

# Palestinian activist Sami Al-Arian acquitted on charges in Florida

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On December 6, a jury found former University of South Florida computer science professor Sami Al-Arian not guilty on 8 of 17 charges relating to his alleged support for Palestinian Islamic Jihad. The jury deadlocked on the remainder of the charges.

The jury's decision is a significant and largely unexpected defeat for the government, which saw Al-Arian's trial as a test case for the use of the Patriot Act in spying on US citizens and residents. It has also been a major component of the government's attempt to criminalize political dissent. Al-Arian based his case on the fundamental constitutional right to free speech, which the government is seeking to systematically undermine, using the so-called "war on terrorism" as a pretext.

Commenting on the case, Linda Moreno, one of Al-Arian's attorneys, noted, "This was a political prosecution from the start, and I think the jury realized that."

Co-defendant Hatim Naji Fariz was acquitted on 25 of 33 charges, with the jury deadlocking on the remainder, while co-defendants Sameeh Taha Hammodudeh and Ghassan Zayed Ballut were acquitted on all charges against them. The jury took 13 days to deliberate after the trial phase came to a close.

In spite of the acquittals, including on a charge of conspiring to maim and murder people overseas, Al-Arian's fate remains uncertain. The government is still deciding whether or not to seek a retrial on the deadlocked charges, including one—conspiracy to commit racketeering—that could involve substantial prison time. Regardless of the conclusion of the trial, he will remain in jail while the Department of Homeland Security seeks to remove his permanent residency status and deport him.

The case of Al-Arian expresses the ongoing attack on democratic rights in a number of different ways. In addition to the basic contention that political belief can be criminalized, the government mounted a massive spying campaign over a period of more than a decade, collecting over 21,000 hours of phone conversations, as well as monitoring faxes and e-mails. The FBI twice raided his home, seizing personal belongings. The government sought to use all of this evidence against him during the trial.

Al-Arian has been kept in prison for nearly three years, a large portion of it in solitary confinement. He has complained

of restricted access to his lawyers, of being deprived of legal material even during the period that he was attempting to defend himself, and of being subject to frequent strip searches.

In spite of the mountain of physical evidence that the government introduced—of which only selected passages chosen by the government were translated from Arabic and presented during trial—there was no proof of a link between any of the defendants and any acts of violence.

Al-Arian has been the subject of attack from Zionist organizations and sections of the media for 10 years, due to his outspoken criticism of Israeli policy. Allegations were initially raised against Al-Arian by a 1994 PBS documentary, "Jihad in America," followed later by a series of stories published by *Tampa Tribune* journalist Michael Fechter beginning in 1995. According to one account, the *Tribune* has published 700 articles mentioning Al-Arian since that date.

When these allegations were initially raised, Al-Arian was removed with pay from his post at the University of South Florida. However he was reinstated after an independent investigation found that there was no substantive basis for revoking his tenure.

Even with his outspoken views on the Palestinian issue, Al-Arian was hardly a political pariah, even into the late 1990s and 2000. He had ties to sections of the political establishment and met with both President Clinton and President George W. Bush. He supported Bush during the 2000 elections.

However, after the attacks of September 11, 2001, the assault on Al-Arian escalated, including a particularly vicious interview with Bill O'Reilly on Fox News.

Al-Arian was seen as a good subject for the use of the new powers of the state enacted in late 2001. Legislation enacted following the Watergate scandal during the Nixon administration prohibited the FBI from using evidence in criminal proceedings gathered secretly under orders from the Foreign Intelligence Surveillance Court. These measures were put in place following revelations of government spying on political opponents. The restrictions were eliminated by the Patriot Act, which passed with near-unanimous bipartisan support. Al-Arian was arrested in February 2003, only three months after a federal appeals court ruled that this sharing of information was constitutional.

His arrest was trumpeted by the Bush administration as a great advance in the “war on terrorism,” with then-Attorney General John Ashcroft making the outlandish claim that Al-Arian is the “North American leader of the Palestinian Islamic Jihad.” Ashcroft said that Al-Arian’s arrest demonstrated that the US would “make no distinction between those who carry out terrorist attacks and those who knowingly finance, manage or supervise terrorist organizations.”

The University fired Al-Arian one week after he was arrested. This was an adaptation to the right-wing campaign against him, and was carried out over the objections of university faculty, without any formal investigation.

The public vilification only intensified after his arrest. Al-Arian’s case was a central topic in the US Senate Race in Florida in 2004. During the Democratic primaries and then in the Senate race itself, Democratic candidate Betty Castor, the former president of USF, was denounced for having failed to fire Al-Arian back when the initial allegations were raised in the mid-1990s. This campaign had predictable results: According to a poll organized by the court prior to the trial, 60 percent of Tampa residents believed that Al-Arian was definitely guilty or probably guilty of the crimes for which he was charged.

In spite of the massive spying operation and propaganda effort, most of the jurors came to the conclusion that there was absolutely no evidence of any wrongdoing on the part of Al-Arian. According to jurors who have made comments to the press, most of the jury wanted to acquit him and his co-defendants on all charges, but there were two or three who resisted, resulting in the partial hung jury.

“Ten of us wanted to acquit them on all charges, but two wouldn’t tell us what the evidence was to convict, but wouldn’t go along with acquittal,” a juror who identified himself as Ron told the *St. Petersburg Times*, a Florida newspaper. According to the *Times*, jurors were particularly influenced by the instructions from the judge stating, “Our law does not criminalize beliefs or mere membership in an organization. A person who is in sympathy with the legitimate aim of an organization but does not intend to accomplish that aim by a resort to illegal activity is not punished for adherence to lawful purposes of speech.”

The *Tampa Tribune* wrote, “One juror, who gave only her first name, said prosecutors failed to connect the dots on the conspiracies charged. Jurors were left to assume the defendants were aiding the Islamic Jihad even when the evidence didn’t prove it, said Thanh ...She believed prosecutors’ claims that Al-Arian served on the Islamic Jihad’s governing board but said that did not justify a conviction.”

“She offered money-laundering counts as an example: ‘They showed money moving to different accounts, but ... they didn’t show it went to any terrorist organization,’ she said,” the paper reported. “‘If money went to Egypt, that was it. We didn’t know where it went from there.’ When prosecutors were able

to track money to a destination, she said, jurors agreed it went to charity.”

Al-Arian’s defense team decided not to call witnesses, electing instead to base its case on the simple proposition that Al-Arian has the constitutional right to express his views. His lawyers also called attention to the extreme exploitation of Palestinians to explain Al-Arian’s political activity and his opposition to Israeli policy.

The prosecution’s case was made more difficult after a ruling from the judge that the government had to prove that funds Al-Arian contributed to various charities were used for terrorist attacks, and that Al-Arian sought to fund these attacks. The government had wanted to base its case involving financial support for terrorist activities purely on the grounds that Palestinian Islamic Jihad had some ties to charities to which the defendants gave donations.

In spite of the acquittals, the University of Southern Florida issued a statement declaring that the computer science professor will not be given his job back. “USF ended Sami Al-Arian’s employment nearly three years ago, and we don’t expect anything to change that,” the statement said.

The case of Sami Al-Arian brings into sharp relief several aspects of the so-called “war on terrorism” supported by both political parties. The massive attack on democratic rights is not aimed at the prevention of terrorism, but at the prosecution of dissident political views. Al-Arian’s main crime was vocal opposition to the policies of Israel, a close US ally with extensive ties to both the Republicans and the Democrats. In the future, the criminalization of dissent will be broadened to encompass all those who challenge the policies of the US ruling elite.

While the acquittal of Al-Arian should be welcomed and may be an indication of shifts in popular sentiment against the attack on democratic rights, there is no sign that the political establishment is pulling back. With overwhelming bipartisan support, the Patriot Act is set to be renewed by the end of the year, with extensions of its most controversial provisions.

Not only is Al-Arian’s personal fate still unsettled, but the repudiation by the jury of the government’s position will no doubt be interpreted by the ruling elite as a demonstration of how untrustworthy juries are. This will only propel the government toward a policy that it has already begun to implement: the arrest, detention, prosecution and punishment of prisoners outside of any judicial review.



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