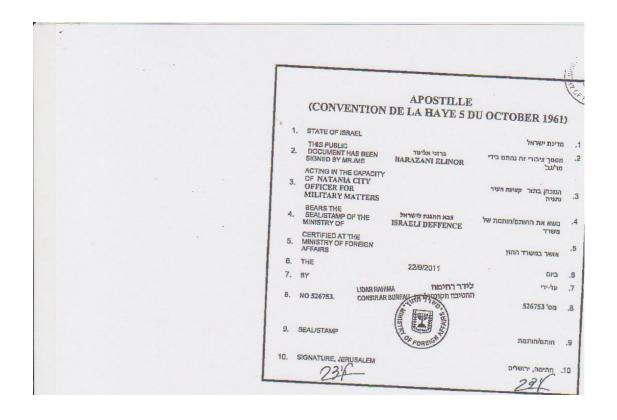
Date: 11 Tishrei, 5767 Case no. 4348/04 1 2 October 3, 2006 3 Verdict 4 5 6 Based on the defendant's admission of guilt, we hereby convict the defendant with the criminal acts attributed to him in the revised indictment, namely: 7 A. Membership and activities in an illegal organization, pursuant to Regulation 85(1)(a) of the Defense 8 Regulations. 9 B. Holding a position in an illegal organization, pursuant to Regulation 85(1)(b) of the Defense 10 Regulations. C. Shooting towards a person, pursuant to Regulation 58(a) of the Defense Regulations. 11 D. Conspiring to intentionally cause death, pursuant to Section 51(a) of the Security Orders and Sections 12 21 and 22 of the Order Regarding the Rules of Criminal Liability (4 counts). 13 E. Throwing an incendiary object, in violation of Regulation 58(b) of the Defense Regulations. 14 15 F. Rendering services for an illegal organization, pursuant to Regulation 85(1)(c) of the Defense 16 Regulations. G. Failing to prevent a crime, pursuant to Regulation 59 of the Security Orders. 17 18 H. Attempt to intentionally cause death, pursuant to Section 51(a) of the Security Orders and Sections 19 and 20 of the Order Regarding the Rules of Criminal Liability. 19 20 21 Handed down and announced today, 10/3/06, in open court and in the presence of the parties. 22 23 24 [signature] [signature] [signature] Judge Presiding Judge Judge 25 26 Parties: Requesting to postpone the arguments for sentencing to a later date. 27 28 29 **Decision** 30 31 The case is scheduled to hear arguments for sentencing on 11/6/06. 32 33 Handed down and announced today, 10/3/06, in open court and in the presence of the parties. 34 35 36 [signature] [signature] [signature] <u>Judge</u> Presiding Judge <u>Judge</u> 37 38 -2-39 40 L C180923 41 42 43



L_C180924

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[stamp:] Military Appeals Court — Judea and Samaria

[stamp:] District Officer, Netanya. 9338

[signature] [stamp:] 4584482. Major Elinor Barazani, District Officer, Netanya

Date: 11 Tishrei, 5767 October 3, 2006		Case no. 4348/04	1 2
Military Court – Judea 3 4			
Appearing before the Hon. Pr	esiding Judge: Lt. Colonel Z Judge: Major Ronen At Judge: Major Menacher	zmon	5 6 7 8
The Military Prosecution (Represented by First Lt. Andre	i Varshchegin) vs.		9 10 11 12
Defendant: Nofel Jihad Nofel (Represented by counsel, Attorn		_	13 14 15 16
Court Reporter: Corporal Ya Interpreter: Corporal Majed			17 18 19
Presiding Judge opens the session and identifies the defendant.		20 21	
	Proceedings of the H	<u>learings</u>	22 23
Defendant: Attorney Khaled Al-	-A'raj is representing me.		23 24 25
Prosecutor: We have arrived at a contents will be revised.	a plea bargain, whereby the de	fendant will admit to the indictment whose	26 27
Defense Counsel: I approve the his denial.	Prosecutor's words. I would li	ke to ask that my client be permitted to retract	28 29 30
	Decision		31 32
We hereby permit the Prosecutor	or to amend the indictment and	the defendant to retract his denial.	33 34
Handed down and published t	today, 10/3/06, in open court	and in the presence of the parties.	35 36
[signature] <u>Judge</u>	[signature] Presiding Judge	[signature] <u>Judge</u>	37 38 39 40
The court clarifies to the defendant and the parties that it is not bound by the plea bargain that was made between them. The Prosecutor amends the contents of the indictment.			41 42 43
Defense Counsel: I read aloud to understood it and admits [to the		nent, I explained its content to him; he	44 45 46
Defendant: I confirm my defense attorney's words and I admit to the revised indictment.			47 48
-1- 50			
L_C180925			51 52

[stamp:] Correct copy [signature] [stamp:] Military Appeals Court — Judea and Samaria [stamp:] District Officer, Netanya. 9338 [signature] [stamp:] 4584482. Major Elinor Barazani, District Officer, Netanya

Date: 13 Kislev, 5767 December 4, 2006	Case no. 4348/04	1 2
Milita	ary Court – Judea	3 4 5
Appearing before the Hon. Presiding Judge: Judge: Judge:	Lt. Colonel Zvi Lekach Major Ronen Atzmon Lt. Colonel Tal Bend	6 7 8
The Military Prosecution (Represented by Captain David Golan)		9 10
Vs. The defendant: Nofel Jihad Nofel Al-Adawin I.D. 920662152/Prison Service – present (Represented by counsel, Attorney Khaled Al-A'raj – present)		11 12 13
Court Reporter: Corporal Alejandra Itzkovitch Interpreter: First Sergeant Fahim Hassun		14 15 16
Presiding Judge opens the session and identifie	es the defendant.	17 18 19
Proceed	lings of the Hearing	20 21
Defendant: Attorney Khaled Al-A'raj is representing me.		22 23
Prosecutor: No evidence in support of sentencing		24 25
Defense Counsel: No evidence in support of sente	encing.	26 27
Prosecutor concludes: We arrived at a plea bargai sentence on the defendant:	in whereby we are asking [the court] to impose the following	28 29 30

a. 21-year prison term, to be counted from the day of his arrest.

b. Suspended prison term as per the court's judgment.

The grounds for the plea bargain are evidential difficulties that existed in this case, saving precious court time and mainly the sentence imposed on the defendant's accomplice in this incident, an accomplice by the name of Muhammad Nashash, Case 2316/06 of the Judea & Samaria region. The main crimes were committed together with Muhammad Nashash, we would not have deviated one way or another from the sentence, however in our opinion this defendant's share is somewhat greater than that of his accomplice.

Defense Counsel's concluding words: I am requesting to honor the plea bargain. Firstly, I wish to mention the evidential difficulties, the count on which his accomplice was sentenced to 15 years of imprisonment. In our case, the defendant's level of involvement is unclear; the difficulties result from the fact that there were two plans by two organizations. At first, there was the Hamas, but in reality the "Tanzim." The defendant's share was unclear, as well as the level of his involvement in this incident. As for the level of punishment, this is a punishment level that commenced with Firas Adawin that is connected to various counts and was sentenced to an 11-year prison term, and Muhammad Nashash who was sentenced to 15 years in prison. There was a debate regarding the accomplice's punishment. The appeals reduced this punishment to 15 years in prison, and an amendment in the actual crime is in place. I am asking to honor the plea bargain in these circumstances. I will add that no witnesses were heard in this case, he confessed within the framework of a plea bargain, this saved precious judgment time, his record is clean.

Defendant's final comments: I have nothing to say.

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[stamp:] Military Appeals Court — Judea and Samaria

[stamp:] District Officer, Netanya. 9338

[signature] [stamp:] 4584482. Major Elinor Barazani, District Officer, Netanya

Appearing before the Hon. Presiding Judge: Judge: Major Ronen Atzmon Judge: Lt. Colonel Zvi Lekach Judge: Lt. Colonel Tal Bend 7 The Military Prosecution (Represented by Captain David Golan) vs. 11 Defendant: Nofel Jihad Nofel Al-Adawin LD. 920662152/Prison Service – present (Represented by counsel, Attorney Khaled Al-A'raj – present) Sentence 15 The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 16 The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 17 Sentence 16 The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 17 Sentence 17 I. Membership and activity and position in an illegal organization — The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 21 Shooting at a person — In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 22 Shooting at a person — In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 23 Conspiring to intentionally cause death — At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against IDF soldiers and Jewish settlers that would arrive to difficulties in buying mobile phones that were needed for activating the car bombs. 4 Throwing an incendiary object — in that during 2004 he handed over improvised explosive devices to another terrorist and that tervist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomba and hurled the explosive devices towards IDF soldiers that were present there. The explosives detoined i	Appearing before the Hon. Presiding Judge: Lt. Colonel Zvi Lekach Judge: Major Ronen Atzmon Grepresented by Captain David Golan) Vs. 10 Defendant: Nofel Jihad Nofel Al-Adawin I.D. 920662152/Prison Service – present (Represented by counsel, Attorney Khaled Al-A'raj – present) Sentence 15 Sentence 16 The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against IDF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due to difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers hat were present there. The explosives detonated in close proximity to the soldier's vehicle. 5. Conspiring to intentionally cause death – The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide and recorded him reading aloud his "last will." The rest of those preparations were deleted from the		3 Kisley, 5767	Case no. 4348/04	1 2
Appearing before the Hon. Presiding Judge: Lt. Colonel Zvi Lekach Judge: Lt. Colonel Tal Bend The Military Prosecution (Represented by Captain David Golan) vs. Defendant: Nofel Jihad Nofel Al-Adawin LD. 920662152/Prison Service – present (Represented by counsel, Attorney Khaled Al-A'raj – present) Sentence The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two assist in treating the wounded in the first attack. This conspiracy was not carried out, due to difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers that were present there. The explosives detonated in close proximity to the soldier's vehicle. 5. Conspiring to intentionally cause death — The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack, he planned the attack in detail and prepared an improvised explosive devices for the purpose of carrying out the attack, The defendant put the explosive belt on the suicide bomber, he filmed and recorded him reading aloud his "last will." The rest of those preparations were deleted fro	Appearing before the Hon. Presiding Judge: Judge: Lt. Colonel Azin Lekach Judge: Lt. Colonel Tal Bend 8 (Represented by Captain David Golan) Sentence Sentence Sentence Sentence 15 The Defendant: Nofel Jihad Nofel Al-Adawin LD. 920662152/Prison Service – present 12 Sentence 15 The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 19 19 10 Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against IDF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due to difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers that were present there. The explosives detonated in close proximity to the soldier's vehicle. 2. Conspiring to intentionally cause death – The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack; he planned the attack in detail and prepared an improvised explosive device for the purpose	Decem		itary Court – Judea	3
Represented by Captain David Golan) vs. 10 Defendant: Nofel Jihad Nofel Al-Adawin I.D. 920662152/Prison Service – present (Represented by counsel, Attorney Khaled Al-A'raj – present) Sentence Sentence 15 The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against 1DF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due to difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tombanat hurled the explosive devices towards IDF soldiers that were present of the suicide attack; he planned the attack. The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack; he planned the attack in detail and prepared an improvised explosive devices for the purpose of carrying out the attack, in the static bomber, and the latter told him that he was in contact with the Fatah Tanzim operatives about setting out on the attack plann	Represented by Captain David Golan) vs. 10 Defendant: Nofel Jihad Nofel Al-Adawin I.D. 920662152/Prison Service – present (Represented by counsel, Attorney Khaled Al-A'raj – present) Sentence 15 The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against 1DF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due to difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers that were present there. The explosives detonated in close proximity to the soldier's vehicle. 5. Conspiring to intentionally cause death – The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack, he planned the attack in detail and prepared an improvised explosive device for the purpose of carrying out the attack in detail and prepared an improvised explosive device for the purpose of	Appea	Judge:	Major Ronen Atzmon	5 6
VS. Defendant: Nofel Jihad Nofel Al-Adawin I.D. 920662152/Prison Service – present 12	VS. Defendant: Nofel Jihad Nofel Al-Adawin I.D. 920662152/Prison Service – present (Represented by counsel, Attorney Khaled Al-A'raj – present) Sentence The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against 1 DF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due to 25 difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers that were present there. The explosives detonated in close proximity to the soldier's vehicle. 5. Conspiring to intentionally cause death – The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack; he planned the attack. The defendant put the explosive bett on the suicide bomber; he filmed and recorded him reading aloud his "last will." The rest of those preparations were deleted from the indictment, and as mentioned, this attack, too, was not carried out. 5. Failure to prevent		ilitary Prosecution	Lt. Coloner Tai Bend	8
Conspiring to intentionally cause death — At the beginning of 2004, together with his fellow accomplices in the appropse of carrying out the attack. The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack; he planned to lose proximity to the soldier's vehicle. 1. Conspiring to intentionally cause death — The defendant was convicted fire the metidictment, and as mentioned, this attack, too, was not carried out. 2. Conspiring to intentionally cause death — The defendant was convicted attack in detail and prepared an improvised explosive devices for the purpose of carrying out the attack. The defendant was convicted in character and that the was planning to go in order to carry out on the attack planned by No. 19 in Jerusalem, where he activated the bomb case at the corner of Arlozorov and Azza Streets. As a result of the suicide attack, 11 Israelis were killed and more than 50 described above, the defendant mand that he was planning to go in order to carry out the solicier attack, 11 Israelis were killed and more than 50 described above, the defendant was convicted in the suicide attack, 11 Israelis were killed and more than 50 described and more than 50	Represented by counsel, Attorney Khaled Al-A raj – present) Sentence Sentence The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against 1DF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due of difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers that were present there. The explosives detonated in close proximity to the soldier's vehicle. 5. Conspiring to intentionally cause death – The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack; he planned the attack. The defendant twas convicted in that in January 2004, together with his fall many proper of carrying out the attack. The defendant put the explosive device for the purpose of carrying out the attack. The defendant put the explosive betto on the suicide bomber, he filmed and recorded him re	\ T	, , , , , , , , , , , , , , , , , , , ,	vs.	10
Sentence The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against IDF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due to difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers that were present there. The explosives detonated in close proximity to the soldier's vehicle. 5. Conspiring to intentionally cause death – The defendant was convicted in that in January 2004, soldiers and that the indictment, and as mentioned, this attack, too, was not carried out. 6. Failure to prevent a crime – in that at the end of January 2004, shortly after the preparations described above, the defendant had a talk with that suicide bomber, and the latter told him that he was in contact with the Fatah Tanzim operatives about setting out on the attack planned by the defendant and that he was planning to go in order to carry out the attack with their help. The defendant knew that the	Sentence The Defendant was convicted, as per his admission, within the framework of a plea bargain, for a series of severe security crimes: 1. Membership and activity and position in an illegal organization – The defendant was convicted for being a member in a Hamas organization terrorist cell, from 2001 to his arrest, and since the beginning of 2003 he headed the cell. 2. Shooting at a person – In 2003 he fired 8 bullets at a house in the Gilo neighborhood in Jerusalem. 3. Conspiring to intentionally cause death – At the beginning of 2004, together with his accomplices, he planned to carry out an attack on Israeli civilians and soldiers. The plan included acquisition of two stolen cars in which they planned to lay a trap with explosives, the first one to be used against a passing bus, and the second car to be used against IDF soldiers and Jewish settlers that would arrive to assist in treating the wounded in the first attack. This conspiracy was not carried out, due to difficulties in buying mobile phones that were needed for activating the car bombs. 4. Throwing an incendiary object – in that during 2004 he handed over improvised explosive devices to another terrorist and that terrorist went out on a few occasions to the road leading from Beth Sahor to Rachel's Tomb and hurled the explosive devices towards IDF soldiers that were present there. The explosives detonated in close proximity to the soldier's vehicle. 5. Conspiring to intentionally cause death – The defendant was convicted in that in January 2004, together with his fellow accomplices in the cell, he recruited a man that was designated to carry out a suicide attack; he planned the attack in detail and prepared an improvised explosive device for the purpose of carrying out the attack in detail and prepared an improvised explosive device for the purpose of carrying out the attack in detail and prepared an improvised explosive device for the purpose of carrying out the attack in detail and prepared an improvised explosive device for the purpose o			<u>-</u>	12 13
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[stamp:] Military Appeals Court — Judea and Samaria

[stamp:] District Officer, Netanya. 9338

[signature] [stamp:] 4584482. Major Elinor Barazani, District Officer, Netanya

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Date: 13 Kislev, 5767 Case no. 4348/04

December 4, 2006

and the recordings that he made, handed them over to a TV station in Bethlehem, within the framework of assuming responsibility for the attack on behalf of the Hamas organization.

7. **Conspiring to intentionally cause death** – in that in the third quarter of 2004 he met with Muhmmad Adawin and conspired with him to carry out a suicide attack against Israelis. That Muhmmad offered to add more suicide bombers, obtained the consent of those intended terrorists and informed the defendant. The defendant explained to Muhmmad that they would have to wait until they obtain explosives, and suggested that Muhmmad learn to drive so that he can drive all of the suicide bombers to the site of the attack.

- 8. **Conspiring to intentionally cause death** in that in 2004 he agreed to his brother, Firas Adawin who turned to him and agreed to assist in carrying out a suicide attack in Jerusalem. The defendant told his brother that when he receives the explosive belts for the five potential terrorists, he will arrange for the attack in Jerusalem. The defendant even scouted the French Hill intersection and the Me'ah She'arim neighborhood in Jerusalem, to explore the possibility of carrying out the attack there, and updated his brother about the findings of his surveillance. He also told his brother that there was someone who was willing to drive the suicide bombers to Jerusalem. The attacks were not carried out, due to the arrest of this brother Firas and due to the difficulty in obtaining explosive belts.
- 9. Attempt to intentionally cause death in that in August 2004 the defendant agreed to participate in preparations for a shooting incident towards IDF soldiers that were guarding workers constructing the border barrier as well as towards the workers themselves. The defendant supplied his brother with details regarding the soldiers' times of arrival at the site of the border barrier, and with this information and surveillance that he did of the place, Firas Adawin decided when it would be worthwhile to carry out the attack. Sometime later, Firas Adawin and his companion went in a car in order to carry out the attack, but upon arrival Firas Adawin realized that there were children at the site of the attack and the soldiers were at the far side of the fence, therefore it was impossible to carry out the attack. The next day, Firas and his companion went out again in order to carry out the attack, and again refrained from doing so, for the same reasons.

The parties appealed for the punishment that was agreed between them and asked the court to honor it. Their arguments for the bargain were the defendant's clean record, the fact that his admission to his guilt saved time for all entities, as well as the level of punishment imposed in the cases of others that were involved in the affair. The parties presented us the case of Firas Adawin that in Judea Court case 4185/01 was sentenced to an 11-year prison term, and the case of Muhmmad al-Nashash that in Judea & Samaria 2316/06 was sentenced to a 15-year prison term, while confirming the plea bargain that was obtained in the first instance as well.

The defendant's actions are many and severe and justify a weighty punishment. The defendant's various activities for a long period of time demonstrate persistence in striving to kill as many Israelis as possible. The defendant was involved both in delivering improvised explosive devices for the purpose of hurling them at soldiers, as well as in recruiting suicide bombers, obtaining explosive belts and sending suicide bombers, shooting from a rifle at an Israeli settlement, initiating car attacks, joining the plans of others who wished to carry out suicide attacks, as well as providing assistance in various ways for implementing these attacks.

Although the defendant was not attributed direct legal liability, it should be remembered that as a result of the preparations carried out by the defendant, eventually a suicide attack was carried out, where 11 people were killed and many dozens were wounded. In the other cases, it was only good luck and interception by the security forces that prevented carrying out other mass attacks.

The other defendants whose case was brought before us were involved only partially in the defendant's widespread activities; therefore, the sentences imposed on them can only serve as a starting point for determining the punishment that the defendant deserves. There is nothing in them to indicate the total punishment that should be imposed on the defendant.

[stamp:] Correct copy [signature]

[stamp:] Military Appeals Court — Judea and Samaria

[stamp:] District Officer, Netanya. 9338

[signature] [stamp:] 4584482. Major Elinor Barazani, District Officer, Netanya

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Date: 13 Kislev, 5767 Case no. 4348/04

December 4, 2006

Against this background, the plea bargain that was presented here mitigates with the defendant not insignificantly, both with the offenses that the prosecution left in the indictment as well as the punishment that it requested. Nevertheless, according to the case law regarding the need to honor plea bargains, and since the punishment presented to us is within the range of reasonable punishment, although tending to leniency, we have decided to honor the plea bargain. Therefore, we sentence the defendant to the following punitive measures:

a. A 21-year prison term, to be counted since his arrest on August 27, 2004.

b. A 3-year suspended prison term, with the condition being that for 5 years following his release from prison, he will not commit the crime for which he was convicted.

Right to appeal within 30 days from today.

Handed down and announced today, December 4, 2006, in open court and in the presence of the parties.

[signature][signature][signature]JudgePresiding JudgeJudge

-4-

L_C180929

תיק מסי: 4348/04

<u>הכרעת - דין</u> 1 2 על יסוד הודאתו באשמה, אנו מרשיעים את הנאשם בעבירות המיוחסות לו בכתב 3 האישום המתוקן, דהיינו: 4 א. חברות ופעילות בהתאחדות בלתי מותרת, לפי תקנה 185(1)(א) לתקנות 5 6 ההגנה. ב. נשיאת משרה בהתאחדות בלתי מותרת, לפי תקנה 185(ב) לתקנות 7 ההגנה. 8 ירי לעבר אדם, לפי תקנה 58(א) לתקנות ההגנה. 9 ד. קשירת קשר לגרימת מוות בכוונה, לפי סעיף 51(א) לצו בדבר הוראות 10 בטחון וטעיפים 21 ו-22 לצו בדבר כללי האחריות לעבירה (4 פרטים). 11 ה. זריקת תפץ מבעיר, עבירה לפי תקנה 58(ב) לתקנות ההגנה. 12 ו. ביצוע שירות עבור התאחדות בלתי מותרת, לפי תקנה 185(1)(ג) לתקנות 13 ההגנה. 14 ז. אי מניעת עבירה, לפי סעיף 59 לצו בדבר הוראות בטחון. 15 ח. ניסיון לגרימת מוות בכוונה, לפי סעיף 51(א) לצו בדבר הוראות בטחון 16 וסעיפים 19 ו-20 לצו בדבר כללי האחריות לעבירה. 17 18 ניתן והודע הלום,3/10/06, בפומבי ובמעמד הצדדים. 19 20 21 ับอาพ 22 שופט 23 הצדדים: נבקש לדחות את הטיעונים לעונש למועד אחר. 24 25 26 <u>הח</u>לטה 27 התיק נקבע לישיבת טיעונים לעונש ליום 6/11/06. 28 29 ניתן והודע הלום, 3/10/66, בפומבי ובמשמד הצדדים. 30 31 32 שופט אבייז 33 34 35 36 THE THE PARTY OF T

רסיין אלינור ברזנ² קצינת העיר נתניה

APOSTILLE (CONVENTION DE LA HAYE 5 DU OCTOBER 1961)

1.	STATE OF ISRAEL		40700	
2.	THIS PUBLIC DOCUMENT HAS BEEN SIGNED BY MR.MS	ברזני אלינור BARAZANI ELINOR	מדינת ישראל מסמך ציבורי זה נחתם בידי מר/גב'	.1 .2
3.	ACTING IN THE CAPACITY OF NATANIA CITY OFFICER FOR MILITARY MA'TTERS		המכהן בתור קצינת העיר נתנית	.3
4.	BEARS THE SEAL/STAMP OF THE MINISTRY OF	צבא תחגנה לישראל ISRAELI DEFFENCE	נושא את החותם/חותמת של משרד	.4
5.	CERTIFIED AT THE MINISTRY OF FOREIGN AFFAIRS		אושר במשרד החוץ	.5
6.	THE	22/9/2011	ביום	.6
7.	BY		על⊶די	
8.	НДАТ Р./ NO 526756. СОМЕНИ	לידר רחיבות החסיבה ותקובלויים איבווטפ היי		.7 .8
9.	SEAL/STAMP	SHAFT OF FOREIGN	מותם/חותמת	.9
10.	SIGNATURE, JERUSALEM		חתימה, ירושלים או בר	.10

תיק מסי: 4348/04

רסיין אלינוך ברזני^ט קצינת העיר נתניה

בית המשפט הצבאי יהודה * Education of the state of the 2 בפני כבי האב"ד: סא"ל צבי לקח 3 השופט: רס"ו רונן עצמון 4 5 השופט: רס"ן מנחם ליברמן б התביעה הצבאית 7 (באמצעות סגן אנדריי ורשציגין) 8 נאמן למקור 9 10 נגד 11 12 הנאשם: נופל גהאד נופל אלעדוין ת.ז 920662152/ שביים -(באמצעות בייכ עוייד חאלד אלאערגי- נוכח) 13 14 רמ"שית: רב"ט יפית קדישמן 15 16 מתורגמן: רב"ט מגיד קטיש 17 18 אב"ד פותח את הישיבה ומזהה את הנאשם. 19 20 21 מהכד הדיון 22 נאשם: מייצג אותי עוייד חאלד אלאערגי. 23 24 תובע: הגענו להסדר טיעון במסגרתו יודה הנאשם בכתב האישום שיתוקן בגופו. 25 26 סנגור: אני מאשר את דברי התובע. אבקש להתיר למרשי לחזור בו מכפירתו. 27 28 29 החלטה 30 אנו מתירים לתובע לתקן את כתב האישום ולנאשם לחזור בו מכפירתו. 31 32 ניתו והנדע תיום, 30/10/6, בפומבי ובמעמף 33 34 35 שופט 36 37 ביהמ"ש מבהיר/לנאשם ולצדדים כי אינו כבול להסדר הטיעון שנקשר ביניהם. 38 39 התובע מתקן את כתב האישום בגופו. 40 סנגור: הקראתי למרשי את כתב האישום המתוקן, הסברתי לו את תוכנו, הוא 41 הבינו ומודה במיוחס לו בו. 42 43 נאשם: אני מאשר את דברי סנגורי ומודה בכתב האישום המתוקן. 44

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תיק מסי: 4348/04

*ניהמ"ש הלב.

בית המשפט הצבאי יהודה

בפני כבי האב"ד: סא"ל צבי לקח

השופט: רס"ן רוגן עצמון השופט: סא״ל טל בנד

התביעה הצבאית

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(באמצעות סרן דוד גולן)

נגד

הנאשם: נופל גהאד נופל אלעדוין ת.ז. 920662152 / שב"ס - נוכח

(באמצעות בייכ עוייד חאלד אלאערגי - נוכח)

רמ"שית: רב"ט אלחנדרה יצקוביץי

מתורגמן: סמ"ר פהים חסון

אב"ד פותח את הישיבה ומזהה את הנאשם.

מחלד הדיון

נאשם: מיוצג אותי עוייד חאלד אלאערגי.

תובע: אין ראיות לעונש.

סנגור: אין ראיות לעונש.

תובע מסכם: הגענו להסדר טיעון במסגרתו נבקש להשית על הנאשם את העונשים 29 30 : הבאים 31

א. 21 שנות מאסר בפועל שימנו החל מיום מעצרו.

ב. מאטר על תנאי לשיקול דעת בית המשפט.

הנימוקים להסדר הם קשיים ראייתיים אשר התקיימו בתיק, חסכון בזמן שיפוטי יקר ובעיקר בעונש שהוטל על שותפו של הנאשם בגין פרשייה זו, שותף בשם מוחמד נשאש מתיק ע. אין ש 2316/06. העבירות העיקריות בוצעו יחד עם מוחמד נשאש, לא היינו שוטים מן הענישה במידה זו או אחרת אלא שאנו סבורים שחלקו של הנאשם הזה עולה במעט מאותו שותף.

סנגור מסכם: אבקש לכבד את הסדר הטיעון. ראשית, ברצוני להתייחס לקשיים 41 הראייתיים, פרט האישום ששותפו נגזר עליו עונש של 15 שנות מאסר, בתיק שלנו לא ברור 42 מידת המעורבות הנאשם, הקשיים נובעים מכך שהיו שני תכנונים משני ארגונים. בהתחלה 43 היה חמאס אך בפועל אנשי התנזים. לא היה ברור מה חלקו של הנאשם ומידת המעורבות 44 שלו במקרה הזה לגבי רמת הענישה, מדובר במדרג ענישה שהתחיל עם פראס עדאווין 45 שהוא קשור לפרטי אישום שונים שקיבל 11 שנות מאסר בפועל ומוחמד נשאש קיבל 15 46 שנות מאסר, היה ויכוח על עונשו של השותף. הערעורים הורידו את העונש הזה ל-15 שנות מאסר והיה מקום לשינוי העבירה עצמה. אני מבקש לכבד את ההסדר בנסיבות אלו, 48 אוסיף כי בתיק לא נשמעו עדים, הוא הודה במסגרת הסדר טיעון, זה חסך זמן שיפוטל 49 50 יקר, עברו נקי.

> 51 נאשם בדברו האחרון: אין לי מה לומר.

רסיין אלינור ברזני 338 קצינת העיר נתניה

תאריך: יייג בכסלו, תשסייז 4 בדצמבר, 2006

תיק מסי: 4348/04

* SECOND TO THE SECOND TO THE

נאמן למקור

בית המשפט הצבאי יהודה

בפני כב' האב"ד: סא"ל צבי לקח השופט: רס"ן רונן עצמון השופט: סא"ל טל בנד

התביעה הצבאית

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(באמצעות טרן דוד גולן)

נגד

הנאשם: נופל גהאד נופל אלעדוין ת.ז. 920662152 / שב"ס - נוכח (באמצעות בייכ עוייד חאלד אלאערגי - נוכח)

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הנאשם הורשע, על פי הודאתו, במסגרת הסדר הטיעון בשורה של עבירות ביטחוניות

- 1. חברות ופעילות ונשיאת משרה בהתאחדות בלתי מותרת הנאשם הורשע בכך שמשנת 2001 ועד למעצרו היה חבר בחוליה טרוריסטית של ארגון החמאס, ומראשית שנת 2003 עמד בראש חוליה זו.
 - 2. ירי לעבר אדם בשנת 2003 ירה 8 כדורים לעבר בית בשכונת גילה בירושלים.
- 3. קשירת קשר לגרימת מוות בכוונת בראשית שנת 2004, ביחד עם חבריו, תכנן לבצע פיגוע נגד אזרחים וחיילים ישראלים. התכנון כלל רכישה של שתי מכוניות גנובות שאותן התכוונו למלכד במטעני חבלה, את הראשונה להפעיל כנגד אוטובוס שיעבור לידה ואת המכונית השנייה להפעיל לעבר חיילי צהייל ומתיישבים יהודים שיבואו לסייע בטיפול בפצועי הפיצוץ הראשון. קשר זה לא יצא לפועל בשל קושי לרכוש טלפונים ניידים שנדרשו לשם הפעלת מכוניות התופת.
- 4. זריקת חפץ מבעיר בכך שבמחלך שנת 2004 מסר מטעני חבלה לפעיל טרור אחר ואותו פעיל יצא במספר הזדמנויות לכביש שמוביל מבית סחור לקבר רחל והשליך את המטענים לעבר חיילי צח"ל שחיו במקום. המטענים התפוצצו בסמוך לכלי
- 5. קשירת קשר לגרימת מוות בכוונה הנאשם הורשע בכך שבינואר 2004, יחד עם חבריו לחוליה גייס אדם שנועד לבצע פיגוע התאבדות, תכנן את פרטי הפיגוע והכין מטען חבלה לשם ביצועו. הנאשם הלביש את חגורת הנפץ על המחבל המתאבד, צילם אותו והקליט אותו כשהוא מקריא את ייצוואתויי. מכתב האישום נמחקו המשכן של אותן הכנות וכאמור גם פיגוע זה לא התממש.
- 6. אי מניעת עבירה בכך שבסוף חודש ינואר 2004, זמן קצר לאחר ההכנות שתוארו לעיל שוחת הנאשם עם אותו מפגע מתאבד והאחרון אמר לו כי הוא עומד בקשר עם פעילי תנזים פת״ח בקשר ליציאה לפיגוע שתוכנן על ידי הנאשם וכי הוא מתעתד לצאת לבצע את הפיגוע בעזרתם. הנאשם ידע כי הפיגוע צפוי להתבצע סמוך לאחר מכן, אך לא עשה דבר כדי למנוע את ביצועו. בכתב האישום מתואר המשך השתלשלות האירועים, שבטופם עלה עלי גיעהרה, המחבל המתאבד לאוטובוס ייאגדיי בקו 19 בירושלים, והפעיל את תיק הנפץ בפינת רחובות ארלוזורוב ועזה. כתוצאה מפיגוע התאבדות זה נהרגו 11 ישראלים ונפצעו למעלה מ- 50 בדרגות פציעה קשות וקלות. לאחר ביצוע הפיגוע נטל הנאשם אתההצילימים

. היוה *ו*ן ס"ן אלינור ברזני

תאריך: יייג בכסלו , תשסייז 4 בדצמבר, 2006

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תיק מסי: 4348/04

והחקלטות שערך, מסרם לתחנת טלויזיה בבית לחם במסגרת נטילת האחריות לפיגוע בשם ארגון החמאס.

7. קשירת קשר לגרימת מוות בכוונה – בכך שברבעון השלישי של שנת 2004 נפגש עם מחמד עדוין וקשר עימו לבצע פיגוע התאבדות נגד ישראלים. אותו מחמד הציע לצרף מחבלים מתאבדים נוספים, השיג את הסכמתם של אותם מחבלים מיועדים והודיע על כך לנאשם. הנאשם הסביר למחמד כי עליהם להמתין עד להשגת חומר נפץ, והציע שמחמד ילמד נהיגה כדי שיוכל להטיע את כל המתאבדים לביצוע הפיגוע.

8. קשירת קשר לגרימת מוות בכוונה – בכך שבשנת 2004 נענה לפניית אחיו, פראס עדוין והסכים לסייע בהוצאה לפועל של פיגוע התאבדות בירושלים. הנאשם מסר לאחיו כי כאשר יקבל את חגורות הנפץ עבור חמשת המחבלים הפוטנציאלים, הוא ידאג לביצוע הפיגוע בירושלים. הנאשם אף סייר בצומת הגבעה הצרפתית ושכונת מאה השערים בירושלים כדי לבחון אפשרות לבצע שם את הפיגוע ועדכן את אחיו אודות ממצאי הסיור וכן סיפר לאחיו כי יש אדם המוכן להסיע את המתאבדים לירושלים. הפיגועים לא יצאו אל הפועל בשל מעצרו של האח פראס ובשל הקושי בהשגת חגורות נפץ.

9. ניסיון לגרימת מוות בכוונה – בכך שבחודש אוגוסט 2004 הסכים הנאשם להשתתף בהכנות לביצוע פיגוע ירי לעבר חיילי צהייל המאבטחים את הפועלים הבונים את מכשול התפר, ולעבר הפועלים עצמם. הנאשם מסר לאחיו פרטים על מועדי הגעת חיילים לאזור מכשול התפר ובאמצעות מידע זה וסיור שערך במקום הסיק פראס עדוין מתי כדאי לבצע את הפיגוע. זמן מח לאחר מכן, יצא פראס עדוין וחברו ברכב לשם ביצוע הפיגוע, אך כאשר התקרבו למקום נוכח פראס עדוין כי ישנם ילדים באזור הפיגוע והתיילים נמצאים בצידה הרחוק של הגדר, ועל כן לא ניתן לבצע את הפיגוע. למחרת היום, שוב יצאו פראס וחברו לבצע את הפיגוע ושוב נמנעו מלבצעו בשל אותן סיבות.

הצדדים עתרו לעונש שהוסכם ביניהם וביקשו כי נכבדו. נימוקיהם להסדר היו עברו הנקי של הנאשם, העובדה שהודאתו באשמה חסכה מזמנם של כל הגורמים וכן רמת חענישה שנגזרה בתיקיהם של מעורבים אחרים בפרשה. הצדדים הביאו בפנינו את עניינו של פראס עדוין שבתיק ביחמייש יהודה 4185/04 נגזרו עליו 11 שנות מאסר לריצוי הפועל ואת עניינו של מחמד אלנשאש שבעי איוייש 2316/06 נגזרו עליו 15 שנות מאסר לריצוי הפועל, תוך אישור של הסדר טיעון שהושג גם בערכאה הראשונה.

מעשיו של הנאשם רבים וחמורים והם מצדיקים ענישה כבדה ביותר. מגוון הפעולות שנקט הנאשם לאורך תקופה ארוכה מלמדות על עיקשות בחתירה להריגתם של ישראלים רבים ככל האפשר. הנאשם שלח ידו הן במסירת מטעני חבלה לשם השלכתם על חיילים, הן בגיוס מחבלים מתאבדים, השגת חגורות נפץ ושילוח מחבלים מתאבדים, הן בירי ברובה לעבר ישוב ישראלי, הן בייזום פיגועי מכונית תופת והן בהצטרפות לתוכניותיהם של אחרים שביקשו לבצע פיגועי התאבדות, כמו גם מתן סיוע במגוון דרכים לשם מימושם של פיגועים כאלה.

אף שלא יוחסה לנאשם אחריות משפטית ישירה לכך, יש לזכור כי כתוצאה מההכנות שביצע הנאשם בסופו של דבר יצא לפועל פיגוע התאבדות שבו נרצחו בב בני או לבידו לבידו ונפצעו עשרות רבות. בשאר המקרים, רק מזל, וסיכול בידי כוחות הביטחון הם שמנעול לבידו ונפצעו עשרות רבות.

הנאשמים האחרים שעניינם הובא בפנינו היו מעורבים רק בחלקים מתוך פעיטון העופה העופה של הנאשם ועל כן העונשים שהוטלו עליהם יכולים להוות רק נקודת מוצאיצאיון העופה של הנאשם ועל כן העונשים. אין בהם כדי ללמד על סך העונש שנכון להטיליאל

רסיין אלינור ברזד4 קצינת העיר נתניה

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תיק מטי: 4348/04

על רקע זה, הסדר הטיעון שהוצג בפנינו מקל עם הנאשם במידה לא מבוטלת, הן בעבירות שאותן הותירה התביעה בכתב האישום והן בעונש שעתרה לו. עם זאת, בהתאם להלכח הפסוקה בדבר הצורך לכבד הסדרי טיעון, וכיון שהעונש שמוצג בפנינו מצוי במתחם הענישה הסבירה, אף שהוא נוטח לקולא, החלטנו לכבד את הסדר הטיעון. לפיכך, אנו גוזרים על הנאשם את העונשים הבאים:

א. 21 שנות מאסר בפועל אשר יימנו החל מיום מעצרו 27/08/04.

ב. 3 שנות מאסר על תנאי, והתנאי הוא שבמשך 5 שנים מיום שחרורו ממאטרו לא

זכות ערעור תוך 30 יום מהיום.

ניתן והודע היום, 04/12/06, בפומבי ובמעמד הצדדים.

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שופט נאמן למקור

רסיין אלינור ברזני קצינת העיר נתניה