

US: jury acquits Idaho webmaster of terrorism charges

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In a sharp setback to the US Justice Department, a federal jury on June 10 found the University of Idaho doctoral student Sami Omar al-Hussayen not guilty of all three charges of promoting terrorism that prosecutors had brought against him under the USA Patriot Act. He remains in prison under a deportation order.

His supposed crime was helping to set up and register several web sites for the Michigan-based Islamic Association of North America (IANA), which publishes and distributes Islamic religious books in various languages.

Though IANA has never been listed as a terrorist organization, according to prosecutors its web site posted links to other sites that sought to recruit and raise funds for Chechen and Palestinian terrorist groups. For this, al-Hussayen was charged under the “expert guidance or assistance” provision of the Patriot Act, even though, as webmaster, he had no knowledge of the links that may have been posted on the site by others.

The not-guilty verdict came after six weeks of testimony and a week of deliberations. All but one of the witnesses were called by the government, which monitored some 29,000 e-mails and phone calls before arresting al-Hussayen 16 months ago. The avalanche of testimony, covering everything from financial records and visa forms to academic experts seeking to establish a link between Islam and terrorism, could not convince jurors to find the defendant guilty of anything.

One juror told the press after the trial, “There was no clear evidence” linking al-Hussayen with terrorism. Another juror said that under the First Amendment, even the few postings or links on the IANA web site that could be considered inflammatory constituted protected speech.

Besides the three terrorism counts, al-Hussayen was also found not guilty on two charges of visa violations. However, jurors could not agree on eight other immigration violations, leading the judge to declare a mistrial on these items.

With respect to these charges, the government alleges that al-Hussayen’s association with IANA violated his student visa by engaging in a “business.” Defense attorneys insisted that al-Hussayen’s work for IANA, extensive though it may have been, was strictly volunteer.

Federal prosecutors are considering retrying al-Hussayen on the eight deadlocked visa charges. They have said they would announce their decision by the end of the month. In the meantime, the defendant remains in jail under a separate deportation order. He has appealed the order, but proceedings are on hold pending the decision on a retrial.

Late last year, immigration officials ordered al-Hussayen’s wife and their three small children deported to Saudi Arabia. In a transparent attempt to put pressure on al-Hussayen, the authorities warned that if his wife appealed her deportation order and lost, she as well as her children would be thrown in jail themselves. As a result, she agreed to a voluntary deportation, which was carried out in January.

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The not-guilty verdicts were welcomed by al-Hussayen’s many supporters in the small university town of Moscow, Idaho. His former professor, Dr. John Dickerson, said, “I think this has been a long ordeal for him and his family, and I look forward to hearing the moment that he’s back with his family.”

His lead attorney David Nevin commented, “I hope the message is [that] the First Amendment is important

and meaningful in this country, and activities that are protected under the First Amendment shouldn't be the subject of prosecutions of this kind." He added that the "worst words" that the government offered into evidence were not even those of his client. "They were the words of other people," he said.

Al-Hussayen was only a few months from receiving his PhD when FBI agents whisked him away on February 26, 2003. He has continued to work on his degree, in spite of being kept in solitary confinement most of the time since, able to leave his cell only an hour a day. His professors have indicated they would help him complete his degree even if he ends up being forced out of the country.

Soon after al-Hussayen's arrest, a US magistrate ruled he was not a threat to flee and ordered him to be released under house arrest. The government immediately issued the deportation order, providing the legal excuse for keeping him in prison in the period leading up to and including his trial, and now beyond.

Following the verdict, prosecutors lifted travel restrictions on Abdulla Al-Kidd, who was headed to Saudi Arabia on a scholarship to study Islam—which he has long since lost—when he was arrested in March 2003 as a material witness in al-Hussayen's case. Prosecutors never called him as a witness in al-Hussayen's trial.



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