

# Second mistrial in Liberty City “terror” case

**Kate Randall**  
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A mistrial has been declared for a second time in the case of a group of Miami men charged by the US government with plotting with Al Qaeda to carry out terrorist acts within the US.

US District Judge Joan Lenard declared the mistrial when the 12-member jury deadlocked after 12 days of deliberations on charges against the six “Liberty City” defendants, named for the impoverished, predominantly Haitian immigrant Miami neighborhood where they lived.

The defendants were retried after the first trial ended in a mistrial last December. In those proceedings, one of the Liberty City 7, Lyglenson Lemorin, was acquitted and the jury failed to reach a verdict on the other six. (See “Miami: Collapse of Liberty City 7 case exposes fraud of ‘war on terror’”)

This second mistrial is a blow to federal prosecutors and underscores the fraudulent nature of the charges brought against the defendants.

The six men faced four terror-related conspiracy charges. The central charge was conspiracy to provide “material support” to Al Qaeda in connection with plans to blow up Chicago’s Sears Tower and two Miami-area federal government buildings. At trial, defense attorneys were able to convince a section of the jury that the driving force of the alleged terrorist plot was a paid FBI informant posing as an “Al Qaeda representative.”

Each of the defendants—Narseal Batists, 33; Patrick Abraham, 28; Burson Augustin, 23; Rothschild Augustine, 24; Stanley Grant Phanor, 32; and Naudimar Herrar, 24—faced up to 70 years in prison if convicted on all four terror-related conspiracy counts.

The panel of seven women and five men, picked anonymously for the second trial because of the judge’s concerns with potential jury tampering, were led away from the federal courthouse by US marshals and have made no comments to the press about their deliberations.

Judge Lenard set a status conference for April 23, by which time federal prosecutors are to decide whether to try the six defendants for a third time. Defense attorneys indicated they will be seeking to have the men released on

bail at next week’s hearing. They have been imprisoned for nearly two years, since their June 2006 arrest.

At the time of their arrest, then-Attorney General Alberto Gonzales charged that the Liberty City group represented a “new brand of terrorism” created by “the convergence of globalization and technology.” The White House hailed their arrest as “yet another important victory in the war on terrorism.” However, at the second trial as at the first, prosecutors were unable to back up these claims.

The FBI produced no evidence of explosives, weapons or blueprints for any planned terrorist activity. Rather, prosecutors held up as their central incriminating evidence a videotape of defendants pledging an “oath” to Al Qaeda. This video was recorded in a warehouse set up by the FBI and the group was led there by an informant.

The other key evidence presented by the prosecution was alleged surveillance photos of the FBI building and federal courthouse complex in Miami-Dade County. An FBI informant provided the camera and car for this purpose. The two government informants involved in the case—Abbas al-Saidi and Elie Assad—were paid over \$130,000 for their services.

At trial, the defense was able to demonstrate that rather than uncovering a terrorist plot, the government had concocted the plan and manipulated the impoverished defendants, who had no terrorist motives, but hoped to benefit financially from their relationship with the FBI informants posing as Al Qaeda operatives.

During closing arguments in late March, Ana Jhones, Narseal Batiste’s attorney, told the jury, “This is not a crime of terrorism, this is a sad, sad state of affairs.” She described Batiste—portrayed as the mastermind of the terror plot by the prosecution—as a “dirt poor” contractor and father of four motivated by a desperate need for money.

Defense attorneys argued that the six men tried to trick the FBI informant out of the \$50,000 he claimed would be provided by Al Qaeda for the operation, while never having any intention of carrying it out. Jhones also said

that Batiste pawned a camera he was given by the informant for \$56 in order to buy food for his family.

Assistant US Attorney Jacqueline Arango argued that it didn't matter whether Batiste's association with Al Qaeda was for financial or ideological purposes, and that the central argument of the defense was "just silliness."

At the time of the arrests, while the FBI claimed it had preempted a terrorist plot, it acknowledged that the targets of this plot were never in any real danger. Even in the early stages of the case, FBI Deputy Director John Pistole stated that the alleged plot was "more aspirational than operational"—i.e., that there were no terrorist plans in place.

The managing director of the Sears Tower, as well as the Chicago Police Department, were assured by federal authorities at the time that there was never a credible threat to the skyscraper.

At the first trial, Narseal Batiste testified that none of the other defendants had any knowledge of the Sears Tower plot. "Nobody knew about it," he said. "Like I said, this was imagination. I would have been deeply embarrassed if any of the brothers knew I was engaging in that kind of conversation."

Jeffrey Agron, an attorney and the jury foreman in the first trial, predicted the jury would deadlock the second time around. He said some jurors would have doubts about the prosecution's central case—that the defendants intended to carry through on the terrorist plot after taking Al Qaeda loyalty oaths in front of the FBI informant.

He told the *Miami Herald*, "These cases where the government will go after groups that are more aspirational than operational may present problems for the jury." He said many jurors would be more likely to believe the defense's presentation of the case—that the defendants were motivated solely by the prospect of making some money.

The collapse of the government's case a second time round in the Liberty City case highlights the fraudulent character of the Bush administration's "war on terrorism," a political pretext for war abroad and attacks on democratic rights at home accepted and defended by both big business parties and the media.

The administration has mounted a series of "anti-terror" prosecutions in an attempt to justify military aggression and a vast expansion of the police powers of the government.

In these cases, the government has utilized the services of informants and concocted scenarios of terrorist plots with weak or nonexistent evidence. Unlike the outcome in

the Liberty City trials, the government has won convictions in a number of these cases.

\* Hamid Hayat, a US citizen of Pakistani descent, was convicted in April 2006 of providing material support for terrorism based on testimony of an informant who was paid \$250,000 for his services. Hayat was sentenced to 24 years in prison. No evidence was presented to prove the prosecution's claims that he attended an Al Qaeda training camp.

\* Shahawar Matin Siraj, a Pakistani-American, was convicted in 2006 of an alleged plot to bomb a New York subway station. An informant—paid \$100,000—concocted the plot. Siraj received a 30-year sentence.

\* Jose Padilla, a US citizen, was sentenced to 17 years and four months in January following a conviction on terrorism conspiracy charges last August. Padilla was arrested in May 2002, the government claiming he was plotting to explode a "dirty bomb" in the US. (See "US 'enemy combatant' Jose Padilla sentenced to 17 years in prison")

He was held for three-and-a-half years as an "enemy combatant" in a Navy brig, where he was interrogated and tortured. After a number of court rulings rejecting the government's claims that he could be held without charges or access to legal counsel, his case was transferred to the civilian court system, where he was tried on charges unconnected to the "dirty bomb" allegation.



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