(j), during the commission of a felony for which they might be prosecuted in a court of the United States, namely, the attempted bombing of the *USS The Sullivans*, in violation of Title 18, United States Code, Section 844(F)(1), as set forth in Count Forty-four of this Indictment, which is incorporated by reference herein, to wit, the defendant carried a bomb in connection with the attempted attack on the United States naval vessel the *USS The Sullivans* in January 2000 in the vicinity of Aden, Yemen.

(Title 18, United States Code, Sections 844(h)(2) and
2.)

COUNT FIFTY:

CONSPIRACY TO PROVIDE MATERIAL SUPPORT
TO A FOREIGN TERRORIST ORGANIZATION

The Grand Jury further charges:

52. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

53. From in or about October 1999, up to and including on or about the date of the filing of this Indictment, in an offense begun and committed out of the jurisdiction of any particular State or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, and others known and unknown, subject to the jurisdiction of the United States, unlawfully, wilfully, and knowingly, combined, conspired, confederated and agreed together and with each other, 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, Sections 2339B.)

COUNT FIFTY-ONE:

PROVIDING MATERIAL SUPPORT TO A FOREIGN TERRORIST ORGANIZATION

The Grand Jury further charges:

54. The allegations contained in paragraphs 1 through 9 are repeated and realleged as if fully set forth herein.

55. From in or about October 1999, up to and including on or about the date of the filing of this Indictment, in an offense begun and committed out of the jurisdiction of any particular State or district, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," and FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," the defendants, subject to the jurisdiction of the United States, unlawfully, wilfully, and knowingly provided, and attempted 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, Sections 2339B, and 2.)

Notice of Special Findings

56. The allegations of Counts Two through Eighteen (murder of United States nationals, in violation of 18 U.S.C. § 2332(a)(1)), Counts Twenty through Thirty-Six (Murder of United States Military Personnel, in violation of 18 U.S.C. §§ 1111, 1114), Count Thirty-Nine (conspiracy to use weapons of mass

destruction resulting in death, in violation of 18 U.S.C. §§ 2332a(a)(1) and (a)(3)), Count Forty (use and attempted use of weapons of mass destruction resulting in death, in violation of 18 U.S.C. §§ 2332a(a)(1) and (a)(3)), and Count Forty-Three (damaging and destroying United States property resulting in death, in violation of 18 U.S.C. §§ 844(f)(1), (f)(3) and 2) of this Indictment are hereby repeated and realleged as if fully set forth herein and incorporated by reference.

57. As to Counts Two through Eighteen, Twenty through Thirty-Six, Thirty-Nine, Forty and Forty-Three of this Indictment, the defendant, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," :

(1) was more than 18 years of age at the time of the offense. (Title 18, United States Code, Section 3591(a));

(2) intentionally killed at least 17 victims. (Title 18, United States Code, Section 3591(a)(2)(A));

(3) intentionally inflicted serious bodily injuries that resulted in the death of at least 17 victims. (Title 18, United States Code, Section 3591(a)(2)(B));

(4) participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the

participants in the offense, and at least 17 victims died as a direct result of the act. (Title 18, United States Code, Section 3591(a)(2)(C)); and

(5) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and at least 17 victims died as a direct result of the act. (Title 18, United States Code, Section 3591(a)(2)(D)).

58. The deaths, and injuries resulting in death, occurred during the commission or attempted commission of an offense under 18 U.S.C. § 844(i) (destruction of Government property by explosives), and 18 U.S.C. § 2332a (use of weapon of mass destruction). (Title 18, United States Code, Section 3592(c)(1)).

59. The defendant, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. (Title 18, United States Code, Section 3592(c)(5)).

60. The defendant, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," committed the offense after

substantial planning and premeditation to cause the death of one or more persons and to commit an act of terrorism. (Title 18, United States Code, Section 3592(c)(9)).

61. The defendant, JAMAL AHMED MOHAMMED ALI AL-BADAWI, a/k/a "Abu Abed Al Rahman Al-Badawi," intentionally killed or attempted to kill more than one person in a single criminal episode. (Title 18, United States Code, Section 3592(c)(16)).

62. The allegations of Counts Two through Eighteen (murder of United States nationals, in violation of 18 U.S.C. § 2332(a)(1)), Counts Twenty through Thirty-Six (Murder of United States Military Personnel, in violation of 18 U.S.C. §§ 1111, 1114), Count Thirty-Nine (conspiracy to use weapons of mass destruction resulting in death, in violation of 18 U.S.C. §§ 2332a(a)(1) and (a)(3)), Count Forty (use and attempted use of weapons of mass destruction resulting in death, in violation of 18 U.S.C. §§ 2332a(a)(1) and (a)(3)), and Count Forty-Three (damaging and destroying United States property resulting in death, in violation of 18 U.S.C. §§ 844(f)(1), (f)(3) and 2) of this Indictment are hereby repeated and realleged as if fully set forth herein and incorporated by reference.

63. As to Counts Two through Eighteen, Twenty through Thirty-Six, Thirty-Nine, Forty and Forty-Three of this Indictment, the defendant, FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-

Adani," :

(1) was more than 18 years of age at the time of the offense. (Title 18, United States Code, Section 3591(a));

(2) intentionally killed at least 17 victims. (Title 18, United States Code, Section 3591(a)(2)(A));

(3) intentionally inflicted serious bodily injuries that resulted in the death of at least 17 victims. (Title 18, United States Code, Section 3591(a)(2)(B));

(4) participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and at least 17 victims died as a direct result of the act. (Title 18, United States Code, Section 3591(a)(2)(C)); and

(5) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and at least 17 victims died as a direct result of the act. (Title 18, United States Code, Section 3591(a)(2)(D)).

64. The deaths, and injuries resulting in death,

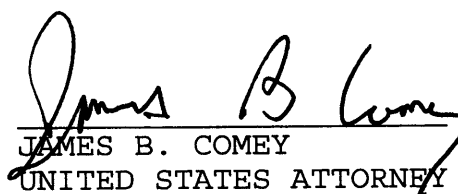
occurred during the commission or attempted commission of an offense under 18 U.S.C. § 844(i) (destruction of Government property by explosives), and 18 U.S.C. § 2332a (use of weapon of mass destruction). (Title 18, United States Code, Section 3592(c)(1)).

65. The defendant, FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. (Title 18, United States Code, Section 3592(c)(5)).

66. The defendant, FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," committed the offense after substantial planning and premeditation to cause the death of one or more persons and to commit an act of terrorism. (Title 18, United States Code, Section 3592(c)(9)).

67. The defendant, FAHD AL-QUSO, a/k/a "Abu Hathayfah Al-Adani," intentionally killed or attempted to kill more than one person in a single criminal episode. (Title 18, United States Code, Section 3592(c)(16)).


FOREPERSON


JAMES B. COMEY
UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

JAMAL AHMED MOHAMMED ALI AL-BADAWI
a/k/a "Abu Abed Al Rahman Al-Badawi " and
FAHD AL-QUSO
a/k/a "Abu Hathayfah Al-Adani"

Defendants.

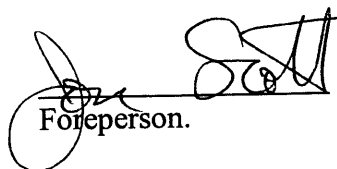
INDICTMENT

S12 98 Cr. 1023 (KTD)

18 U.S.C. §§ 2332 (a)(1); (a)(3); 2332(b); 1111; 1114;
1117; 844(f)(1), (f)(3); 2155(a) and (b); 924(c); 844(h)(1)
and (h)(2); 2339B; 2

JAMES B. COMEY
United States Attorney.

A TRUE BILL


Foreperson.
