

No convictions in US terror trial against Muslim charity

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A federal jury in Dallas, Texas, has failed to convict any leaders of a Muslim charity who were accused by the US government of funding terrorists. Chief Judge A. Joe Fish announced a mistrial on Monday in the case against the Holy Land Foundation for Relief and Development and five of its backers, all of Palestinian descent.

The mistrial is a blow to the Bush administration's attempt in its ongoing "war on terror" to convict the charity as a front for the Islamic Hamas organization. Matthew D. Orwig, a former US attorney for the Eastern District of Texas, described the decision to the *New York Times* as "a stunning setback for the government, there's no other way of looking at it."

The government's case against the Holy Land Foundation and its associates spanned 13 years. It amassed a total of 197 counts against the charity, including providing material support to a foreign terrorist organization. In almost two months of testimony, prosecutors presented more than 1,000 exhibits, including reams of documents translated from Arabic, along with transcripts, wiretaps and videos.

After 19 days of deliberations, the jury reached verdicts for only one of the defendants, former Holy Land chairman Mohammed El-Mezain. He was found not guilty on 31 of 32 counts against him, while the jury was deadlocked on the remaining charge of support for terrorism. The jury was deadlocked on all the remaining charges against Holy Land and the four other charity board members and employees.

"The government spent 13 years and came back empty-handed," Khalil Meed, president of the Muslim Legal Fund of America, commented to the *Times*. "I would call that a victory—an overwhelming defeat for the government."

In December 2001, just months after the September 11 terrorist attacks, George W. Bush announced from the White House Rose Garden that he was freezing the charity's assets. He claimed that Hamas had "obtained much of the money it pays for murder abroad right here," adding, "Those who do business with terror will do not business with the United States."

In its case against Holy Land, however, government

prosecutors did not claim that the charity directly funded suicide bombings or other terrorist activities, but that it had supported terrorism by sending more than \$12 million to so-called zakat committees, charitable groups that build hospitals, feed the poor and provide other humanitarian services to the Palestinian people.

The government was unable to obtain guilty verdicts on a single charge on this basis. The five men faced up to 20 years in prison if convicted on the most serious charges. The prosecution chose not to allege that deaths resulted from their actions, charges that could have brought life sentences. US prosecutors will most likely retry the cases against the Holy Land Foundation principals, and the charity's funds remain frozen.

Confusion and chaos apparently reigned in the jury deliberation room. The jury was presented with 54 pages of instructions by the judge, and repeated voting on the 197 counts could take as long as a day each time. Jurors argued, and one reportedly slept at times. One juror was dismissed after a request to the judge.

One juror told the *Los Angeles Times* that the government case had "so many gaps" the prosecution was "a waste of time." The panel was unable to reach a consensus to convict on a single count based on the evidence presented by prosecutors, even though a number of potential jurors had been dismissed because they could not agree to convict based solely on Holy Land's association with humanitarian groups.

The trial took a peculiar turn on Monday, when the jury reported its verdict. The panel's findings had been sealed over the weekend as the court waited for presiding judge Fish to return from out of town.

The jury reported that it had deadlocked on reaching a decision on any of the counts against the charity and two of its organizers, but had acquitted the other three defendants on almost all counts. However, when the judge polled the jurors, three said that the verdict did not represent their views, and the judge sent them back to deliberate.

They returned in about 40 minutes, saying they were

irrevocably deadlocked and could not continue. In the end, the jury acquitted defendant El-Mezain on all but one count. The judge declared a mistrial on the remaining count against him, as well as on all the other counts involving Holy Land and the other four defendants.

Juror William Neal, a 33-year-old art director from Dallas, told Associated Press, “I thought they were not guilty across the board.” He said the case “was strung together with macaroni noodles...there was so little evidence.”

During the trial, government prosecutors sought to prove that the zakat committees were staffed and controlled by Hamas, which they said has sponsored hundreds of suicide bombings, often targeting Israeli civilians. The prosecution also showed videotaped scenes depicting violent actions on the part of some Palestinian groups, but none were attributed to the defendants. Prosecutors also tried to prove guilt by association because of some of the defendants’ personal family ties to Hamas officials.

The government’s chief witness on the alleged link between the charity committees and terrorism was an agent from the Israeli domestic security agency Shin Bet, who testified under the pseudonym “Avi.” Juror Neal found his testimony unconvincing, saying he would expect an Israeli official to condemn Palestinian supporters.

The defense countered the Israeli agent’s testimony with that of Edward Abington, the former No. 2 intelligence official at the State Department, who told jurors that in his years of daily CIA briefings in Jerusalem as consul general, he was never told that the Palestinian committees funded by Holy Land were part of Hamas.

The US government campaign against the Holy Land Foundation began in 1993, when a Palestinian-born Illinois businessman detained in Israel allegedly told his interrogators that the largest American Muslim charity was in fact a front for Palestinian terrorists and the chief fundraising arm of Hamas. Muhammad Salah later said that he had been tortured into talking.

In 1996, the Israelis shut down Holy Land’s Jerusalem office. A 1995 executive order of the Clinton administration had made it a crime for anyone inside the US to send money or support to Hamas, and the Israelis pressured the US to shut down Holy Land’s Texas headquarters.

For a number of years, the US government sought to gather intelligence on Holy Land and its alleged terrorist connections instead of closing it down, until Bush announced in December 2001, in the wake of 9/11, that the charity had been shut down as a bold strike in the “war on terror.”

The failure to convict in the Holy Land Foundation trial comes on the heels of two recent defeats by the government in similar terrorism financing cases. In both cases, despite

failing to gain convictions, prosecutors have sought to make an end run around the verdict and exact retribution on the defendants.

In January, Muhammad Salah, the Israeli source in the Holy Land case, was acquitted by a jury of being a “bag man” for Hamas. However, a judge in a civil case subsequently sentenced him to 21 months in prison, finding that he lied about his connections to the group.

In a six-month trial in 2005, former University of South Florida professor Sami Al-Arian was acquitted on eight charges that he was directly responsible for terrorism deaths abroad. The jury deadlocked on nine charges that Dr. Al-Arian helped coordinate and fund terrorist operations for the Palestinian Islamic Jihad.

The government mounted a more than decade-long spying campaign against Al-Arian, collecting more than 21,000 hours of phone conversations and monitoring faxes and e-mails. The FBI staged two raids on his home, seizing personal belongings. In reality, Sami Al-Arian’s main “crime”—as presented by the government—was his vocal opposition to Israeli policies. The massive evidence compiled by prosecutors did not convince the jury of his guilt in supporting terrorism.

Instead of retrying their weak case, the government accepted a plea from Al-Arian, in which he pled guilty to lesser charges. He has been stripped of his citizenship and remains in prison awaiting deportation.

The Bush administration has shut down and frozen the assets of seven Muslim charities, but to date has not won a conviction against anyone involved in these charities for financing terrorism. This track record has not deterred the Bush administration’s antidemocratic campaign against the Muslim groups, which has the support of both congressional Republicans and Democrats, fearful of being seen as “soft on terror.”



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