

Split verdict in Detroit terror trial exposes government frame-up

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Two of four defendants in a federal trial in Detroit were convicted June 3 of giving material aid to terrorists, while two were acquitted. The split result cast doubt on the credibility of the government's claim that all four men were part of a "sleeper cell" of Islamic fundamentalist terrorists.

The case is the first to go to trial since the September 11, 2001, attacks on the World Trade Center and the Pentagon, and the first in which Muslim defendants charged as terrorists by the Bush administration have been acquitted by an American jury. The handful of other terrorism prosecutions have all ended with plea bargains or the dropping of charges.

The four defendants were Farouk Ali-Haimoud, 22, an Algerian immigrant, and Ahmed Hannan, 34, Karim Koubriti, 24, and Abdel Ilah Elmadoudi, 37, all immigrants from Morocco. Three of the men had shared an apartment in the Detroit suburb of Dearborn that was raided after September 11 by federal agents looking for another Arab immigrant.

The case brought against the four men was a travesty from start to finish, both procedurally and in terms of the flimsy and concocted character of the evidence. US Attorney General John Ashcroft repeatedly violated the gag order that was imposed on participants in the case, declaring the arrests to be a great triumph for the "war on terrorism" and even suggesting that the four men had known in advance of the September 11 attacks—the most prejudicial comment possible.

One defense witness was deported to Morocco before he could take the stand, while another, who discredited the testimony of the government's star witness, Youssef Hmimmsa, had his plea bargain in an unrelated case revoked, in an effort to intimidate him and prevent him from testifying.

As for the actual testimony presented, it consisted largely of unsupported assertions by FBI "expert" witnesses who exaggerated or distorted the significance of the supposed physical evidence, and the account of Hmimmsa, a self-confessed con man who managed to parlay a potential 81 years in prison for theft and credit card fraud into a sentence of as little as 37 months, by telling prosecutors what they wanted to hear.

It may well be that two of the defendants were guilty of offenses like theft and credit card fraud—Elmadoudi was carrying \$83,000 in cash when arrested in North Carolina last fall—but the prosecution effort to transform such run-of-the-mill criminal violations into a vast terrorist conspiracy was a travesty of justice. Since both the prosecution and its star witness claimed that the

four defendants constituted a cohesive terrorist cell, the acquittal of two of the four actually makes a mockery of the entire case.

As James Thomas, lawyer for Hannan, told the press after the trial, the jury's rejection of the terrorism charge against his client suggested that the case was trumped up against all four defendants. "To say that Hannan and Ali-Haimoud were part of the cell, it raises a question of whether there ever was a cell," he said.

During its initial raid, the FBI recovered four kinds of physical evidence that were introduced into the trial: a pile of false passports and other immigration documents, a videotape, 105 audiotapes of Islamic religious sermons, and a day planner. In the case of the passports, the forger was evidently Hmimmsa himself, and such items could be found in many immigrant households. As for the remaining three categories of evidence, supposedly proof of a terrorist connection, in each instance the defense was able to show that the government was grossly exaggerating or distorting their significance.

FBI terrorism expert Paul George testified that the videotape was a "repository of intelligence" for terrorists plotting to attack America. The tape actually appeared to be a home video recording an Arab man's visits to Disneyland, Las Vegas and other popular tourist attractions and landmarks, apparently left by a previous occupant of the apartment. None of the defendants appeared on the tape.

George noted that some of the tape was shot from a hotel room, claiming that this should be viewed as a perch for a future sniper. Prosecutors said that at one point the narrator of the tape described Disneyland as "a rising cemetery." The defense rebutted this claim with an interpreter who translated the same comment as "what a lovely view."

The 105 audiotapes were religious addresses by an Islamic preacher, Osama Al-Kousi, who was described by one defense witness, Bernard Haykell, NYU assistant professor and Arabic translator, as a "pacifist" who opposed violence and the doctrines of Osama bin Laden.

While the prosecution described the audiotapes as incitements to terrorist attacks on Christians and Jews, Haykell said that out of 160 hours of audio, there were a few seconds in which the speaker referred to god punishing unbelievers, the kind of statement that would be commonplace in Christian sermons as well. It is an undisputed fact that the tapes were the property of Farouk Ali-Haimoud, who was acquitted of all charges. The jury evidently did not believe the prosecution claims.

The day planner was treated by the prosecution as the “smoking gun” in the case, since it allegedly contained a map of the US airbase at Incirlik, Turkey, a reference to an unnamed “foreign minister,” and the fingerprints of the defendants. Then-US Defense Secretary William Cohen canceled a planned stopover at Incirlik in 2000 because of intelligence warnings about a possible terrorist attack.

Unfortunately for the prosecution, the day planner was the property, not of the defendants, but of a previous tenant of the apartment, Ali Mohammed Ali Ahmed, a mentally unstable man who ultimately committed suicide. Dr. Mamoun Dabbagh testified during the trial that he had treated Ali Ahmed in 2000 for mental illness and that among his delusions was the belief that he was the “president of Saudi Arabia.”

Three jurors who spoke with the press after the trial said they had largely discounted the testimony of the prosecution’s key witness, Youssef Hmimmsa. He told a lurid tale of being asked by all four defendants to join a terrorist cell that was preparing to shoot down airplanes with Stinger missiles and perpetrate other spectacular attacks. He singled out Ali-Hamoud as the most militant of the alleged terrorists, but the jury acquitted the 22-year-old of all charges.

Under cross-examination by defense attorneys, Hmimmsa admitted that he was a “crook” and a “scam artist,” who traveled widely using false papers, engaging in theft and fraud. While Hmimmsa claimed that he had left the Dearborn apartment he shared with three of the defendants because he was afraid these “terrorists” might harm him, he moved into another residence only a block and a half away.

Prosecutor Richard Convertino, in his closing argument, claimed that Hmimmsa had no reason to accommodate the government with his testimony, asking, “What did he get out of this?” The question, however, was not difficult to answer. In May, Hmimmsa pleaded guilty to 10 felony counts, including credit card fraud, and was sentenced to 37 to 46 months in prison, on charges carrying a potential maximum of 81 years.

Hmimmsa’s credibility was further undermined by a defense witness who was housed in the same jail. Omar Shishani, who pled guilty to smuggling fake cashier’s checks through the Detroit Metropolitan Airport, was initially threatened with prosecution as a terrorist money launderer but accepted a plea bargain on lesser charges, with a jail term of 78 months.

While awaiting disposition of his case, he testified, he encountered Hmimmsa at the federal prison in Milan, Michigan. Hmimmsa advised him to get lesser charges by giving evidence for the government. “He told me to say anything, do anything, bring names,” Shishani said. “Then you can get off the hook.”

Shishani said that Hmimmsa expressed the desire to get revenge on the four defendants in the terrorism case because they had stolen money from him and ruined his criminal enterprise. The government responded to Shishani’s testimony by revoking his plea bargain and seeking a stiffer sentence, in a crude effort to intimidate him.

The Alice-in-Wonderland character of the whole proceeding is best captured in the prosecution’s description of the four defendants as a “combat operational sleeper cell.” The very

definition is a contradiction in terms. A “sleeper cell,” if such a thing exists, consists of men who do nothing but wait to receive orders that will activate them. How then could they be “combat operational”?

Since sleeper cells don’t do anything, it was not necessary for the prosecution to prove any specific action by the four men. They did not acquire weapons, they did not travel to targeted locations, they did nothing but work at menial jobs, listen to Arabic language tapes and, in the case of Ali-Haimoud, live at home with his mother, the head of the computer science department at the Lewis College of Business in Detroit.

All four face serious consequences, ranging from prison terms to deportation. Ali-Haimoud, despite his acquittal on all charges and his mother’s status as a naturalized US citizen, could nonetheless be deported to Algeria. Hannan faces up to five years in prison on the document charges, followed by deportation. Koubriti could get ten years on the terrorism charge and five years for possessing false documents.

The longest jail term likely awaits Elwardoudi. Because he was not arrested in September 2001, like the other three, but only in November 2002, he was charged with terrorism under the USA Patriot Act, enacted in October 2001, which doubled the possible jail sentence. He could get up to 20 years on the terrorism conviction, plus additional years for the document violations. He also faces ordinary criminal charges for credit card fraud and other financial misconduct.

Attorney General Ashcroft issued a statement hailing the convictions of the two men, claiming they vindicated the Department of Justice’s conduct. Defense lawyers for the three men convicted said they will appeal all the convictions.

After the trial, Farouk Ali-Haimoud spoke out strongly against the convictions of his former roommates. “None of us had links with terrorists in any way,” he told the *Detroit Free Press*. “I’m just a regular Muslim. I’m not an extremist. Anyone who’s got a beard, anyone who prays five times a day, you can call him whatever you want. But you can’t change the truth.”



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