

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 UNITED STATES OF AMERICA, : CR-06-00616
5 v. : U.S. Courthouse
6 VIJAYSHANTHAR PATPANATHAN, : Brooklyn, New York
7 NACHIMUTHU SOCRATES, :
8 Defendants. : TRANSCRIPT OF PROCEEDINGS
: October 7, 2010
9 -----X 11:00 a.m.

9 BEFORE:

10 HONORABLE RAYMOND J. DEARIE, U.S.D.J.
11

12 APPEARANCES:

13 For the Government: LORETTA LYNCH,
14 United States Attorney
15 271 Cadman Plaza East
16 Brooklyn, New York 11201
BY: ANDREW GOLDSMITH,
Assistant U.S. Attorney

17 For the Defendants:

18 Patpanathan - SUSAN KELLMAN, ESQ.
19 Socrates - JOSHUA DRATEL, ESQ.
20 ALICE FONTIER, ESQ.

21
22 Court Reporter: Mickey Brymer, RPR
23 Official Court Reporter
24 United States District Court
25 225 Cadman Plaza East
Brooklyn, New York 11201
(718) 613-2255

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M. BRYMER, RPR, OCR

1 THE CLERK: We are on this morning for a sentence.
2 This is U.S.A. versus Patpanathan and Socrates.
3 Mr. Patpanathan is defendant number three and Mr. Socrates is
4 defendant number six. This is docket number CR-06-616,
5 superceder one. Can I ask the attorneys, please, to note
6 appearance beginning with counsel for government.

7 MR. GOLDSMITH: Andrew Goldsmith for the government.
8 Good morning, your Honor.

9 THE COURT: Mr. Goldsmith.

10 MR. DRATEL: Good morning, your Honor. Joshua
11 Dratel and Alice Fontier for Mr. Socrates.

12 THE COURT: Good morning.

13 MS. KELLMAN: Good morning, your Honor. Susan
14 Kellman for Mr. Patpanathan.

15 THE COURT: Good morning to all. If counsel would
16 come up, I would appreciate that. I know Ms. Kellman was here
17 yesterday and heard me try to explain to everyone why I
18 decided to take this approach because I felt I wasn't prepared
19 given the extensive submissions and --

20 MR. DRATEL: Your Honor, if I may? As you may
21 recall, Mr. Socrates has a significant hearing impediment.
22 Two solutions: One is if the Court can perhaps speak either
23 louder or more directly into the mic or if we could bring him
24 closer as well.

25 THE COURT: Bring him up, if you would like.

1 MR. DRATEL: We can bring him up?

2 THE COURT: Sure.

3 MR. DRATEL: Thank you, your Honor.

4 THE COURT: I started to say I had explained
5 yesterday during the lengthy session with co-counsel on the
6 Kandasamy matter and the government why I felt I needed more
7 input, more of a dialogue, if you will, particularly as it
8 relates to some of the non-guidelines issues or 3553, given
9 what I perceive to be somewhat unusual circumstances of this
10 case, and I explained at the time the reasons for it, and to
11 that end we assembled again this morning in the hopes of being
12 able to shed some additional light on the circumstances that
13 confront each of these two gentlemen. Each in somewhat
14 different positions, I acknowledge.

15 I am happy to address or hear from you on any of the
16 guidelines issues that have been very thoroughly, expertly
17 briefed on both sides. I had said yesterday as a general
18 matter in the Kandasamy setting that it was my general view,
19 although not my ruling, that the defendant Mr. Kandasamy -- I
20 see his counsel is with us this morning -- did not fare well
21 under the guidelines calculation to a somewhat perhaps
22 modified extent. I guess I would share the same views
23 relative to these two gentlemen, generally speaking, but that
24 it is so often the case here for me the more difficult
25 decision is not going to necessarily arise from the guidelines

1 themselves, but instead from the universe of information that
2 is before me concerning these individuals, their involvement
3 in the various offenses, the circumstances, the context, which
4 is the word that has been used repeatedly, the context, the
5 situation in Sri Lanka applies to the Tamils. Much of the
6 information provided to me in the joint submission, to what
7 extent that is relevant on the issue of sentencing, that's the
8 kind of thing I was wanting and why I decided the night before
9 last that I simply wasn't ready to proceed to make these
10 critical judgments. It affects not only these defendants,
11 but, obviously, the crowd here, a lot of family and friends.

12 So that's a modified preface to my position at the
13 moment. I'm happy to hear from you. I would like to hear
14 from your clients, if they're prepared to, if they choose to
15 and are prepared to make whatever statements and then we can
16 go from there.

17 Mr. Dratel, would you like to start us off?

18 MR. DRATEL: Thank you, your Honor. The good news
19 is Ms. Fontier was here yesterday as well so I'm fully briefed
20 on the concerns that your Honor addressed and, also, the
21 discussion that ensued so I'll try to focus on that and not
22 have to start from the beginning.

23 Also, obviously, learning of the Court's concerns and
24 remarks yesterday it's influenced to a great deal my
25 sentencing presentation and I will cut back significantly what

1 I ordinarily do in the context.

2 I know the Court read the papers. They are
3 voluminous. I don't mean to divert the Court's attention to
4 the issues. I will get to that as I address the first issues
5 which I understand from the Court are more pressing in terms
6 of unresolved.

7 One of the things, Mr. Socrates has a lot of family
8 here and I will ask the Court, if we get to the point where
9 I've gone on beyond the endurance is that I do wish to cede
10 about two minutes of time to his son and his wife who wish to
11 speak to the Court for about a minute each, if we could do
12 that as well, and Mr. Socrates, also, is prepared to address
13 the Court at the end.

14 I will start with 2M5.3, which the Court noted early
15 yesterday the guidelines provision for two reasons. One of
16 which is it relates to the material support guideline which as
17 a technical matter is not pertinent to Mr. Socrates because he
18 did not plead guilty to the offense. However, I understand it
19 informs the Court's decision to a significant extent whether
20 as a guideline issue or 3553 issue and to that extent in
21 answer to the Court's query yesterday I think it is relevant
22 and I think the Court identified it as relevant correctly.
23 And one of the -- with the opportunity to prepare for today to
24 address those issues I ought to bring to the Court the
25 perspective of someone, myself, who has been involved in more

1 terrorism cases in the United States than probably any other
2 lawyer, including prosecutors, across the country and
3 Guantanamo and in a variety of contexts and, so, I couldn't
4 marshal the resources and materials that I might if the Court
5 wants additional verification or documentation overnight, but
6 I did attempt in my notes to address the issues that the Court
7 is concerned about.

8 First I want to address some of the government's
9 arguments about the question of threat to the United States,
10 U.S. interests involved in the particular conflict in
11 Sri Lanka. The first was about U.S. citizens in Sri Lanka. .
12 There are U.S. citizens all over the globe. The government
13 hasn't really identified any particular threat to the United
14 States citizens or any targeting of United States citizens
15 which is a significant difference from other terrorist
16 organizations. Extortion to raise money, the government
17 claimed that as well. Other than as a criminal law issue
18 which the government indicated through this prosecution and
19 these guilty pleas the government doesn't really articulate
20 how that is a threat to the U.S. interests on the level of
21 terrorism.

22 The government also talked about the LTTE as a
23 pioneer of suicide bombers and certainly LTTE as a gross
24 number has more suicide bombings than any organization, but at
25 the same time, if you look at other organizations and in

1 particular Al Qaeda -- and it is not something I know from
2 firsthand experience, being in the embassy bombing case from
3 '99 to 2001, Al Qaeda learned its suicide bombing and its
4 terrorist bombing techniques from Hezbollah in 1982 after the
5 bombing of marine barracks in the late eighties.

6 There is testimony from a senior Al Qaeda operator
7 who pled guilty and he said Al Qaeda was very impressed by
8 Hezbollah activity in Lebanon and sent ex-operatives to learn
9 techniques from Hezbollah and particularly from Ignad
10 Mugniyah, who was responsible for bombings in Argentina of the
11 Israeli embassy. That predates LTTE suicide bombings which
12 are very different in technique as well as in targeting the
13 ones we've seen more recently in the sense they are not
14 generally car bombings, overwhelmingly not car bombings.
15 Overwhelming targeted military or political -- it does not
16 excuse them in terms of crimes of terrorism, but it
17 distinguishes them in terms of the notion LTTE is somehow a
18 template for other terrorist organizations and it somehow
19 makes it a threat to U.S. interests.

20 With respect to designation, designation is -- I
21 think the Court recognizes this to some extent, while
22 obviously it's within the province of the U.S. for choosing
23 sides and determining its policy and make criminal a deviation
24 from the policy by persons within its jurisdiction, at the
25 same time the notion that designation equals danger is a

1 circular argument. Initial one is danger means designation.
2 It is a circular argument I don't think proves very much and
3 certainly doesn't address the question of specific threat to
4 the United States and U.S. interests.

5 With respect to arm sales from the same locations, I
6 don't think that customers who shop at the same store have any
7 link in terms of relative culpability about what they buy
8 there even if they buy the same thing. The government also
9 talks about -- urges the Court not to view LTTE in isolation,
10 but instead in the context of other terrorist organizations.
11 I think the government needs to do that and draws
12 organizations like Al Qaeda in all the time because LTTE alone
13 is simply not sufficient to establish the type of threat that
14 the Court is talking about when evaluating this case.

15 The government talks about attacking allies as
16 equivalent of attacking the U.S. I think that is a concept
17 that really has no boundaries and ignores the United States'
18 alliance at times for political reasons that we're not
19 addressing or contesting here but alliances with repressive
20 regimes.

21 I believe I remember in the eighties when the U.S.
22 was training and funding the army of El Salvador, executing
23 nuns, so in that context it is not a bright line,
24 black-and-white-type determination in terms of United States
25 ally means that the ally is always behaving in an appropriate

1 manner.

2 Then there is the argument the LTTEs were with the
3 government of Sri Lanka destabilizing the region but there's
4 no evidence of that. Chief sources of tension in that area
5 are India, Pakistan, Afghanistan by itself, Pakistan by
6 itself, China, India, Iran.

7 If you look at the constellation of issues and you
8 look at what galvanized politicians and policy makers it is
9 not Sri Lanka in the region. There's no mention of it. You
10 can read international crisis group reports. It is not really
11 a concern this is somehow going to destabilize the region. In
12 fact, it has been going on for 35 years in that context
13 without destabilizing the region at least in terms of LTTEs.

14 I've read hundreds of 302s with respect to
15 cooperators. Probably thousands of pages in the cases that I
16 have been in. Whether it is about Hamas or Hezbollah or
17 Al Qaeda, I've never once seen a reference to technical
18 assistance provided by LTTE to any of those organizations or
19 any inspirational influence in that regard.

20 We talked about some other facts beyond what the
21 government's arguments are, but in terms of addressing the
22 Court's concerns and I think the proof is in the pudding, LTTE
23 has been in existence since 1976 without a single attack on
24 the United States either here or abroad or U.S. interests here
25 or abroad. That to me proves it all.

1 In contrast, Al Qaeda, since its early days has
2 deliberately and continuously attacked and targeted the United
3 States.

4 Ideology. LTTE's ideology is not a indiscriminate
5 nihilism such as Al Qaeda or terrorist organizations. It does
6 not transcend the borders like other organizations. They are
7 limited to Sri Lanka and Tamil minority.

8 Again, this is not designed to excuse the conduct
9 because the defendants here pleaded guilty, but it is an
10 element I think at sentencing which the Court recognized that
11 LTTE does not have a monopoly on violence in Sri Lanka and
12 there is a defensive, genuine defensive element. While not
13 condoning terrorist conduct in any way, there is a defensive
14 element to LTTE's conduct in Sri Lanka.

15 I'll talk about more distinctions in terms of threats
16 to the United States.

17 THE COURT: Does the government agree with that, that
18 statement that there is a defensive element at play here?

19 MR. GOLDSMITH: Certainly the members and supporters
20 of the LTTE believe that they are defending themselves against
21 the government of Sri Lanka, your Honor. As Mr. Knox
22 discussed yesterday, we don't think this proceeding is an
23 appropriate place to decide the merits of that issue.

24 THE COURT: I didn't ask you that. I asked you as a
25 matter of fact would you agree with that, that there is a

1 defensive element to this, without trying to justify
2 anything?

3 MR. GOLDSMITH: Your Honor, I don't think I'm in a
4 position to speak to that.

5 THE COURT: Go ahead, Mr. Dratel.

6 MR. DRATEL: Thank you, your Honor.

7 Al Qaeda. While Al Qaeda sent sleeper cells to the
8 United States to work surreptitiously, LTTE has sent
9 emissaries to Congress to try to change U.S. policy and to
10 change FTO designation. In this instance Mr. Socrates did it
11 in an illicit and illegal way and he's here for that purpose
12 because of that. But the fact is they also operated above the
13 radar in terms of approaching members of Congress to take
14 their grievances to the United States Government.

15 There are thousands of Tamils in the U.S. and
16 regarding how many support LTTE in any form or level, none
17 have acted against the United States. Whether Tamil support
18 LTTE or not, even those who support LTTE, many of them are
19 patriotic Americans and I think this is an important aspect.
20 They don't see their involvement in a conflict in Sri Lanka on
21 behalf of LTTE, whether it is merely in their hearts and minds
22 or whether it is doing something such as fund raising or
23 involved in other types of conduct, whether legal or illegal,
24 they don't see it as adverse to U.S. interests. They don't
25 see it as somehow a repudiation of their American citizenship

1 and their patriotism. It is so different than an organization
2 like Al Qaeda, which every member essentially has adopted an
3 anti U.S. doctrine as a matter of the organization itself and
4 their membership. So, it is very conscious.

5 THE COURT: You raise an interesting issue which is
6 only touched upon in sort of in passing in the reports, that
7 is, all right, it is an illicit attempt to influence Congress
8 in the hopes of changing the designation, but there are also
9 legitimate efforts underway. What was going on in terms of
10 the world community and the Tamil people in terms of their
11 claims -- I'm not picking sides here, but their claims that
12 they were being essentially annihilated by the government in
13 power.

14 MR. DRATEL: I think it is a very interesting point
15 for this purpose and I think it goes -- if I may turn it into
16 what we're talking about here. I was going to talk about that
17 in terms -- another sort of proof is in the pudding facts
18 which is that despite the long history of this conflict,
19 despite the human toll in this conflict, the U.S. has never
20 seen its interests threatened to the point where it has gotten
21 involved.

22 The government of Norway is really the leader and
23 some elements of the United Nations in brokering ceasefire.
24 U.S. doesn't consider it essential in any way to its
25 interests. It is not worth an effort like we see in the Mid

1 East and other places where the United States is actively
2 involved in trying to bring parties together. U.S. sought no
3 role in this whatsoever. It is an isolated part of the world
4 without security imperatives or whatever other imperatives
5 exist for the United States in terms of national security and
6 I think that says volumes about the fact and I think it is
7 also unfortunately probably in many ways a motivation or
8 incentive for people to act alone if the world community is
9 not actively involved in looking to resolve a conflict.

10 The LTTE was a government that controlled territory.
11 It also distinguishes it in many ways. LTTE is a war only
12 with the government of Sri Lanka and other groups are at war
13 with the U.S., the world, the West, a significant distinction
14 in terms of U.S. security interests. Al Qaeda and the other
15 organizations like it lack an achievable or articulable goal.
16 LTTE goals were finite and at least in the abstract attainable
17 even though not on the ground.

18 I think that's also distinguishing. When one looks
19 at -- they've never exported terrorism the way other
20 organizations have. Al Qaeda ambitions are global and
21 unlimited and LTTE, obviously, are narrow and limited to
22 Sri Lanka.

23 I think another important distinction is Al Qaeda's
24 ideology is grounded in fundamentalist religious doctrine
25 which LTTE is not. It is entirely emphatic to the West and

1 that is the mind set of every member. While LTTE's ideology
2 is not concerned with the West at all and any perceived
3 political or socioeconomic or religious gulf with the West.
4 It doesn't exist in this context. Al Qaeda doesn't negotiate,
5 LTTE did, negotiated ceasefire agreement with the assistance
6 of the Norwegian government and that ceasefire agreement
7 lasted the better part of four years.

8 The government wants the Court to look again at LTTE
9 in the context of other organizations, not in isolation.
10 Besides my initial point that's only a means of trying to
11 buttress which doesn't exist as security interest for the
12 United States, but here is another aspect which is LTTE has
13 been eliminated for all intents and purposes militarily and as
14 a functioning organization for over a year, going on about 15
15 months now. There is no evidence that adversely affected a
16 single terrorist group anywhere else in the globe. It is not
17 interconnected and has no impact on it.

18 I know the Court was concerned about or at least
19 expressed the point that LTTE may exist and still exists in
20 the hearts and minds of Tamil. I think that that still does
21 not make it a threat to U.S. interests for all the reasons I
22 set forth. Whatever influence that may have is waning to a
23 significant extent amongst Tamils for a variety of reasons. I
24 think on the human toll, devastation of northeast in
25 Sri Lanka, it is recognized as failed policy, attrition,

1 elimination by death or apprehension of a significant number
2 of LTTE's operatives, particularly in Sri Lanka itself.

3 I know Mr. Ross mentioned KP and his transition. The
4 Court expressed a question what was the government's position
5 on that and the fact they have agreed to that. There is an
6 organization called NERO, Northeast Rehabilitation
7 Organization, that KP is running with the sponsorship of the
8 Sri Lanka government. Sri Lanka detained 12,000 Tamils who it
9 believes are connected to LTTE since the war. They have --
10 government already released more than 3,000 who have committed
11 to -- who have renounced terrorism and violence and committed
12 to reconciliation in a society in Sri Lanka where they can
13 live in peace and more than 3,000 that have been released are
14 people responsible for violent acts on behalf LTTE.

15 I think the concept that LTTE's influence is waning
16 and is -- it exists in the hearts and minds has passed -- it's
17 day has passed is evidenced by this type of evolution and
18 what's going on in Sri Lanka.

19 I think for these defendants and obviously for
20 Mr. Socrates in particular their prior assistance that led to
21 this case really, I think, is to be viewed as aiding the wrong
22 side in the wrong way for the right reasons and I think that
23 it doesn't affect U.S. security.

24 If the Court has any questions about that, I would be
25 happy to answer or otherwise I'll move on to the more

1 individualized part of the sentencing.

2 THE COURT: Go ahead.

3 MR. DRATEL: Thank you, your Honor.

4 I think obviously, the sentencing begins and ends
5 with the analysis pursuant to the parsimony clause, sufficient
6 but not greater than necessary. I think in that context, the
7 statistics for Eastern District are quite interesting and
8 telling, frankly, in terms of where judges are in terms of
9 what guidelines mean and how they factor into sentencing as a
10 whole and I think it is obviously a salutary development.

11 The government I think yesterday talked about other
12 jurisdictions and they didn't -- they couldn't comment on some
13 of the cases that we use in our papers in terms of showing
14 sort of the proportionality of sentences and where
15 Mr. Socrates should fall in this, but yet we submitted that in
16 May and the government had ample time to find contrary facts
17 or find something to contradict what we said in that and they
18 haven't.

19 With respect to the guidelines there are two
20 guidelines issues that are primacy here. One is the public
21 official one. That's one that's not in the plea agreement and
22 the government doesn't even argue it, so I hope we can
23 dispense with that unless the Court has any particular
24 questions.

25 THE COURT: Let's move on.

1 MR. DRATEL: Terrorism enhancement and Mr. Socrates
2 is not convicted of a terrorism offense but instead two
3 bribery conspiracies and 3A1.4 analysis. I would note that
4 the inability to really pinpoint Mr. Socrates -- the
5 application here is evident in a couple ways. One is that the
6 government in the PSR has two different reasons as to why he
7 should have the terrorism enhancement. The PSR talks about
8 material support of terrorism as the offense of conviction,
9 ignoring entirely what he pleaded guilty to and the language
10 of the section of 3A1.4.

11 The government in its responsive papers tries to
12 pigeonhole it into the promoted language and the government
13 talks about a 2339A conspiracy, which is a conspiracy to
14 commit other offenses overseas, or 956A, which is a conspiracy
15 essentially to do violence overseas, yet the government can't
16 point to any conspiracy like that that Mr. Socrates intended
17 to aid. They can't just be this ephemeral organization
18 concept like LTTE. In those cases you have to have a
19 conspiracy that's articulable and identifiable. We don't have
20 that here for Mr. Socrates.

21 In fact, while in the 2339B prosecution, which the
22 government doesn't rely on for the terrorism enhancement, any
23 aid to designated organization is forbidden. So, for example,
24 if you're going to give school supplies, it doesn't matter, it
25 is against the law. 2339A it is not the case. You have to

1 deliberately help a conspiracy that's doing violence, not a
2 conspiracy that's providing social services. There's no
3 evidence that that was the intention here in any way, even if
4 you could sort of fit the square peg in the round hole of
5 bribery into the notion it somehow fits into the terrorism
6 context. As our papers point out and I won't belabor it,
7 bribery's enhancement -- reward rather than intimidation or
8 retaliation. Also extraordinarily important is the criminal
9 history category enhancement. Just off the charts you take a
10 guy who has lived his whole life in extraordinarily laudable
11 fashion and results are manifested for children, family,
12 letters and the 194 letters the Court has seen and to say
13 because of this offense we will bump you up from one to six
14 and ignore everything about you --

15 THE COURT: I meant to ask the government yesterday,
16 perhaps I can do it now, assume for the sake of argument that
17 in a given case the terrorism enhancement applied, would 4A1.3
18 nevertheless be available to the Court? In other words, we go
19 from zero to six. Under 4A1.3 we're able to make the
20 requisite finding, I could come from six horizontally to five,
21 four to three, to two, theoretically to one. There's nothing
22 barring the application of 4A1.3 that I'm aware of. Perhaps
23 you are.

24 MR. GOLDSMITH: No, your Honor. I think that's
25 correct.

1 THE COURT: Go ahead.

2 MR. DRATEL: Thank you, your Honor.

3 Just as a 3553(a) factor in terms of accounting --
4 I'll get more detail on that, which is that even if the --
5 obviously, I'm not trying to concede but taking alternative
6 arguement, if the Court does find the terrorism enhancement
7 applicable to Mr. Socrates, there are other avenues.

8 THE COURT: Of course.

9 MR. DRATEL: I think just to talk about Awan (ph.),
10 the 2d Circuit's recent case which obviously to a certain
11 extent foreclosed certain avenues of argument with respect to
12 the terrorism enhancement, but at the same time it can't be
13 automatic that every case the terrorism enhancement has to
14 apply and we have cases from other circuits which show it
15 isn't automatic and in Awan the 2d Circuit doesn't suggest it
16 is disagreeing. It is adopting certain language and doctrine
17 from there. It doesn't say it disagrees or it is going in
18 different directions. It is not automatic.

19 Here I think for all reasons we've set forth and
20 again I will not detail them, this is that kind of case.

21 THE COURT: It is not a road map. There is wiggle
22 room.

23 MR. DRATEL: Dorvee would say if it is automatic.

24 THE COURT: I would have to look at it carefully to
25 say why does everyone have to get a sentence up here? Where

1 is the continuum of sentencing that ought to exist? Again,
2 that robs the whole sentencing process of its individualized
3 character, which is essential.

4 Dorvee is one of the cases I will hear about every
5 sentence I ever impose from here on out. Isn't that right,
6 Mr. Goldsmith?

7 MR. GOLDSMITH: Yes.

8 MR. DRATEL: If they can take the position in a
9 child pornography case, it certainly applies in a terrorism
10 case.

11 MS. KELLMAN: Or a case like this.

12 THE COURT: We have terrorism and child pornography.
13 You have to think long and hard for another category of cases
14 that unleashes the same sort of visceral reaction.

15 MR. DRATEL: I'm not saying it is a terrorism case
16 but I'm assuming for sake of argument if it is applicable
17 here -- I don't want to -- it is set out in our papers. I
18 will not go over the letters. Mr. Socrates is a very
19 accomplished professional without any prior criminal activity,
20 any other criminal activity. There is no evidence of any
21 connection of his to LTTE other than the rather discrete ETO
22 conduct that he committed in the course of this offense.

23 He's never been to Sri Lanka. If you look at the
24 conduct, too, it's -- he gets involved with people. The
25 informant is involved in this and he ends up committing these

1 acts, a good -- some of them close to a year before his arrest
2 and the last conduct is a good six to eight months before his
3 arrest. There's no evidence anywhere in the middle there of
4 any other conduct, any other activity with LTTE, any of that.
5 So, this is really isolated, sporadic and in a true sense
6 aberrational.

7 And, also, with respect to the ultimate sentence,
8 Mr. Socrates has a distinct difference in this case, not only
9 in terms of what he plead guilty to, the nature of his
10 conduct, but, also, he has been at liberty for more than four
11 years in the case without any -- without the slightest
12 indication that there is any political activity on his part in
13 this case beyond what he's always did beforehand, which is a
14 law abiding, tax paying businessman who is an upstanding and
15 proud United States citizen.

16 There's also the impact on the business, which I
17 don't know if the Court -- Ms. Fontier is ready to address
18 that, and then I'll just complete.

19 MS. FONTIER: Your Honor, I won't repeat everything
20 that is again set out in great detail in our papers, but as we
21 stated in the papers, Mr. Socrates after 20 years of working
22 as a nuclear engineer set out on his own business which he
23 began doing, importing and exporting of granite. He now owns
24 two businesses that sort of operate under the same umbrella,
25 East West General Traders and East West Granite and Marble.

1 Essentially what he does is imports marble and makes custom
2 granite and marble monuments, head pieces, that sort of thing.

3 Your Honor, like many other businesses in this
4 country, he is a small business owner and his business
5 suffered from competition from cheaper foreign sources,
6 primarily from China, but through his hard work and through
7 his personal relationship he has been able to maintain these
8 companies. He currently employs 15 people. Each of the 15
9 people has a family that completely relies upon Mr. Socrates.

10 Mr. Socrates' business is also the primary source of
11 business for multiple other companies and we did submit some
12 letters from other businesses that have stated that they rely
13 upon Mr. Socrates and without East West General Traders and
14 East West Granite and Marble their businesses would be
15 directly and severely affected.

16 Your Honor, the bottom line is these companies are
17 able to survive because Mr. Socrates is personally making that
18 happen. Most of them are loyal long-term customers and
19 families and they are loyal to him.

20 Although he knows that he faces sentencing here soon,
21 he has made every effort over the past year at least to try to
22 get his companies into a position where if he is not able to
23 personally be there every single day that they will be able to
24 survive, but, unfortunately, because of the nature of the
25 business and because of the personal relationships that he has

1 built there's no guaranty and certainly a very real
2 possibility that without him personally there these businesses
3 will close. 15 people he employs will be out of work, that
4 the other businesses that rely on him will also be severely
5 affected, if not all out of work and, your Honor, it is a
6 factor that the Court can consider, this deleterious effect
7 that incarceration would have on the lives of multiple other
8 people and it is a direct significant economic impact that
9 would be felt by many families. And, your Honor, I just want
10 to point out that you can see in the courtroom how many people
11 are here and you can see from the 194 letters that have been
12 sent in Mr. Socrates is an exemplary, extraordinary person,
13 both in his family, his community and through his businesses,
14 economically. Your Honor, I ask you to consider that.

15 THE COURT: Thank you.

16 MR. DRATEL: In terms of sufficient but not greater
17 than necessary, obviously, we believe a sentence that does not
18 include incarceration and there are many different components
19 a sentence can use to impose punishment: Financial, community
20 service, house arrest, all sorts of components that can impose
21 punishment and again sufficient for but not greater than
22 necessary, whether four years, lack of connection to LTTE,
23 conduct itself, business impact on innocent persons and
24 character generally. Mr. Socrates made a serious mistake that
25 will have a lasting and painful impact on him and his family

1 regardless of the sentence the Court imposes and we ask the
2 sentence reflect the father he has been, man he has been for
3 his whole life except for this single unfortunate episode.

4 Thank you.

5 Your Honor, can we get the two family members?

6 THE COURT: Yes.

7 Good morning, sir. Step up, if you would. Would you
8 state your full name for us.

9 MR. A. SOCRATES: Aristotle Socrates.

10 THE COURT: It is quite a moniker you're carrying.
11 Nice to have you here. I appreciate your comments. Go
12 ahead.

13 MR. A. SOCRATES: Your Honor, thank you for allowing
14 me to address the Court. The last four years have been
15 painful ones for our family. Upon seeing one another it is
16 impossible to coexist for more than an hour without stressful
17 and heated discussions regarding my father's situation. We
18 are all anxious for a future where this tragedy is finally
19 behind us.

20 Since the week of his arrest and as a result of it,
21 we have been in a constant battle with the Bank of America.
22 Even though we have never missed a payment, they're constantly
23 threatening our family business with foreclosure and
24 litigation. The net result is a loss of hundreds of thousands
25 of dollars in legal fees, increased interest payments, loss of

1 business and an extra dimension of stress in an already very
2 stressful situation. It is difficult to imagine the bank
3 would allow my father's business to continue in the event of
4 his prolonged absence. If my father goes to jail for an
5 extended period, his business will essentially collapse due to
6 his absence, even if the bank were to take no action.

7 My father educated his children. In many times
8 throughout my youth political and historical discussions are
9 -- most never touched upon the crisis in Sri Lanka. Popular
10 topics were Roman history, French Revolution and the United
11 States Civil Rights movement. When my little sister and I
12 would fight at the dinner table, he would often quote Martin
13 Luther King by saying we must learn to live together as
14 brothers and sisters or perish together as fools.

15 After I left college the topic of Sri Lanka
16 occasionally came up but never did he ever speak about the
17 LTTE in any capacity. Everything was in the context of
18 creating a dialogue with members of Congress and the State
19 Department.

20 My father abhors violence. He believes that the gun
21 is the worst of man's inventions. When I was adolescent and
22 teenager he refused to let me watch violent movies. When I
23 was 13, he wouldn't let me get a pellet gun to shoot at empty
24 soda cans in the backyard. I finally got the pellet gun
25 because my mom bought it for me.

1 Your Honor, my father has never advocated violence in
2 any form. He's a good and decent man who we love and we don't
3 want him to suffer anymore.

4 Sir, thank you for your time.

5 THE COURT: Thank you very much.

6 Good morning, madam.

7 MS. K. SOCRATES: Good morning, sir.

8 THE COURT: Would you state your name for us.

9 MS. K. SOCRATES: My name is Kathy Socrates.

10 THE COURT: Okay.

11 MS. K. SOCRATES: Your Honor. Thank you for giving
12 me the opportunity to express a few words on behalf of
13 Socrates. I have known Socrates since 1972. I met him in
14 college. I was drawn to his ideology to help others. He was
15 so admirable. After a few years we were married and moved to
16 U.S.A. Ever since then we are living here.

17 I am a nurse by profession, I worked in hospitals in
18 New York, worked in many capacities last 30 years in this
19 country. We have three children and raised them to be
20 responsible and productive individuals. Together we built the
21 Connecticut Tunnel Sonon (ph.), an organization that continues
22 to flourish. As a result of our work there is a permanent
23 sense of Tamil community in the State of Connecticut. It is
24 from this beginning which started in the community years ago
25 that propelled him to become leader of federation of Tamil.

1 Never once in 21 years of marriage did he ever have
2 conversation about LTTE. We were both sympathetic to poor
3 people and abused Tamils in Sri Lanka, but never did our
4 thoughts wonder supporting armed conflict in any form.

5 Before the time of his arrest never once did I hear
6 anyone in the greater Indian community even mention that
7 Socrates supports or are sympathetic to LTTE.

8 Over the past ten years I have exchanged only a
9 handful of words with Socrates. What I do know is Socrates
10 does not support violence. His actions were foolish and
11 naive. They have brought our children tremendous amount of
12 pain. I am very upset.

13 The past 38 years Socrates has proved that he's a
14 good father, tireless and selfless community leader.
15 Sometimes over eagerness to help others. This is why we are
16 all here.

17 Your Honor, thank you for listening to me.

18 THE COURT: Thank you. Thank you very much.

19 Does Mr. Socrates wish to be heard?

20 MR. DRATEL: Yes, your Honor.

21 DEFT. SOCRATES: Your Honor, thank you for letting
22 me have the support.

23 From India I came to the United States in 1976 with
24 my wife and our daughter Malar. I pursued a graduate degree
25 in engineering at Columbia University while my wife works at

1 Mount Sinai Hospital in New York. Aristotle and Thenral were
2 born in New York and after we moved to Virginia and then
3 settled in Connecticut. My raising my children in this
4 country has me presenting them with the best opportunities.
5 Aristotle, Thenral and Malar are all grown now and successful
6 and are giving the same opportunities to their children.

7 I am so thankful about everything that I have and
8 this country has given me, but because of my poor choices and
9 my actions they've all suffered for four years. I apologize
10 to my family, apologies to the Court, the Justice Department,
11 the people of this country.

12 I understand how naive I was and I totally regret the
13 actions which brought so much pain and suffering to my family,
14 friends and community and to the people of the United States.
15 The past four years taught me the needed lesson in my life.
16 My sincere regrets and apologies. Thank you again, your
17 Honor.

18 THE COURT: Thank you, sir.

19 Mr. Goldsmith, anything you would like to say?

20 MR. GOLDSMITH: Yes, your Honor. Thank you.

21 I don't want to repeat everything that Mr. Knox said
22 yesterday, but I do want to respond to a couple points that
23 counsel made. Defense counsel said the LTTE has not
24 destabilized the region around Sri Lanka. In 1991 the LTTE
25 assassinated the Prime Minister of India, so the idea its

1 activities are limited solely to the Island of Sri Lanka is
2 inaccurate.

3 Counsel said the United States has not gotten
4 involved in the dispute in Sri Lanka. It is certainly true
5 that the United States has not sponsored peace talks in the
6 same way it has in the Middle East, but I just remind the
7 Court that this case and the other Tamil Tiger cases brought
8 in this District have not been brought solely by a handful of
9 prosecutors in this District, cases of this type, both
10 indictments and dispositions are approved in Washington. This
11 case is brought in the name of the United States. So, I don't
12 want to overstate that, but I do think it was worth
13 mentioning.

14 Mr. Dratel says other terrorist organizations don't
15 have the discrete goals that the Tamil Tigers have and it is
16 not accurate either. Al Qaeda has specific goals with the
17 State of Israel and specific goals with respect to the United
18 States' presence in the Arabian peninsula. Over the last
19 number of years certainly its goals have broadened but there
20 have been times when that organization and other organizations
21 have had discrete goals and that has not reduced our interest
22 in fighting those organizations.

23 As we said yesterday, the LTTE is not gone. The
24 European arrests cited in the government's brief were for
25 conduct that took place after the military revolution that

1 took place in Sri Lanka and with respect to the KP, who's been
2 talked about a little bit, first point to be made with respect
3 to KP is that he was effectively pushed out of the LTTE a
4 number of years ago because of his interest in peace talks.

5 Second point is that in the defense counsel's brief
6 on page eight they say that since KP's arrest Sri Lanka
7 government officials have said that he has provided
8 information on Tigers abroad outside Sri Lanka, so far from
9 suggesting that what KP is doing is leading the government of
10 Sri Lanka to disregard all prior conduct by Tigers and their
11 sympathizers. He is, as stated by defense counsel, assisting
12 Sri Lanka in pursuing the Tigers and their supporters, so I
13 don't think that that leads to the conclusions that defense
14 counsel are suggesting here.

15 And, in fact, the government of Sri Lanka has at
16 least that I'm aware of two Interpol arrest warrants for
17 individuals who worked with KP in the past. I'm not saying
18 anything I can't say publicly. As far as the whole idea of
19 U.S. allies being attack on the U.S., if the government of
20 Sri Lanka captured within its borders a member of Al Qaeda, we
21 would expect Sri Lanka to prosecute the person appropriately
22 and Sri Lanka expects the same of us.

23 The fact that the Tigers do not target directly the
24 United States, as Mr. Knox said yesterday, while being
25 relevant perhaps on the margins, is not as decisive a factor

1 as defense counsel would have it. It is particularly true
2 because we took the government -- the government in this case
3 took the difference between the LTTE and other organizations
4 into account in the resolution of these cases and I think the
5 defendants who are here today just highlight that fact.

6 We had Mr. Kandasamy yesterday who is facing a
7 20-year maximum, Mr. Patpanathan who is here today facing
8 15-year maximum and Socrates facing a ten-year maximum. Those
9 decisions were based in part on their individual conduct and
10 in part on the overall analysis of how we should handle
11 prosecutions related to the LTTE.

12 Mr. Dratel says that Mr. Socrates took the wrong side
13 and the wrong war for the right reasons and I think that's
14 precisely the wrong analysis. The reason that's the wrong
15 analysis is that the very reason that we punish terrorism in
16 the way that we do and the reason that the enhancement is so
17 high and that it includes the criminal history category
18 increase is that terrorism is essentially vigilantism. These
19 are people who for political purposes resort to violence and
20 no matter how genuinely held their political beliefs are it is
21 not acceptable. That is actually why we punish it more
22 heavily than we punish theft or assault, because of the
23 deep-seated motivations that people have for it and the fact
24 that those motivations are just completely contrary to
25 organized civilization, that that is not how we operate.

1 Just to talk briefly about the terrorism enhancement
2 as it applies to Mr. Socrates, our view is he falls within the
3 intend to promote prong. During the conversation in which
4 he's talking about the bribery scheme to take the LTTE off the
5 designated list, he talks about how attacks will continue. He
6 is certainly aware --

7 THE COURT: Isn't there a certain irony though in
8 terms of the offense of conviction here if the goal is to get
9 the LTTE off the list, once off the list they are not a
10 terrorist organization, so how are we intending to promote
11 terrorism if our goal is to remove the organization from the
12 terrorist list? Do you see what I'm saying?

13 MR. GOLDSMITH: Absolutely, your Honor. We
14 attempted to address it in our brief. After they come off the
15 list, given the fact they will continue to engage in terrorism
16 supporting them would be 2339A, not B. It is still a listed
17 offense. That's why it still qualifies.

18 THE COURT: Has the government of the United States
19 -- by the way, some of the comments you make, I don't hear
20 Mr. Ross or Mr. Dratel challenging the appropriateness of
21 these prosecutions. I certainly don't. What we're talking
22 about now is to the extent the information we have been
23 discussing is relevant to the issue of sentencing. I know you
24 appreciate that, but I don't want my silence to be
25 misinterpreted.

1 Are you aware of any efforts, any actions by the
2 United States Government relative to the allegations of war
3 crimes and genocide and so forth either directly or throughout
4 the U.N. or any other organization?

5 MR. GOLDSMITH: Are we taking a position on that?

6 If I could have a moment, your Honor.

7 THE COURT: Sure.

8 (Pause in proceedings.)

9 MR. GOLDSMITH: Your Honor, I'm trying to be a
10 little bit careful here in what I can say. There have been
11 allegations that have been brought to the United States about
12 conduct in Sri Lanka. The United States has engaged with the
13 parties that have brought those allegations.

14 THE COURT: All right.

15 MR. GOLDSMITH: I can't go beyond that.

16 THE COURT: All right. Anything else you wanted to
17 add?

18 MR. GOLDSMITH: No, your Honor. I think that's it.

19 THE COURT: Okay.

20 MR. DRATEL: If I may, very briefly?

21 THE COURT: Very briefly, go ahead.

22 MR. DRATEL: First point, I think the Secretary of
23 State Clinton has expressed at times a concern with respect to
24 the conduct of the war by the government of Sri Lanka within
25 the past six months or so and the U.N. embarked on an attempt

1 potentially for commission of inquiry which has not met with
2 complete cooperation of the Sri Lankan government at this
3 point. There is a lot of jockeying position going on. It is
4 what's reported publicly and it is all I'm aware of.

5 With respect to the other points with respect to the
6 other terrorist groups, we're talking about goals as they
7 affect the United States in terms of security interests and
8 those are the groups -- to the extent Al Qaeda has a specific
9 goal within a larger goal, it is an unlimited war in effect.
10 Many other organizations are the same. It is part of their
11 emotional and doctrinal charter to be against the United
12 States.

13 THE COURT: I think we all recognize some of the
14 fundamental differences.

15 MR. DRATEL: With respect to KP, what the government
16 pointed out, it is genuine, number one; and number two, it
17 affects his cooperation both in terms of information and in
18 terms of reconciliation in dismantling LTTE necessary work
19 overseas. It's why the arrests are occurring and, also, the
20 news reports and the reports say he was at the time of his
21 apprehension the nominal leader of LTTE and for a considerable
22 period of time had been in charge of international relations
23 in effect. And I think the Court recognizes the irony in
24 terms of that and this goes back to my point about trying to
25 rely on 2339A the government has two intractable problems --

1 THE COURT: I understand your argument.

2 MR. DRATEL: Thank you, your Honor.

3 THE COURT: All right. I will take a very short
4 recess and we'll hear from Ms. Kellman. At the conclusion of
5 this sessions's day I'll issue a scheduling order that will
6 take us up to the days of sentence.

7 MR. DRATEL: Thank you, your Honor.

8 THE COURT: I'll be right back.

9 (Recess taken.)

10 THE COURT: You're batting third, of course. That
11 position can go to the best hitter. I will not characterize.
12 We've had heavy hitters already.

13 MS. KELLMAN: I think you have, Judge.

14 THE COURT: Modesty does not sit well, but go ahead.
15 Thank you.

16 MS. KELLMAN: Your Honor, I was in court
17 yesterday. Mr. Dratel and I had an opportunity to review the
18 Court's concerns and I was actually on the City bus on my way
19 home and I would say a sentence, say something, the Court had
20 raised a concern about X and Mr. Dratel would talk about it
21 for 20 minutes and then I would say and the Court had a
22 concern about Y, and I was concerned on the City bus, I hate
23 when people talk on the bus and but I didn't have to say
24 anything and there was really no reason I thought today for me
25 to focus the Court on the kinds of things Mr. Dratel really

1 could be called as a defense expert. He has certainly the
2 most current information and the best historical perspective
3 of certainly way beyond my experience with terrorism cases
4 which has been really on the perimeters.

5 That said, you don't have to be an expert in the
6 world of terrorism today to understand that the notion and --
7 and Mr. Knox who I have the most respect for said yesterday in
8 his remarks to the Court, of course, it doesn't compare ever
9 Al Qaeda to the situation before your Honor, although three
10 pages later that is essentially what he did.

11 It is beyond anybody's comprehension in my view the
12 comparison of the two. Al Qaeda declared war on the United
13 States. It is certainly not the situation that the Court is
14 confronted with here. The government speaks to how high the
15 stakes are with terrorism and anti terrorism enhancements
16 because we're trying to protect our citizens, our interest,
17 our national security. I don't imagine how the Court could
18 have hit it any more on the head with its own opening remarks
19 yesterday. It isn't what we're faced with here and there's no
20 question as the Court astutely noted up front yesterday, these
21 defendants pled guilty and they don't look to in any way,
22 shape or form minimize or lessen the impact of those pleas,
23 but all the concerns I think raised by the Court and I think
24 more than adequately or expertly responded to by Mr. Ross and
25 then today by Mr. Dratel speak to the context in which the

1 Court is certainly entitled to consider the LTTE, their
2 actions and these defendants' relationships to these actions.

3 I think as to my client certainly I think that the
4 opening question has to be, as in any sentence for the court
5 with all of this as a backdrop, who is he, what has he done
6 and what brings him here? The Court has more information to
7 some extent about my client than some of the other defendants
8 because of another case your Honor considered and that was
9 06-CR-606, the bribery case in which two of the three
10 defendants were cousins of my client and those were cases in
11 which my client sought to and did offer money to -- through
12 the government's cooperating witness to federal officials for
13 the purpose of bribing guards -- Immigration officials to
14 bring his relatives here to safety. Wrong 1,000 percent.
15 Justifiable? Irrelevant, he broke the law. A plea to those
16 charges was never an option, was never offered by the
17 government, other than to dismiss them in exchange for a plea
18 to the 616 charges.

19 But I think that -- I was at both of those sentences
20 and I recall the Court's attention and concern even at that
21 early stage of these proceedings years ago and the Court
22 sentenced both of those individuals, both of my client's
23 cousins to time served and specifically put into the judgment
24 a request that these individuals either be considered for
25 amnesty here -- not amnesty, asylum here or be helped to

1 Canada through the good auspices of the government,
2 recognizing sending them back to Sri Lanka could cause them
3 severe difficulties.

4 THE COURT: Whatever became of them?

5 MS. KELLMAN: They don't speak to my client
6 anymore, your Honor. I believe one is in Canada, one in the
7 United States, but because of their difficult situations they
8 have no contact at all with my client or his family, but I
9 suppose in some way that's how my client's story starts. And
10 I perhaps start a little bit backwards but in my second
11 submission to the Court which is really my client's submission
12 to the Court I hope to be able to lay out for the Court who my
13 client is and how he gets to this situation and how it was
14 that over the years that he lived here lawfully as a decent,
15 hard working American citizen, how it is he got involved in
16 the way that he did.

17 I know the Court read the letter and I --

18 THE COURT: Quite a letter.

19 MS. KELLMAN: I'm sorry.

20 THE COURT: Quite a letter.

21 MS. KELLMAN: Your Honor, it is in my view so -- a
22 mirror of who -- into the heart and soul of who my client is.
23 Over the last four years I've sat with him and listened and
24 listened and virtually was talking to somebody writing a book
25 about her ancestors and she listened to all the people in her

1 lives tell their stories as immigrants and how they came to
2 the United States and what their stories were. My client is
3 very easy to listen to. He's very soft spoken and he's very
4 kind and he's very patient.

5 In the four years I've represented him he's never
6 called me because he won't spend one minute of time on the
7 telephone on the allotted time he gets by the jail, by the BOP
8 he won't spend one minute of that time, waste, if you will,
9 one minute of that time on me when he could be talking to his
10 children or his wife.

11 There were days when I've called his wife or his
12 daughter and said, please, I need to speak with your father, I
13 can't go to the jail tomorrow, I need to ask him one thing.
14 He won't call me because he won't take a minute away from his
15 children or his family. That's why I asked him to write to
16 the Court and say everything that he would say if he could
17 speak to the Court and his concern was that it would be
18 difficult for him to do that.

19 And, so, I suggested that for context, your Honor, he
20 try to put into words as best he could what his life was like
21 and how it is that he got to where he is today and I thought
22 certainly the early chapter of his life and the early chapter
23 of his letter really lays out in a very succinct sort of way
24 what it was like growing up in Sri Lanka and what the -- how
25 the landscape changed for ethnic Tamils, how as a young man he

1 was able to go to school and then as tensions built that
2 option became more limited. He ultimately made it to the
3 university and it wasn't until he -- and as restrictions grew
4 and grew, it wasn't until he was prepared to sit for the exams
5 that he was told Tamils would no longer be allowed to be
6 graduated, they wouldn't be allowed to get diplomas or
7 licenses and essentially they wouldn't be able to work.

8 During college he writes to you that he worked all
9 the time. He worked in the construction business until the
10 construction jobs in the north were shut down by the Tamil
11 government -- by the Sri Lankan government, and, so, there was
12 no more work. Rice he tells you was basically a product of
13 the northeast and certainly a staple in Sri Lanka, but there
14 came a time when the ethnic Tamils were only allowed to wait
15 on line sometimes for hours. Sometimes he told me he got on
16 line at five in the morning to get a bowl of rice to hold him
17 for the day so he could go to work and school and wait on line
18 again. They were the people who grew the rice, but not the
19 people who were allowed to eat it unless they waited on line.

20 As tensions grew he explains to you in words only he
21 can he had a choice to make in his life and he was a young
22 man. The choice was to join the LTTE and fight or to leave
23 the country. Leaving the country at first wasn't an option
24 for him. It wasn't an option because he had brothers,
25 sisters, an aging mother, very ill father and other

1 relatives. He was in love with the woman who thankfully one
2 day would become his wife and the thought of leaving was
3 paralyzing to him. The guilt associated with leaving
4 paralyzed him, but when he heard he had relatives who made it
5 safely to Germany he thought the only way to ultimately
6 survive himself and hopefully help his family was to flee, not
7 to join, and not to fight, but to flee and he carried the
8 guilt of his actions through Germany and ultimately into the
9 United States, where he was told that with refugee status he
10 would be able to establish himself here and he entered the
11 United States.

12 Life I'm sure the Court knows as an immigrant is
13 never easy but nothing he ever complains about. He told me
14 times he worked two, three jobs driving taxis, cooking foods,
15 washing dishes as he worked towards legal status. When he got
16 it, a man who you can see from letters of recommendation there
17 are people who talk about how he taught their children, how he
18 tutored their children and taught them in biology and physics
19 and math. He's such a bright man and he spent the last 16
20 years before his arrest working as a mental health aide making
21 at the top salary I think 30 or \$32,000 helping mentally ill
22 adults feed themselves, clean themselves, changing diapers.
23 This is a man who said to me at a meeting one day he's so
24 concerned about his daughter because she's gone from a 4.0 to
25 a 3.83 and he knows if he were home he could be tutoring her

1 every night in biology and she could go back to the 4.0
2 student that she is. This is a man who has made incredible
3 contributions, the contribution that every citizen makes. Not
4 every great American, but every citizen makes, gets up every
5 day, works hard, raises a law abiding family, raises a family
6 that has respect for the law, provides for his family. He is
7 by everybody's description someone who is kind, someone who's
8 responsible, someone who's decent, someone who's caring.

9 The government charges among other things that he was
10 involved in arms procurement and other than dribble and that's
11 what it is, Judge, on these tape-recorded conversations where
12 he talks about different kinds of weapons there's one
13 conversation that I found it particularly intriguing where the
14 cooperating individual is talking about stingers and how much
15 it cost to buy and my client is saying there's one for
16 \$125,000 and there's lots in the arsenal and he goes on and on
17 and if you look at the transcript at least, one of the draft
18 transcripts, my client is talking about stinkers and the
19 cooperator is talking about stingers. My client had no idea
20 what he's talking about. He's playing with the cooperating
21 witness the same way the cooperating witness is playing with
22 him.

23 He points out in his letter the inherent danger of
24 this kind of colloquy where they each want something from each
25 other. Cooperating individual wants his freedom. He wants to

1 see if he can get my client to do something wrong. My client
2 wants to use the individual for unquestionably unlawful
3 purposes and that is to bribe Customs agents so he can bring
4 his relatives to safety. And, so, they go on yammering at
5 each other, but there's one particular conversation which I
6 attached to my client's letter which I thought was significant
7 because there's a translator's note at the top of that
8 conversation and that's one about weaponry and arms
9 procurement and the interpreter note, it is TN, translated as
10 interpreter -- note, rather, says I think Shanthar was full of
11 it. Shanthar is full of it. He's just playing and --

12 THE COURT: Who is the interpreter?

13 MS. KELLMAN: A government interpreter, I don't know
14 who it is. Your Honor, the government came to me in an effort
15 not to, quote, unquote, sandbag me before the Court because
16 they tell me their version of that page does not have the
17 interpreter's note on it with the suggestion that somehow that
18 the document before your Honor is a forgery. I could only say
19 this, your Honor: I didn't provide these documents to the
20 BOP. They were provided by the U.S. Government. U.S.
21 Attorney sends the documents in. They sent the transcripts to
22 the jail. They sent the tapes to the jail. I have no part in
23 that. My client has no part in sending those documents in.

24 What I can suggest reasonably and most likely is that
25 it is an earlier draft from the one the government has where

1 they would normally take the translator's notes out. If we
2 were preparing for trial the jury wouldn't get the
3 translator's notes, but I think to some extent that note
4 summarizes really what is going on for years, years between my
5 client and the cooperator. You have to -- and I know this
6 court has listened to trillions of conversations over the
7 years both as a prosecutor and as the Court, there is for sure
8 a certain amount of puffing when cooperators talk to
9 defendants but the ultimate goal of the conversations is to
10 produce criminal conduct or to see whether or not there's
11 criminal conduct afoot, whether or not the individual being
12 targeted is capable of criminal conduct and, if so, what kind
13 of criminal conduct. You have your answer here loud and
14 clear. There is not a wire transfer of the 2.1 million
15 dollars that the government says my client was instrumental in
16 raising with no evidence other than nonsense on telephone
17 conversations. No evidence. There's not one wire transfer
18 with my client's name on it, there's not \$1 other than money
19 that my client is willing to say -- he tried to help the
20 people of Sri Lanka.

21 Talking about extortion, I explained to my client
22 what the government explained yesterday about the extortion of
23 other Tamils and trying to get people to give money and that's
24 a legitimate interest of the government. They should talk to
25 the UJA, but putting that aside, I asked my client did you

1 ever see that, were you ever the victim of it, did you ever
2 feel it? He said victim, he said all the time. I said what
3 do you mean? He said if I gave \$2, I asked my neighbors to
4 give a dollar. If I gave \$3, I asked my neighbors to give 50
5 cents. I wanted whatever somebody would give.

6 There are turns and twists that every single thing in
7 this case takes and I was on trial before Judge Ross last week
8 and the government said, well, you know it is our obligation
9 to put a negative spin on everything and I thought to myself
10 how sad for that young prosecutor because that, as this Court
11 knows, is certainly not the role of the United States
12 Government, it is not the role of a legitimate prosecution.

13 My client tells me he went on one or two occasions to
14 Tamil events that he didn't -- he wasn't involved in
15 organizing but there is one that's come up many a time before
16 your Honor and that is the hero's days celebrations. The one
17 I specifically had an opportunity to listen to the tape
18 recording and review the transcript was held in Queens in a
19 New York City public school with a permit issued by the New
20 York City Department of Education for a Tamil -- terrorist
21 event, so perhaps we should find the last mayor and bring him
22 in here, too. There was nothing secret about what the people
23 were doing, nothing evil about what they were doing. When
24 they started their celebration of the day, every hero
25 celebration was started with the Pledge of Allegiance, with

1 the singing of God Bless America and speech after speech after
2 speech about how lucky they are to be free and how sad they
3 are that their relatives aren't here and free.

4 THE COURT: I guess Al Qaeda doesn't do that.

5 MS. KELLMAN: It is my guess and certainly not the
6 guy sentenced by Judge Cedarbaum earlier this week who
7 declared war on America and he said the more Americans he can
8 kill the happier he will be. To suggest there's a
9 relationship here at all I think is to miss the point.

10 THE COURT: I don't think they suggested a
11 relationship. I think it is sort of a relevant dynamic, not
12 so much a relationship.

13 MS. KELLMAN: Even relevant dynamic, I think, your
14 Honor is a stretch here.

15 Yesterday Mr. Knox said and I hate to comment when
16 he's not here but he did say there were some incidents cited
17 in our submissions about how other courts had handled similar
18 situations and that he wasn't familiar with those situations
19 and he wouldn't comment but as Mr. Dratel points out in our
20 submissions back in May and I'm willing to venture to guess --
21 venture a guess that if there were -- that, one, in this
22 electronic age they could have found out more, if they wanted
23 to, but, two, if there were anything useful to the government
24 in any of the cases, that this Court would have heard about
25 them. The reality is that courts all over the United States

1 and all over the world have determined on more than one
2 occasion -- on many, many occasions that people involved in
3 the LTTE fund-raising efforts here in the United States,
4 people charged similarly with -- with raising funds and
5 sending them to the Tamil community back in Sri Lanka
6 repeatedly and frequently got sentences of time served. Time
7 served, release, two years release, one year release, two
8 years release, time served, time served. Those sentences are
9 outlined in my original submission. I believe that Mr. Dratel
10 has additional submissions -- additional examples in his
11 submissions. But there was no question in some of these
12 cases, particularly one in which a judge in Australia said
13 that it was easy to see past the words of the statute and into
14 the hearts and minds of the defendants who stood behind him.

15 My client contributed to the Tamil cause, your Honor,
16 because of the people he left behind, because of the guilt.
17 That will always be with him about the people and the
18 relatives he left behind. By working hard here in the United
19 States he was able to bring his brothers, his sister, his
20 mother here to the United States. His mother I think recently
21 spoke with probation and said that -- and I think it is in the
22 first addendum, said that it was beyond what she could bear
23 knowing that as the end of her life approaches that her son
24 won't be with her.

25 I think from everything in my submission, your Honor,

1 I hope you have the sense and certainly from my client's
2 letter, have the sense that my client has been a good father,
3 a good son, a good husband, a good friend and a good
4 neighbor. I don't know what speaks more strongly about who a
5 man is or who a father is than who their children are and
6 that's why I asked them, my client's children to write to the
7 Court and explain to the Court what their relationship with
8 their father is. They are two incredibly bright young people
9 and incredibly committed to their studies, to their family.

10 The sacrifices that his daughters made at a young
11 age, an academic scholarship to the University of Rochester --
12 it should have happened to me -- she gave it up because she
13 couldn't leave her mother at home alone with her teenage
14 brother. Her mother's English isn't that good and her brother
15 needed watching while her mother worked part time, so she is a
16 student at the University of SUNY Buffalo where she is doing
17 incredibly well but not as well as the father would like her
18 to do but incredibly well. That's why I asked him to write to
19 the Court, include in his letter to the Court what was
20 important to him about raising a family, what was important to
21 him about working hard and setting a good example.

22 When he was home there's no evidence whatsoever that
23 anything in his home was permeated or infected with raising
24 money for terrorist organizations. His kids were taught first
25 and foremost, as you know, both from him and from their

1 letters that being good citizens is what was important, being
2 a good student was what was important and giving back to the
3 community was what was important. I think his daughter wrote
4 about the Tamil celebrations they went to where they learned
5 about their heritage.

6 Finishing my early submission I explained to the
7 Court that my client brought his children to Sri Lanka for a
8 summer where they spent the entire summer sleeping on the
9 ground, not even on the floors. They were often sleeping in
10 fields. They were in great danger and yet he wanted them to
11 see what their homeland was like because he imagined that he
12 would never be able to go back here. This is before the
13 Sunami.

14 I think he suffered tremendously for his people, I
15 think he suffers tremendously for the loss of the people that
16 he didn't help when he ran away. He suffers from not being
17 there for his children. He said to me and I think he put it
18 in his letter to the Court that whatever sentence the Court
19 were to impose on him couldn't cause him more pain than the
20 last four years of not being there to support his children. I
21 suggest that's probably not true. But I think the Court gets
22 the flavor.

23 One of the things that was particularly hard for me
24 to comprehend in the government's memo to the Court was the
25 notion that somehow Mr. -- that Patpanathan was entitled to

1 the full 15 year sentence notwithstanding their own concession
2 they viewed him as a minor player here. They suggest -- they
3 put that on the record at the time of the plea. They suggest
4 that the Court start at 360 months and take two points off so
5 he's only facing 296 months to 325 months. I doubt that was
6 the spirit -- well, I don't have to say I doubt that was the
7 spirit. It certainly was not the spirit of the conversation
8 that led to that negotiated concession by the government and
9 it was certainly with a view towards communicating to the
10 Court the government's view not of how the guidelines would
11 ultimately not be affected by that concession, but how the
12 government was saying to the Court, sending a message to the
13 Court that in its view the Court should view Mr. Patpanathan
14 as being a minor player in this larger scheme and with that as
15 a backdrop I think it is appropriate to comment on some of the
16 things in the government's memorandum.

17 The government says my client was the second in
18 charge in terms of fund-raising and raising 2.1 million
19 dollars or laundering 2.1 million dollars and yet as I said in
20 my submission ask my client said to the Court in his there
21 isn't a shred of evidence he was involved in any way, shape or
22 form other than a conversation about yeah, I heard so and so
23 gave a million dollars and the government says well, there was
24 no public information about that.

25 Your Honor, it is so naive to even suggest that that

1 is real. In a small community like the Tamil community, if
2 somebody were to give a million dollars, there isn't anybody
3 who wouldn't know about it.

4 The fact my client knows somebody gave a million
5 dollars doesn't make him a major money launderer, the fact the
6 government can't point to a single piece of paper that
7 suggests my client was involved in raising large amounts of
8 money -- did he raise money, yeah, did he raise ten, 20, a
9 \$100, did he have fairs in his neighborhood, his community,
10 did he say to members of the Tamil community we have to do
11 everything we can to help the people who weren't as lucky as
12 us, he did. He's not ashamed of that because they're his
13 brothers. He left them there and most of them are dead.

14 I think there are times when it is almost dangerous
15 for the government and for the Probation Department to take
16 let's look at the book kind of approach, although I shouldn't
17 say that, maybe it makes my life easier, because I think that
18 most courts and certainly this Court can say wait a minute, if
19 it were that black and white, we wouldn't be looking at these
20 kinds of situations. I mean, there wouldn't be the gray
21 area. This whole case is gray. Everything about this case is
22 gray.

23 So, for the government to write in its own brief that
24 Shanthar raised 2.1 million dollars, they have thousands and
25 tens of thousands of wire transfer documents, hundreds of

1 thousands of pages of bank records, hundreds of thousands of
2 e-mails about raising money and about weapons procurement and
3 not one of them, not one has my client's name on it, has my
4 client's bank account on it. Does my client talk nonsense?
5 He does. He talks nonsense to a man he wants something from.
6 But there's nothing that this Court would consider evidence
7 that should lead this Court to believe that he had any
8 substantive role in either arms procurement or money
9 laundering and for that matter, if he were involved, if the
10 government had any real reason to believe other than the
11 silliness and the conversations, any reason to believe that he
12 was involved in 2.1 million dollars worth of money laundering
13 or arms procurement, would they have ever said that he's a
14 minor player? Would they have ever sent that direction to the
15 Court? No. Because they know they have nothing, no evidence
16 whatsoever other than nonsensical conversations.

17 My client looks at the conversations and he's
18 horrified that the words came out of his mouth, but unlike
19 every other conversation in every other case, nothing, nothing
20 flows from those conversations except the bribery of the
21 government officials to bring his relatives in. Something he
22 would have pled guilty to the day he was arrested, something
23 he admitted from the day I met him.

24 Now, I did for the purpose of perspective include in
25 my original submission, your Honor, include a calculation of

1 what the guidelines would look like if he were permitted to
2 plead guilty to a bribery count and I think it came to 24 to
3 30 months. Even this particular case or crime that he pled
4 to, if he wasn't a category six but a category one, would be
5 51 to 63 months.

6 I think as we've all parsed the statute, I think even
7 if the Court believes that it must find for guideline purposes
8 a category six, the Court is certainly empowered to say given
9 the background of this man and given his life history here in
10 the United States, I have every reason to think that category
11 six overstates the seriousness of his criminal conduct given
12 the fact he doesn't ever have a moving violation. This is a
13 man who wouldn't spit in the street. To suggest that he ought
14 to be a category six really takes the guidelines and in a way
15 does what it is that Booker sought to undo - apply them in a
16 way that doesn't give anybody the ability to apply common
17 sense.

18 I hesitate to admit in front of so many people that I
19 do remember when sentences weren't grounded in the guidelines
20 and mandatory minimum and where we relied on the Court's good
21 judgment and discretion and now we have to mechanically go
22 back to a time when we ask the Court to do just that, rely on
23 its discretion, rely on its good judgment and to put into
24 perspective what the words "sufficient but not greater than
25 necessary" had always meant before the era of the mandatory

1 guidelines.

2 It is not enough to say the guidelines aren't
3 mandatory anymore. It is not enough to say even today that it
4 is a starting point because under Nelson and probably even
5 Dorvee, it is not even a starting point anymore. It is one of
6 many considerations that the Court must take into account.
7 Nelson says there's no reason to assume the guidelines are
8 reasonable anymore than they are pre -- there's no reason to
9 assume they are presumptively reasonable.

10 Your Honor, a couple of -- I mean I submitted to the
11 Court a number of letters, many, many and dozens of letters
12 that speak to my client's character, that speak to his
13 peacefulness and kindness. The Court can see at times when he
14 didn't have a lot of money he took people into his home, new
15 immigrants who had no place to stay until they were wed,
16 people who owe him great debts of gratitude not because he
17 gave them money but because he opened his home and heart to
18 these people and they've taken the time to write to the Court
19 and express to the Court their sincere interest in seeing to
20 it that the Court imposes the least -- I'm sorry -- sufficient
21 sentence but not greater than necessary to promote respect for
22 the law.

23 One of the reasons I asked his children to write your
24 Honor and I gave you background on his family is so you would
25 see he's raised law abiding children, children who believe in

1 our system of government. I think one of the hardest things
2 for my client is believing in the freedoms that he's enjoyed
3 here in the United States and the confinement that he has had
4 over the last four years. Thankfully for him he's not in
5 Mr. Kandasamy's state of health, but he is -- in the same way
6 he won't call me he won't complain about the fact that just
7 during the summer for ten weeks he didn't receive a single
8 diabetic meal because the institution was largely locked down
9 and during that time baloney sandwiches were the order of the
10 day. He doesn't eat meat and he wasn't able to get a diabetic
11 diet. He had cans of tuna fish in his locker which he was
12 able to eat. Other than that, your Honor, I saw him, over a
13 ten week period he lost 12 pounds. He is a little man to
14 begin with.

15 I asked him if I could bring it to the attention --
16 to the Court. He said the Court had other things on his mind,
17 the heat will pass. Guards said it was 113 degrees at the MDC
18 for days at a time. I had spoken with some of the other
19 judges whose clerks were spoken to by people at the MDC and
20 they were told the air conditioning was down for two days.

21 THE COURT: Longer than that.

22 MS. KELLMAN: I was there every week, your Honor,
23 and for weeks and weeks and I spoke with counsel there for
24 weeks and weeks and there isn't a guard there who won't say
25 that air conditioning started the season not working and

1 wasn't up and running again until sometime in mid August. It
2 was a horrific July and every time I went to see a client at
3 the MDC I could wait two, three, four hours and the reason is
4 everybody was locked down for the entire month of July.

5 During that month other than was in my client's
6 locker he didn't get to eat. Last Monday the defendant on
7 trial before Judge Kaplan in the terrorism case in Manhattan
8 told the New York Times he would like to go back to Gitmo
9 because the detention center here is so horrific. These
10 aren't the kinds of things that my client complains about at
11 all. They are the kinds of things his lawyer complains about
12 and I complain about them, Judge, or mention them to the Court
13 because in the overall scheme of things I think they speak
14 volumes about who my client is. He is a quiet, humble,
15 decent, peace loving man who has worked hard as an immigrant
16 that comes to the United States and he's raised a family he's
17 very, very proud of. He's helped every person he knows,
18 helped within his limited means. He made \$32,000 at the top
19 of his pay grade. Never missed a day of work, not disciplined
20 at work. Worked for the State of New York.

21 I don't know, really, Judge, there's anything I can
22 add to my client's letter because I think it tells you
23 everything you need to know about him, about the human being
24 who stands before you for sentencing. I would urge the Court
25 to impose the sentence that sits well with its conscience and

1 at the same time shows the kind of mercy and justice I know
2 the Court is capable of.

3 Thank you, Judge.

4 THE COURT: Thank you. Does the government wish to
5 add anything?

6 MR. GOLDSMITH: Yes, briefly, your Honor. This
7 defendant, Mr. Patpanathan, is not here for what he did with
8 respect to his cousins, he's not here for writing enormous
9 checks to the LTTE. There is certainly no allegation he did
10 that. He pled guilty to raising money for the LTTE. That's
11 what he did. As to the extent of that, we have the evidence
12 that is laid out in our brief about the amount of money that
13 the WTCC and the TRO raised. We don't have only the talk by
14 the defendant on the tapes. We have a letter from
15 Mr. Kandasamy, who was here yesterday, asking that
16 Mr. Patpanathan be able to visit with LTTE officials in
17 Sri Lanka because dutifully and sincerely from the early days
18 to the present time he worked on behalf those organizations.

19 Nonetheless, it is true that we agreed to the role
20 reduction which we do think is appropriate and not only do we
21 think that it brings his -- it does appropriately bring his
22 guidelines down from 360 to life to the 290 sum up, but in
23 addition to that by virtue of the crimes they have pled to
24 Mr. Kandasamy is facing 20 year cap and Mr. Patpanathan a 15
25 year cap, so the -- I don't think it is fair to suggest that

1 the government is only agreeing to a guideline change that
2 doesn't mean anything. The government also agreed to a change
3 in the range of sentencing that would be available to the
4 Court.

5 With respect to the defendant's letter and the
6 attachment to it, Exhibit A, I did just bring it to Ms.
7 Kellman's attention this morning. I just became aware of it
8 myself last night. The document that's attached as Exhibit A
9 is a synopsis of a recorded conversation. That synopsis was
10 provided to the defense through Dupe Coop, a CD labeled draft
11 transcript disk. I have a copy of that CD. I shouldn't say a
12 copy. It is not made by us. I have a CD stamped "Created by
13 Dupe Coop" on it and on that CD the document does not have the
14 line at the top that says I think Shanthar is full of it. As
15 I say, I just discovered this last night. I don't intend to
16 say any more than I have said. We have looked at that CD;
17 that line is not there. We have looked at copies of that
18 document on our hard drives at the office. It is not there.

19 In any event, that conversation includes the
20 statements about a particular individual giving a million
21 dollars to the Tigers. That individual is named in Exhibit A
22 to defense counsel's letter. I will not put his name in the
23 record. He is referred to as Individual B in the government's
24 submission. That is an accurate statement that he gave that
25 money at that time.

1 Finally, your Honor, just not to rehash something
2 we've talked about repeatedly, the government is not saying
3 that the LTTE and Al Qaeda are equivalent. We are not saying
4 that. We have not -- none of the positions we've taken in
5 this case suggest we're saying that. Counsel says the reason
6 the terrorism enhancement is what it is is because our country
7 is concerned about threats like Al Qaeda. I'm actually not
8 certain that's true, your Honor. The Congress directed the
9 Sentencing Commission to create that enhancement. Congress
10 first started talking about directing the Sentencing
11 Commission to create that enhancement in 1991 before 911,
12 before the first World Trade Center attack. Congress actually
13 did direct the Commission to create an enhancement in 1994 and
14 then the Commission did it in 1995. Now, that was after the
15 first World Trade Center attack, but before September 11th.

16 In a time when the guidelines were mandatory the
17 Commission wrote the guideline that it wrote which plainly is
18 not limited to groups attacking the United States and I don't
19 think there can be any suggestion that in 1995 there was undue
20 hysteria about terrorism in this country.

21 So, I think that sort of premise of this entire
22 conversation about, well, did it or did it not threaten the
23 United States may just be misplaced. This is an organization
24 that udeniably killed thousands of civilians in Sri Lanka.

25 It is all I have, your Honor.

1 THE COURT: All right, thank you. Does Mr. --

2 MS. KELLMAN: Your Honor, I want to say one thing
3 with respect to the transcript, because I do think it's --
4 it's important for the Court to -- I mean if an interpreter
5 who's listening in the appropriate language writes -- there
6 are throughout the transcripts no notations a -- "TN" which
7 we're told is translator's note, there are throughout the
8 transcript translator's notes. The document I have has that
9 notation on it. I can't explain why the government's doesn't
10 have it on it, but I think if the Court were to hesitate at
11 all as to the accuracy or speculate at all as to the accuracy
12 of that version, I believe suggests two things. One is that
13 as each transcript is updated for the purpose of getting ready
14 for trial, translator's notes are often removed because they
15 are certainly not appropriate before the jury.

16 Second, if the Court were to hesitate at all as to
17 whether or not that's an accurate notation or somehow put in
18 there by somebody not the government or the government's
19 translator, then I would ask the Court to permit us to with
20 the government's assistance find that translator and ask the
21 translator whether or not that note was made and what the
22 impetus for that note was because I think it is --

23 THE COURT: I was going to ask has anybody attempted
24 to locate NKCM45920? Let me add another point. There's no
25 suggestion here and I'm sure your colleague here didn't intend

1 to suggest it by implication or otherwise, that counsel had a
2 hand in adding a notation that was not otherwise on a
3 particular document. I just want to make sure.

4 MS. KELLMAN: I appreciate that, your Honor.

5 THE COURT: We put that baby to rest.

6 MR. GOLDSMITH: That is correct, your Honor. Thank
7 you.

8 THE COURT: Appreciate that. Anything else?

9 MS. KELLMAN: There was one other thing, your
10 Honor, I wanted to speak to because there is quite a bit of
11 background about my client being the secretary to the WTCC,
12 the alleged --

13 THE COURT: You know, I don't know what these titles
14 mean. Mr. Kandasamy is characterized as the director and
15 throughout the materials he's following orders. It is a
16 centralized organization. So, I have to think long and hard
17 about titles. Titles in and of themselves don't mean much to
18 me.

19 MS. KELLMAN: Especially if they don't have them.

20 THE COURT: Even more so.

21 MS. KELLMAN: There is a conversation on June 25,
22 2004, which I hope the government has the same copy of, but in
23 that conversation the cooperating individual is saying to my
24 client --

25 THE COURT: I understand court.

1 MS. KELLMAN: As the secretary, as the secretary.
2 My client says I'm not the secretaries. You know, this is --
3 these are chartered organizations. There are documents that
4 the Secretary of State's office, the Department of State's
5 office -- if there were any document that says my client was
6 the secretary, you would have it. It doesn't exist.

7 While you may not put a lot of weight in the title
8 you should know it gets a little less weight when you don't
9 have it.

10 THE COURT: Point well taken. Does your client wish
11 to be heard?

12 MS. KELLMAN: Very briefly, your Honor.

13 THE COURT: Mr. Patpanathan, would you like to step
14 forward.

15 DEFT. PATPANATHAN: Yes, sir.

16 Thank you, your Honor. As I said in my letter, your
17 Honor, I am far too nervous and too shy to speak to you from
18 my heart in open court. It is the reason I wrote you a letter
19 telling you all that I can about me and my life. I hope that
20 you will hold my words close to your heart when you decide my
21 fate. All that I said in my letter was true. I have lived
22 with the shame of abandoning my family when the difficulties
23 in my country fester because I could not fight. The
24 government recognize my plight, the plight of ethnic Tamil.

25 I entered this country as a refugee and I was safe

1 for the first time in years. It gave me second chance at life
2 for which I will forever be grateful.

3 Since I arrived here -- since I arrived here I have
4 worked often at two and three jobs. All so that I could bring
5 my family to safety. Once here and we were reunited what to
6 do? I worked doubly hard.

7 I raise my family to be law abiding, good citizens.
8 What about the people left behind? Can I turn my back on
9 those who were not fortunate as me? I love my adopted
10 country. I have worked hard, I have paid taxes. I have
11 raised two wonderful children who respect the law and will
12 contribute richly to this country.

13 I humble myself before your Honor. I have confidence
14 that you recognize the difference between terrorists who would
15 threaten the safety of America and people like me who would
16 die in defense of this country that gave me a second chance at
17 life. If I turn my back on my relatives, my countrymen, what
18 kind of a man would I be? I apologize to my family, friends,
19 children and wife for pain my action caused them. I apologize
20 to this court, the government and this country for my
21 actions. Judge Dearie for me there is no punishment worse
22 than I am suffering when I left my home in Sri Lanka and again
23 in Buffalo. I have faith in God and your Honor. I pray that
24 you will have the wisdom you need to let me go home to my
25 family.

1 Thank you.

2 THE COURT: Thank you, sir. Well, I can say this,
3 counsel, I've never been more challenged. I'll issue a
4 scheduling order in the next couple days.

5 (Proceedings concluded.)

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