

UNITED STATES DISTRICT COURT

for the District of Columbia

United States of America)
v.)
HAKIMULLAH MEHSUD)
also known as Hakimullah Mahsud)

Case No. 10-457-M-01

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. From at least December 1, 2009 until on or about December 30, 2009 the defendant(s) violated:

Table with 2 columns: Code Section and Offense Description. Includes sections 18 U.S.C. § 2332(b)(2) and 18 U.S.C. § 2332a(a)(1).

Set forth in Attachment A hereto, which is made a part thereof

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

S.A. Thomas O. Krall
Complainant's signature

Special Agent Thomas O. Krall
Printed name and title

Handwritten notes: NSS deputy chief

Rachel Carlson Wilber
AUSA

Sworn to before me and signed in my presence.

Date: August 29, 2010

Royce C. Lamberth
Judge's signature

City and state: Washington, D.C.

Royce C. Lamberth, Chief Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF A
CRIMINAL COMPLAINT AND ARREST WARRANT**

Hakimullah MEHSUD,
also known as Hakimullah Mahsud
DOB: Approximately 30 years of age
ADDRESS: Federally Administered Tribal Area of Pakistan

This affidavit is being submitted by the affiant, Special Agent Thomas Q. Krall, in support of a criminal complaint and an application for an arrest warrant relating to:

Hakimullah MEHSUD, also known as Hakimullah Mahsud (hereinafter "MEHSUD");
DOB: approximately 30 years of age; a resident of Federally Administered Tribal Area (FATA) of Pakistan.

I respectfully submit that there is probable cause to believe that the above-identified individual has committed the following criminal offenses in violation of United States law:

- 1) Conspiracy to Murder a United States National while Outside the United States, in violation of 18 U.S.C. 2332(b)(2); and
- 2) Conspiracy to Use a Weapon of Mass Destruction against a National of the United States while Outside the United States, in violation of 18 U.S.C. § 2332a(a)(1).

AFFIANT'S BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have been so employed since July 1996. Since January 2010, I have been assigned to an International Terrorism/ Extraterritorial Investigations squad at the Washington Field Office in Washington, D.C. In this capacity, I investigate global terrorist organizations operating in the Middle East, and specifically those organizations responsible for targeting the interests and citizens of the United States in Afghanistan and Pakistan. From February 2008 to January 2010, I was assigned to the FBI's Hazardous Devices Operations Section, which is located at FBI Headquarters in Quantico, VA, where I oversaw bombing counter-measure programs. I have also been a certified bomb technician for the last five years. From July 2006 through January 2008, I was assigned to a counterterrorism squad in the FBI's New York Field Office; and from 1997 to July 2006, I was assigned to an Organized Crime squad in the FBI's New York Field Office where I investigated domestic organized criminal entities, such as the Italian mafia. I have participated in numerous terrorism-related and criminal investigations, conducted physical and electronic surveillance, executed search warrants, and debriefed witnesses and participants to the described unlawful activity. I have also received specialized training in international counterterrorism and organized crime investigations.

2. I have personally participated in this investigation and have witnessed many of the facts and circumstances described herein. I have also received information from federal and foreign law enforcement officials and other governmental officials relating to this investigation. I have interviewed witnesses and reviewed documents and evidence during the course of this investigation. The statements contained in this affidavit are based on my own observations, witness interviews, document reviews and reliable information provided to me by federal and foreign law enforcement officials and governmental officials. Because this affidavit is submitted for the purpose of seeking issuance of a criminal complaint and arrest warrant, it does not include every fact known to me concerning the investigation.

FACTS SUPPORTING PROBABLE CAUSE

Background

3. Through knowledge gathered during this investigation and my training and experience in the area of international terrorism, I know the following:

4. The Taliban is a radical Sunni Islamist movement that governed Afghanistan from 1996 until late 2001. The Taliban, which was and continues to be led by Mullah Omar, imposes governance through a strict interpretation of Islamic law. In 2001, a NATO-led military coalition, to which the United States armed forces are a principal member, removed the Taliban from power in Afghanistan. A lawful government was thereafter elected by the people of Afghanistan. Since the Taliban's removal from power, it has acted as a violent insurgency against the legitimate government of Afghanistan and its allies, which includes the United States. In an effort to stabilize Afghanistan, the United States has maintained a presence in Afghanistan since the removal of the Taliban at several facilities throughout the country, including bases located along the Afghanistan-Pakistan border.

5. The Tehrik-e-Taliban Pakistan (TTP) is a Taliban-inspired alliance of Pakistan-based Sunni tribal militants formed in or about late 2007 by Baitullah Mehsud, who was killed in August 2009. TTP's primary purpose is to force withdrawal of Pakistani troops from the FATA of Pakistan – which is located along the Pakistan-Afghanistan border – unite against NATO forces in Afghanistan, and establish *Sharia* – or Islamic law – in the tribal territories.

6. In or about February 2009, Baitullah Mehsud, along with two Taliban commanders, declared the establishment of the *Shura Ittihad ul-Mujaheddin*, whose goal is to form a united front against the United States and the NATO-led military coalition in the region. TTP has had alleged roles in, or claimed responsibility for, a number of recent acts of violence, including the December 2007 assassination of Benazir Bhutto, the September 2009 suicide attack on the Bannu, Pakistan police station, and numerous attacks on NATO supply lines throughout the FATA. These attacks are often coordinated with other insurgents or terrorist groups, to include the Taliban and *al Qaeda*. After Baitullah Mehsud's death, **Hakimullah MEHSUD** took over as the emir of the TTP. **MEHSUD** remains the commander of TTP, which continues to

plan and carry out attacks against the interests of the United States from the FATA. Most recently, TTP has claimed responsibility for the suicide bombing of a U.S. military base in Afghanistan which killed seven U.S. citizens, as set forth in this affidavit, and the failed bombing of Times Square in New York City on May 1, 2010.

7. Humam Khalil Abu Mulal al-Balawi, also known as Abu Dujanah al-Khorasani (hereinafter al-Balawi), was a Jordanian physician. On December 30, 2009, al-Balawi entered a military base in Afghanistan and detonated a suicide device which was concealed beneath his clothing, killing seven United States citizens, and wounding six others.

Summary of Investigation

A. December 30, 2009 Attack by Al-Balawi

8. The FBI interviewed several United States citizens who were present at the military base during the December 30, 2009 attack. The base is located near the Afghan town of Khost, which lies along the Afghanistan-Pakistan border. The witnesses advised that at approximately 4:30 p.m. local time Al-Balawi arrived at the base by car. He exited the right side of the vehicle and appeared to be wearing traditional Afghan attire. He was also carrying a crutch or cane. Base security approached al-Balawi as he stood next to the vehicle. Al-Balawi was observed reaching under his clothing and then detonating an explosive device that was hidden under his clothing. The blast from the explosion killed al-Balawi and seven U. S. citizens. It also injured six other U.S. citizens.

9. The FBI responded to the base shortly after the attack and assisted in the processing of the crime scene. This included, among other things, the collection of evidence and the remains of those killed in the attack. The remains of the victims were collected and transported to the United States for autopsy. The autopsy reports of the seven U.S. victims concluded that the cause of death was blast injuries and the manner of death was homicide. Additionally, the legs of the suspected suicide bomber were recovered on the scene. DNA testing links the legs to al-Balawi by comparison to DNA samples from known family members.

10. In or about late February 2010, al Sahab, the media wing of *al Qaeda* released a video-taped interview of al-Balawi, in which he discussed a planned suicide attack against U.S. interests. The video is entitled "An Interview with the Shaheed [Martyr] Abu Dujanah al-Khurasani: Hero of the Raid of the Shaheed Amir Batiullah Mehsud."¹

¹ The excerpts from the video conversations set forth below, unless otherwise indicated, are translations from Pashtu, Urdu, and Arabic. Your affiant would further note that the particular assertions of fact made in the videos, whether accurate or not, are not necessary to satisfy the charges in this complaint. They do however demonstrate al-Balawi and MEHSUD intent and motivation for carrying out the attack.

The video begins with a narrator describing the conflict between *al Qaeda* and the West. This introduction is followed by a clip of Usama bin Laden stating that neither America nor those who live in America will ever dream of security until we actually experience it in Palestine. The interview of al-Balawi follows.

That interview begins with the interviewer stating that he is conducting this interview of Dr. Abu Dujaanah al-Khorosani “who is about to carry out a major operation against an extremely sensitive U.S. target in Khost, Afghanistan. He then asks al-Balawi to introduce himself and provide a brief outline of his “jihadi history.” Al-Balawi states:

Your brother is the poor slave Abu Dujaanah al-Khorosani, from Jordan. I am 32 years old and work as a doctor in Jordan. My trip with jihad began a few years ago, after the American invasion of Iraq. I made many attempts to join the jihad in Iraq, but Allah decreed something else for me. I used to write in the internet forums under the name Abu Dujaanah al-Khorosani, and I was also a supervisor in al-Hisbah network – may Allah bring it back – under the name Malik al-Ashja’ee. So this is me in a nutshell. I mobilized to the land of jihad earlier this year, in March of 2009.

...

Al-Balawi then discusses how the United States became the target of his operation, referring to the Americans as “valuable prey” and describing the manner in which he will conduct his operation against the Americans. He states that the best way to teach them a “lesson is with the martyrdom belt, and that, using these materials we purchased – this is genuine C4 – we kill these infidels: the American[s].” Al-Balawi is observed in the video holding up an object that he describes as the explosive material C-4. Al-Balawi then claims he wants to send a message by this “martyrdom” attack:

You can only get a maximum number of kills for a minimum number of losses in the ranks of the Mujahideen with a martyrdom operation. This is a blessing which Allah has sent me; it is a blessing from above seven heavens that I be given the opportunity to have my severed limbs be turned into shrapnel, to have my bones be turned into shrapnel, to have my teeth be turned into shrapnel which will kill these American[s].

11. Your affiant would note that al-Balawi’s face is clearly visible throughout the interview. Prior to the interview, there is a portion of the video showing al-Balawi, dressed in traditional Afghan attire. He is observed inside a vehicle, where he displays what he calls a detonator hidden under his clothing. He also appears to be holding a crutch. Your affiant would further note that a piece of evidence resembling a crutch was obtained by the FBI during the processing of the crime scene.

B. Evidence Connecting HAKIMULLAH MEHSUD to the Attack

12. Following the attack on December 30, 2009, Umar Studios, the media arm of the TTP, released a video of **MEHSUD** and al-Balawi, created in or about December, 2009. In that video, **MEHSUD** introduced al-Balawi, who was sitting next to him, as a suicide bomber, and the two discuss launching an attack against the Americans for retaliation for the death of Baitullah Mehsud. **Hakimullah MEHSUD** and al-Balawi's faces are clearly discernable throughout their discussion. The language he used to describe the motive for the attack and the manner in which al-Balawi became a suicide bomber closely parallels the language used by al-Balawi himself in the interview video described above.

This video begins with an unidentified man reading the Islamic creed. It then displays the body of Baitullah Mehsud, with another unidentified man in the background reading from the Koran, praising "those who kill and get killed for the sake of Allah." Portions of a Baitullah Mehsud speech are next playing in the background, saying that Waziristan will be the worst soil for infidels.

Next, the title "Revenge" appears on the screen, and al-Balawi – who identifies himself as "Abu Dujaanah al-Khorosani" – is shown in local dress shooting at unseen targets. An unknown speaker in the background says in Urdu, among other things, "O young men, sell your temporary lives in exchange for paradise, run and hurry up, lest you miss the caravan." Al-Balawi is shown handing over his gun to someone with a covered face, walking to a car, and wandering about. He says at one point: "Long live the Taliban, long live Hakimullah." A voice in the background encourages him to say more, but he responds: "No, that is enough. Hakimullah is a true holy warrior."

The next scene of the video depicts **Hakimullah MEHSUD** and al-Balawi together. After reciting verses from the Koran, **MEHSUD** states:

Our respected young men of the Islamic nation, and mujahideen of the Muslim nation, religious scholars of the Muslim nation, *Asalam Alaikum Wa Rehmatullahe wa Barakatuhu* [Islamic greetings]. Respected Muslims, you know the current circumstances very well. The Muslim nation is in the chains of slavery. Young Muslim men are locked up in prisons. Muslim women, honorable Muslim sisters, who never even showed their faces at home, are in prisons in the United States. Muslim religious scholars and those who command respect in their areas and localities are in prisons in the United States, Afghanistan, and Pakistan. Those who follow God's commandments are called terrorists. Those who feel proud of their religion, faith and freedom are called terrorists and miscreants. . . . The Koran commands [verses from the Koran] that jihad has been made

obligatory on Muslims. So, the Muslim nation has young men who have jumped into this field. They sacrifice their lives, their property, their families and their tribes but take revenge for the young men, women, and religious scholars of their nation. God willing, these young men are always ready. They always fight the infidels.

MEHSUD then introduces al-Balawi by putting his hand on al-Balawi's shoulder. **MEHSUD** then describes how al-Balawi came to them, and states al-Balawi's reasons for becoming a suicide bomber, that is, that the Americans are the enemy of the mujahideen and all Muslims. **MEHSUD** goes on to describe al-Balawi as "a holy warrior" with a desire to be a "suicide bomber."

At this point, al-Balawi introduces himself in English as "Dr. Abu Dujaanah al-Khurasani, Jordanian." He describes leaving his family and his clinic "to join the mujahideen." **MEHSUD** then joins al-Balawi as they say together:

And we arranged together this attack to let the Americans understand that the belief of Allah, the *iman* [faith] that we hold, the *taqwa* [piety] that we strive for cannot be exchanged for all the wealth in the world.

Al-Balawi then continues alone: "This *itishhadi* [martyrdom-seeking attack] will be the first of the revenge operations against the Americans." After additional declarations of revenge by al-Balawi, **MEHSUD** resumes speaking in Pashtu, explaining the motive for the upcoming suicide attack by al-Balawi, that is the death of the former *emir* of the TTP, Baitullah Meshud, which **MESHUD** attributes to the Americans. He further states:

After the martyrdom of the respected *emir*, we reached out to every corner of Pakistan. We targeted places in Pakistan that caused pain to Pakistan's hearts and minds. We made the Pakistani leaders, whether Kayani, Zardari, Gilani, or Rehman Malik, lose sleep. They cannot sleep comfortably in their beds. I always wanted to reach those who disgraced Muslims. It was my worry and my wish, but God fulfills wishes. It was my deep desire to take revenge for the killing of the respected chief, so God gave us Abu Dujaanah who was sent by them. He was sent to target the mujahideen. With the grace of God, he is our man. He will, God willing, launch a suicide attack targeting the American[s] . . . In return for this suicide attack, God will give him paradise, God willing.

Your affiant would note that portions of the video that precede the discussion between MEHSUD and al-Balawi, show al-Balawi dressed in traditional Afghan attire shooting a firearm and then seated alone speaking to the camera. The portion of the video showing al-Balawi seated is date stamped December 26, 2009, four days before the attack.

C. Identification of HAKIMULLAH MEHSUD

14. As stated above, MEHSUD appears in a video with al-Balawi. Just prior to MEHSUD's appearance on the video, al-Balawi introduced MEHSUD stating: "long live the Taliban. Long live Hakimullah." Followed by "Hakimullah is a true holy warrior." Additionally, TTP has released numerous other videos that depict MEHSUD and identify him by name. For example, in April 2010, MEHSUD put out a video in which he identified himself as "Hakimullah MEHSUD" and reported that previous reports that he had been killed were not true. He also reaffirmed his commitment to carrying out attacks against Americans in Afghanistan and in U.S. cities. It is clearly the same person that appears in these videos.

Statutory Provisions

15. Title 18, United States Code, Section 2332(b)(2) makes unlawful a conspiracy by two or more persons to murder a national of the United States outside the United States, so long as one or more persons do any overt act to effect the object of the conspiracy.

16. Title 18, United States Code, Section 2332a(a)(1) makes it unlawful to use, threaten, attempt or conspire to use a weapon of mass destruction against a national of the United States while such national is outside the United States. Under Title 18, United States Code, Section 2332a(c)(2), a "weapon of mass destruction" is defined to include any "destructive device," as defined in 18 U.S.C. § 921.

17. Title 18, United States Code, Section 921(a)(4) defines "destructive device" to include "any explosive, incendiary, or poison gas (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) device similar to any of the devices described in the preceding clauses." In addition, a "destructive device" includes "any combination of parts either designed or intended for use in converting any device into a destructive device . . . and from which a destructive device may be readily assembled."

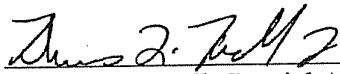
18. Based on my training and experience as a bomb technician and in the FBI's Hazardous Devices Operations Section, the explosive device employed by al-Balawi meets the statutory definition of a destructive device. First, it detonated and caused wide-spread destruction and death. In addition, swabbings from the scene revealed the presence of the explosive compounds RDX and PETN. Finally, eye-witness accounts of the sound and size of the explosion support this conclusion.

CONCLUSION

Based on the information set forth above, it is respectfully submitted that there is probable cause to believe that **Hakimullah MEHSUD**, also known as Hakimullah Mahsud, has committed the following offenses: Conspiracy to Murder a United States National while Outside the United States, in violation of 18 U.S.C. § 2332(b)(2); and Conspiracy to Use a Weapon of Mass Destruction, in violation of 18 U.S.C. §§ 2332a(a)(1). Affiant requests that a criminal complaint be issued charging **Hakimullah MEHSUD**, also known as Hakimullah Mahsud, accordingly, and that an arrest warrant be issued.

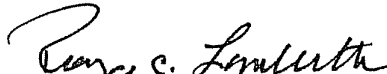
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated August 20, 2010.



Thomas Q. Krall, Special Agent
Federal Bureau of Investigation

Subscribed to and sworn before me on this 20th day of August, 2010.



United States District Judge

ATTACHMENT A

COUNT ONE

1. All of the acts referred to in this Complaint were committed in Afghanistan, Pakistan and elsewhere outside the jurisdiction of any particular state or district of the United States, but within the extraterritorial jurisdiction of the United States and, therefore pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia.
2. From on or about December 1, 2009, through on or about December 30, 2009, in Afghanistan, Pakistan and elsewhere outside the United States, the defendant **Hakimullah MESHUD**, also known as Hakimullah Mahsud, did knowingly and intentionally combine, conspire, confederate and agree with other co-conspirators, both known and unknown, to commit a killing that is murder as defined in Title 18, United States Code, Section 1111(a), of a United States national outside the United States.
3. In furtherance of the aforesaid conspiracy and to accomplish the object thereof, the defendant **Hakimullah MESHUD**, also known as Hakimullah Mahsud, together with his co-conspirators, both known and unknown, committed the following overt acts, among others:
 - a. In or about December 2009, defendant **Hakimullah MESHUD**, also known as Hakimullah Mahsud, and a co-conspirator did declare their intentions to kill Americans in Afghanistan using destructive devices.
 - b. On December 30, 2009, defendant **Hakimullah MESHUD**, also known as Hakimullah Mahsud, and a co-conspirator attacked and caused to be attacked a military base in Afghanistan with a destructive device, causing the death of United States nationals.

(Conspiracy to Murder a United States National Outside the United States, in violation of Title 18, United States Code, Section 2332(b)(2))

COUNT TWO

1. Paragraphs One and Three of Count One of this Complaint are hereby incorporated by reference as if fully realleged and restated herein.

2. From on or about December 1, 2009, through on or about December 30, 2009, in Afghanistan, Pakistan and elsewhere outside the United States, the defendant **Hakimullah MESHUD**, also known as Hakimullah Mahsud, did knowingly and intentionally combine, conspire, confederate and agree with other co-conspirators, both known and unknown, to use a weapon of mass destruction, that is, a destructive device, against a national of the United States while such national was outside the United States.

(Conspiracy to Use a Weapon of Mass Destruction, in violation of Title 18, United States Code, Section 2332a(a)(1))