

The Case of Dr. Sami Al-Arian

manipulating the judicial system to punish innocent Muslims and the politically-charged manner in which the trial was conducted, one can only conclude that Dr. Al-Arian is being persecuted for his ethnic background and religious beliefs.

In accordance with the plea agreement, Dr. Al-Arian has already agreed to leave the country upon conclusion of his sentence, though he has lived here as a Palestinian refugee since 1975. During his stay here, his life has to a large extent embodied the "American Dream," successfully advancing from a humble background to become a university professor, using this country's protection of freedom of speech to promote peaceful dialogue, and helping to build American communities through his educational initiatives and community activism. Now, sadly, his case has come to embody the injustice and political witch-hunts that have plagued the Justice Department under the Bush administration.

For more information, please visit
<http://www.freesaminow.com>.

-20-



<http://www.freesaminow.com>

--

The Case of Dr. Sami Al-Arian

manipulating the judicial system to punish innocent Muslims and the politically-charged manner in which the trial was conducted, one can only conclude that Dr. Al-Arian is being persecuted for his ethnic background and religious beliefs.

In accordance with the plea agreement, Dr. Al-Arian has already agreed to leave the country upon conclusion of his sentence, though he has lived here as a Palestinian refugee since 1975. During his stay here, his life has to a large extent embodied the "American Dream," successfully advancing from a humble background to become a university professor, using this country's protection of freedom of speech to promote peaceful dialogue, and helping to build American communities through his educational initiatives and community activism. Now, sadly, his case has come to embody the injustice and political witch-hunts that have plagued the Justice Department under the Bush administration.

For more information, please visit
<http://www.freesaminow.com>.

-20-



<http://www.freesaminow.com>

--

Summary: The Case of Sami Al-Arian

Background

Dr. Sami Al-Arian, whose Palestinian parents were forcibly exiled from their homeland in 1948, immigrated to the United States at the age of 17 to pursue higher education. Al-Arian, 50, was a tenured professor of computer science at the University of South Florida until after 9/11, when the school's administration, at the behest of then-Governor Jeb Bush, attempted to fire him for his outspoken views, work for Palestine and activism for civil liberties. (For more information on Dr. Al-Arian's life before his arrest and imprisonment, please visit <http://www.freesamialarian.com/bio.html>.)

On February 20, 2003, Dr. Al-Arian was arrested with much fanfare and charged in a bloated terrorism conspiracy case. Attorney General John Ashcroft personally announced the arrest on live television, claiming that Dr. Al-Arian was a leader of the Palestinian Islamic Jihad. The arrest was hailed as one of the greatest victories to date in the domestic "war on ter-

-2-

Arian's family attended the premiere, after which they were received at the Norwegian Parliament, in addition to the Nobel Peace Center, which would later host an exhibition entitled "Freedom of Expression—How Free is Free?" with a section on Dr. Al-Arian's case in October of that same year. **This documentary has been screened in more than 75 cities around the world.** (For information on screenings of the documentary, visit <http://www.freesamialarian.com/calender>).

Conclusion

These latest developments are a troubling confirmation of Dr. Al-Arian's words that his case is inherently political. Despite a legal process that took its course, ending with his near-acquittal, Dr. Al-Arian continues to be imprisoned two-and-a-half years following the verdicts of his trial. In spite of an agreement intended to resolve his case once and for all, the government has continued to harass Dr. Al-Arian and mire him further in a legal purgatory.

Given the biased statements of certain officials involved in the case, the history of some prosecutors of

-19-

Summary: The Case of Sami Al-Arian

Background

Dr. Sami Al-Arian, whose Palestinian parents were forcibly exiled from their homeland in 1948, immigrated to the United States at the age of 17 to pursue higher education. Al-Arian, 50, was a tenured professor of computer science at the University of South Florida until after 9/11, when the school's administration, at the behest of then-Governor Jeb Bush, attempted to fire him for his outspoken views, work for Palestine and activism for civil liberties. (For more information on Dr. Al-Arian's life before his arrest and imprisonment, please visit <http://www.freesamialarian.com/bio.html>.)

On February 20, 2003, Dr. Al-Arian was arrested with much fanfare and charged in a bloated terrorism conspiracy case. Attorney General John Ashcroft personally announced the arrest on live television, claiming that Dr. Al-Arian was a leader of the Palestinian Islamic Jihad. The arrest was hailed as one of the greatest victories to date in the domestic "war on ter-

-2-

Arian's family attended the premiere, after which they were received at the Norwegian Parliament, in addition to the Nobel Peace Center, which would later host an exhibition entitled "Freedom of Expression—How Free is Free?" with a section on Dr. Al-Arian's case in October of that same year. **This documentary has been screened in more than 75 cities around the world.** (For information on screenings of the documentary, visit <http://www.freesamialarian.com/calender>).

Conclusion

These latest developments are a troubling confirmation of Dr. Al-Arian's words that his case is inherently political. Despite a legal process that took its course, ending with his near-acquittal, Dr. Al-Arian continues to be imprisoned two-and-a-half years following the verdicts of his trial. In spite of an agreement intended to resolve his case once and for all, the government has continued to harass Dr. Al-Arian and mire him further in a legal purgatory.

Given the biased statements of certain officials involved in the case, the history of some prosecutors of

-19-

faced in recent months, including being moved in a trip that took him through five states “during which he had none of his personal possessions and was again held in 23-hour lockdown, and his exposure to unsanitary conditions and rats in Atlanta Federal Correctional Institute.”

On March 26, 2008, the Muslim Public Affairs Council (MPAC), met with Department of Justice officials and called on federal prosecutors to honor their plea agreement with Dr. Al-Arian that he not be required to testify and that he be released on April 7th as scheduled.

In early March, when Dr. Al-Arian was being held at the federal medical facility in Butner, North Carolina to be monitored for his hunger strike, thousands of supporters called the facility within the span of a few short days to show their support and to demand that Dr. Al-Arian be given proper medical treatment.

The critically-acclaimed, award-winning documentary on Dr. Al-Arian's case, *USA vs Al-Arian*, which premiered in Norway in February 2007, is helping to raise the profile of the case internationally. Dr. Al-

faced in recent months, including being moved in a trip that took him through five states “during which he had none of his personal possessions and was again held in 23-hour lockdown, and his exposure to unsanitary conditions and rats in Atlanta Federal Correctional Institute.”

On March 26, 2008, the Muslim Public Affairs Council (MPAC), met with Department of Justice officials and called on federal prosecutors to honor their plea agreement with Dr. Al-Arian that he not be required to testify and that he be released on April 7th as scheduled.

In early March, when Dr. Al-Arian was being held at the federal medical facility in Butner, North Carolina to be monitored for his hunger strike, thousands of supporters called the facility within the span of a few short days to show their support and to demand that Dr. Al-Arian be given proper medical treatment.

The critically-acclaimed, award-winning documentary on Dr. Al-Arian's case, *USA vs Al-Arian*, which premiered in Norway in February 2007, is helping to raise the profile of the case internationally. Dr. Al-

ror.” Despite these grandiose charges, Dr. Al-Arian and the institutions he founded, had been previously cleared of any links to terrorism by a federal judge. Indeed, former FBI counterterrorism chief Bob Blitzer had told reporter John Sugg unambiguously that Dr. Al-Arian and his codefendants had broken “no federal laws.” A December 2005 *Time Magazine* article later revealed, based on an anonymous FBI source, that former Attorney General John Ashcroft had personally ordered the indictment, much to the bewilderment of several federal officials assigned to the case.

After his arrest, Dr. Al-Arian spent two-and-a-half years in prison in solitary confinement under conditions condemned by Amnesty International as “gratuitously punitive” before he was given his day in court.

Finally, on June 6, 2005, the trial of Dr. Al-Arian and his three codefendants began. During the six-month trial prosecutors presented more than 70 witnesses, including 21 from Israel, and 400 intercepted phone calls (the results of a decade of surveillance and half-a-million recorded phone calls). The total cost of the investigation and trial of Al-Arian has been estimated at \$50 million. The political motives of the trial were readily

ror.” Despite these grandiose charges, Dr. Al-Arian and the institutions he founded, had been previously cleared of any links to terrorism by a federal judge. Indeed, former FBI counterterrorism chief Bob Blitzer had told reporter John Sugg unambiguously that Dr. Al-Arian and his codefendants had broken “no federal laws.” A December 2005 *Time Magazine* article later revealed, based on an anonymous FBI source, that former Attorney General John Ashcroft had personally ordered the indictment, much to the bewilderment of several federal officials assigned to the case.

After his arrest, Dr. Al-Arian spent two-and-a-half years in prison in solitary confinement under conditions condemned by Amnesty International as “gratuitously punitive” before he was given his day in court.

Finally, on June 6, 2005, the trial of Dr. Al-Arian and his three codefendants began. During the six-month trial prosecutors presented more than 70 witnesses, including 21 from Israel, and 400 intercepted phone calls (the results of a decade of surveillance and half-a-million recorded phone calls). The total cost of the investigation and trial of Al-Arian has been estimated at \$50 million. The political motives of the trial were readily

evident: although the judge allowed the prosecution to present Israeli witnesses who testified about gruesome acts committed by Palestinians against Israelis that the prosecution grudgingly admitted were not linked to Dr. Al-Arian, the judge prohibited the defense from discussing the plight of the Palestinians living under Israeli occupation, going so far as to even bar a defense attorney from discussing United Nations Security Resolution 242 which addresses the Arab-Israeli conflict.

In an astounding display of double-think, the prosecution admitted that there was no concrete evidence against Al-Arian while still trying to argue for his guilt. As the lead prosecutor, U.S. Attorney Paul I. Perez later stated, "Mr. al-Arian was not directly linked to any of the violent acts that we showed during the trial." In a further instance of bizarre Orwellian tactics, the prosecution entered into evidence a conversation a co-defendant had with Dr. Al-Arian *in his dream*.

While the prosecution overwhelmed the jury with piles of evidence, including magazines Dr. Al-Arian published and speeches he gave, the defense did not

evident: although the judge allowed the prosecution to present Israeli witnesses who testified about gruesome acts committed by Palestinians against Israelis that the prosecution grudgingly admitted were not linked to Dr. Al-Arian, the judge prohibited the defense from discussing the plight of the Palestinians living under Israeli occupation, going so far as to even bar a defense attorney from discussing United Nations Security Resolution 242 which addresses the Arab-Israeli conflict.

In an astounding display of double-think, the prosecution admitted that there was no concrete evidence against Al-Arian while still trying to argue for his guilt. As the lead prosecutor, U.S. Attorney Paul I. Perez later stated, "Mr. al-Arian was not directly linked to any of the violent acts that we showed during the trial." In a further instance of bizarre Orwellian tactics, the prosecution entered into evidence a conversation a co-defendant had with Dr. Al-Arian *in his dream*.

While the prosecution overwhelmed the jury with piles of evidence, including magazines Dr. Al-Arian published and speeches he gave, the defense did not

Hunger Strike

On March 3, 2008, Dr. Al-Arian, who is diabetic, began a hunger strike, the third during his five-year incarceration. After his arrest on February 20, 2003, he carried out a 140-day liquid-only hunger strike to protest the government's political persecution. During that time, he was hospitalized and lost 45 pounds. On January 22, 2007, Dr. Al-Arian was held in civil contempt for not testifying before a grand jury. He carried out a 60-day water-only hunger strike in which he lost 55 pounds, was hospitalized and confined to a wheelchair.

National and International Support

Ever since the Tampa jury refused to find Dr. Al-Arian guilty in December 2005, support for his case has steadily spread across the country and around the world. In early February 2007, Amnesty International sent a letter to Attorney General Alberto Gonzales to express "concern about the treatment while in federal custody of Dr. Sami Al-Arian." The letter cited the horrendous, inhumane treatment that Dr. Al-Arian had

Hunger Strike

On March 3, 2008, Dr. Al-Arian, who is diabetic, began a hunger strike, the third during his five-year incarceration. After his arrest on February 20, 2003, he carried out a 140-day liquid-only hunger strike to protest the government's political persecution. During that time, he was hospitalized and lost 45 pounds. On January 22, 2007, Dr. Al-Arian was held in civil contempt for not testifying before a grand jury. He carried out a 60-day water-only hunger strike in which he lost 55 pounds, was hospitalized and confined to a wheelchair.

National and International Support

Ever since the Tampa jury refused to find Dr. Al-Arian guilty in December 2005, support for his case has steadily spread across the country and around the world. In early February 2007, Amnesty International sent a letter to Attorney General Alberto Gonzales to express "concern about the treatment while in federal custody of Dr. Sami Al-Arian." The letter cited the horrendous, inhumane treatment that Dr. Al-Arian had

Moody denied that request and issued his inexplicable ruling shortly thereafter.

On November 16, 2007, Dr. Al-Arian was brought before the judge overseeing the grand jury proceedings in Virginia and placed in civil contempt for his refusal to testify. On December 17, 2007, Judge Gerald Lee lifted the contempt status and allowed Dr. Al-Arian to complete his term until his scheduled release date of April 7, 2008.

On March 3, 2008, however, Judge Lee announced that Dr. Al-Arian would be required to testify before a third grand jury. Dr. Al-Arian then began a hunger strike to protest continued government harassment and attempts to continue his prison term indefinitely. For the first 17 days of the hunger strike, he did not consume any food or water, which led to him losing 30 pounds. Despite suffering from chest pains, severe dehydration, headaches and other symptoms, Dr. Al-Arian was never offered an IV or treated for any of the symptoms. Dr. Al-Arian began drinking water again on March 20th, but his hunger strike continues. That same day, he was brought before the third grand jury where he refused to testify.

-16-

Moody denied that request and issued his inexplicable ruling shortly thereafter.

On November 16, 2007, Dr. Al-Arian was brought before the judge overseeing the grand jury proceedings in Virginia and placed in civil contempt for his refusal to testify. On December 17, 2007, Judge Gerald Lee lifted the contempt status and allowed Dr. Al-Arian to complete his term until his scheduled release date of April 7, 2008.

On March 3, 2008, however, Judge Lee announced that Dr. Al-Arian would be required to testify before a third grand jury. Dr. Al-Arian then began a hunger strike to protest continued government harassment and attempts to continue his prison term indefinitely. For the first 17 days of the hunger strike, he did not consume any food or water, which led to him losing 30 pounds. Despite suffering from chest pains, severe dehydration, headaches and other symptoms, Dr. Al-Arian was never offered an IV or treated for any of the symptoms. Dr. Al-Arian began drinking water again on March 20th, but his hunger strike continues. That same day, he was brought before the third grand jury where he refused to testify.

-16-

feel the need to call one witness or produce any evidence since the government attacked Dr. Al-Arian purely for activities protected by the First Amendment. Finally, on December 6, 2005, the jury acquitted Dr. Al-Arian of most of the serious charges against him, while two of Dr. Al-Arian's three codefendants were completely acquitted. On the remaining charges, jurors voted 10 to 2 in favor of acquittal. The two jurors who wanted to convict Dr. Al-Arian refused to state any reasons or provide evidence, telling their fellow jurors they were relying on their "feelings." They were both also the only jurors who were regular readers of the *Tampa Tribune*, a right-wing daily that had slandered Dr. Al-Arian for nearly a decade. (In one instance the paper even tried to link him to the 1995 Oklahoma City bombing).

Time Magazine pronounced the verdict as "one of the Justice Department's most embarrassing legal setbacks since 9/11." This was the first big test-case of the PATRIOT Act; the government had gambled the success of its domestic "war on terror" on this case and lost considerably.

-5-

feel the need to call one witness or produce any evidence since the government attacked Dr. Al-Arian purely for activities protected by the First Amendment. Finally, on December 6, 2005, the jury acquitted Dr. Al-Arian of most of the serious charges against him, while two of Dr. Al-Arian's three codefendants were completely acquitted. On the remaining charges, jurors voted 10 to 2 in favor of acquittal. The two jurors who wanted to convict Dr. Al-Arian refused to state any reasons or provide evidence, telling their fellow jurors they were relying on their "feelings." They were both also the only jurors who were regular readers of the *Tampa Tribune*, a right-wing daily that had slandered Dr. Al-Arian for nearly a decade. (In one instance the paper even tried to link him to the 1995 Oklahoma City bombing).

Time Magazine pronounced the verdict as "one of the Justice Department's most embarrassing legal setbacks since 9/11." This was the first big test-case of the PATRIOT Act; the government had gambled the success of its domestic "war on terror" on this case and lost considerably.

-5-

Though there was not a single guilty verdict out of 200 charges against the four defendants, Dr. Al-Arian has remained in prison. Following the trial, the government indicated its intention to retry him on the remaining charges, which is unprecedented given the jury's overwhelming rejection of the case.

In contrast, that very month, the government refused to retry the founder of the Hooters restaurant chain, a wealthy businessman in Tampa, on tax evasion charges because the jury in his trial was hung 6 to 6, claiming that the proportion was too high to realistically expect a conviction during a retrial.

Plea Agreement

On February 28, 2006, following government pressure and on the advice of his attorneys, Dr. Al-Arian signed a plea agreement to finally put his ordeal behind him and end his family's suffering.

The terms of the plea agreement were in line with Dr. Al-Arian's long-standing contention, contrary to what the government had claimed, that he has never contributed to the violent actions of any organization.

-6-

Regardless of what Dr. Al-Arian says in his testimony, it will be in this rogue prosecutor's discretion to charge him with perjury if he does not like what he says, as he did to Sabri Benkahla. At that point, Dr. Al-Arian will face a perjury indictment, which will only serve to prolong an already drawn-out and unjust period of incarceration.

Activist Judges

Despite the overwhelming arguments put forward in Dr. Al-Arian's motion regarding the lack of a cooperation clause in his plea agreement, Judge Moody added to his already questionable record on November 6, 2006 by denying the defense motion without any justification. During the brief hearing, while attorneys for the government and the defense all agreed that Moody did not have the jurisdiction to decide the issue, he ignored them and asserted his right to do so anyway. Defense attorneys then called for an evidentiary hearing to discuss the issues raised before the court, in addition to the testimony of witnesses involved in negotiating and executing the plea agreement.

-15-

Though there was not a single guilty verdict out of 200 charges against the four defendants, Dr. Al-Arian has remained in prison. Following the trial, the government indicated its intention to retry him on the remaining charges, which is unprecedented given the jury's overwhelming rejection of the case.

In contrast, that very month, the government refused to retry the founder of the Hooters restaurant chain, a wealthy businessman in Tampa, on tax evasion charges because the jury in his trial was hung 6 to 6, claiming that the proportion was too high to realistically expect a conviction during a retrial.

Plea Agreement

On February 28, 2006, following government pressure and on the advice of his attorneys, Dr. Al-Arian signed a plea agreement to finally put his ordeal behind him and end his family's suffering.

The terms of the plea agreement were in line with Dr. Al-Arian's long-standing contention, contrary to what the government had claimed, that he has never contributed to the violent actions of any organization.

-6-

Regardless of what Dr. Al-Arian says in his testimony, it will be in this rogue prosecutor's discretion to charge him with perjury if he does not like what he says, as he did to Sabri Benkahla. At that point, Dr. Al-Arian will face a perjury indictment, which will only serve to prolong an already drawn-out and unjust period of incarceration.

Activist Judges

Despite the overwhelming arguments put forward in Dr. Al-Arian's motion regarding the lack of a cooperation clause in his plea agreement, Judge Moody added to his already questionable record on November 6, 2006 by denying the defense motion without any justification. During the brief hearing, while attorneys for the government and the defense all agreed that Moody did not have the jurisdiction to decide the issue, he ignored them and asserted his right to do so anyway. Defense attorneys then called for an evidentiary hearing to discuss the issues raised before the court, in addition to the testimony of witnesses involved in negotiating and executing the plea agreement.

-15-

bluntly declared that people like him ought to be able to punish individuals they believe are guilty, even if they can't prove that guilt in a court of law."

Secondly, Kromberg has already successfully engineered the perjury conviction of another American Muslim acquitted of terrorism charges. In March 2004, Sabri Benkahla was acquitted of all charges of promoting terrorism in the Virginia 11 case. Given that the government was unable to "get him" through the usual means, Kromberg summoned him to testify in another court and proceeded to ask him the same exact questions which he had already been acquitted of in a blatant example of double jeopardy. Kromberg then charged Benkahla with perjury, claiming that he had lied in an FBI investigation years ago. Even though the normal sentence would have been three years in prison under such circumstances, in July 2007 Benkahla was sentenced to ten years. As Mahdi Bray, the executive director of MAS Freedom stated, "This is just another example of how the criminal justice system is being used to transmogrify a legal jury acquittal into a double-jeopardy, back door conviction."

-14-

bluntly declared that people like him ought to be able to punish individuals they believe are guilty, even if they can't prove that guilt in a court of law."

Secondly, Kromberg has already successfully engineered the perjury conviction of another American Muslim acquitted of terrorism charges. In March 2004, Sabri Benkahla was acquitted of all charges of promoting terrorism in the Virginia 11 case. Given that the government was unable to "get him" through the usual means, Kromberg summoned him to testify in another court and proceeded to ask him the same exact questions which he had already been acquitted of in a blatant example of double jeopardy. Kromberg then charged Benkahla with perjury, claiming that he had lied in an FBI investigation years ago. Even though the normal sentence would have been three years in prison under such circumstances, in July 2007 Benkahla was sentenced to ten years. As Mahdi Bray, the executive director of MAS Freedom stated, "This is just another example of how the criminal justice system is being used to transmogrify a legal jury acquittal into a double-jeopardy, back door conviction."

-14-

The government was forced to abandon its accusations and settle for a watered-down version of one charge of providing services to people *associated with* the Palestinian Islamic Jihad. The Statement of Facts in the agreement includes only these innocuous activities: (1) hiring an attorney for his brother-in-law, Mazen Al-Najjar, during the latter's deportation hearings in the late 1990s, (2) filling out immigration forms for a resident Palestinian scholar from Britain, and (3) not disclosing details of his colleague's political associations to a local reporter.

Another issue central to the plea negotiations was Dr. Al-Arian's insistence that he not be subject to any further prosecution or called to cooperate with the government on any other matter. This was reflected in numerous places within the plea agreement, including the government's own recommendation that he be given the lowest possible sentence, allowing him to leave the United States within weeks of the agreement's finalization.

Nevertheless, in defiance of all reason, Judge James Moody ignored the government's own recommendation and, in May 2006, proceeded to hand Dr.

-7-

The government was forced to abandon its accusations and settle for a watered-down version of one charge of providing services to people *associated with* the Palestinian Islamic Jihad. The Statement of Facts in the agreement includes only these innocuous activities: (1) hiring an attorney for his brother-in-law, Mazen Al-Najjar, during the latter's deportation hearings in the late 1990s, (2) filling out immigration forms for a resident Palestinian scholar from Britain, and (3) not disclosing details of his colleague's political associations to a local reporter.

Another issue central to the plea negotiations was Dr. Al-Arian's insistence that he not be subject to any further prosecution or called to cooperate with the government on any other matter. This was reflected in numerous places within the plea agreement, including the government's own recommendation that he be given the lowest possible sentence, allowing him to leave the United States within weeks of the agreement's finalization.

Nevertheless, in defiance of all reason, Judge James Moody ignored the government's own recommendation and, in May 2006, proceeded to hand Dr.

-7-

Al-Arian the maximum sentence possible, relying mainly on his prejudicial assessment of the Middle East conflict while completely ignoring the jury's findings.

Furthermore, the judge's comments directly contradicted the plea agreement, which included a statement by the Department of Justice that Dr. Al-Arian's actions involved NO violence, NO victims, and NO support for a forbidden, "terrorist" organization. One should remember that providing support for a terrorist organization is substantially different from support for people "associated" with such a group; it should be remembered that the right to association is still constitutionally protected in America.

As David Cole, Professor of Law at Georgetown University, noted, "The judge's words—that Al-Arian supported violence—contradict the very basis of the jury's acquittal and the plea agreement, and raise questions about [the] fundamental fairness [of the trial]." Moody's decision prolonged Dr. Al-Arian's imprisonment by an estimated eleven months, extending his release and deportation to April 2007.

Al-Arian the maximum sentence possible, relying mainly on his prejudicial assessment of the Middle East conflict while completely ignoring the jury's findings.

Furthermore, the judge's comments directly contradicted the plea agreement, which included a statement by the Department of Justice that Dr. Al-Arian's actions involved NO violence, NO victims, and NO support for a forbidden, "terrorist" organization. One should remember that providing support for a terrorist organization is substantially different from support for people "associated" with such a group; it should be remembered that the right to association is still constitutionally protected in America.

As David Cole, Professor of Law at Georgetown University, noted, "The judge's words—that Al-Arian supported violence—contradict the very basis of the jury's acquittal and the plea agreement, and raise questions about [the] fundamental fairness [of the trial]." Moody's decision prolonged Dr. Al-Arian's imprisonment by an estimated eleven months, extending his release and deportation to April 2007.

question, even going so far as to recommend that he recuse himself from the investigation based on his blatant biases.

Besides these and other bigoted anti-Muslim statements, there are two other key facts which dispel any doubt about Kromberg's true intentions. The first is that Kromberg has publicly and unabashedly stated his belief in his right to punish those he finds guilty but who are not found guilty in a court of law. As Melva Underbakke has written:

In May 1999, Kromberg spoke to the Cato Institute about asset forfeiture in a lecture which was called "shocking" by Michael Lynch. In an article in *Reason Magazine*, Lynch wrote that Kromberg "admitted that he currently had 10 money laundering cases in which he couldn't figure out how the people were washing the dough. But still, he knew these people were guilty and was certain they needed to be punished. 'Should we let these people get away?' he asked, before answering in an illuminating way: 'Not if we can punish them through other means' [Kromberg]

question, even going so far as to recommend that he recuse himself from the investigation based on his blatant biases.

Besides these and other bigoted anti-Muslim statements, there are two other key facts which dispel any doubt about Kromberg's true intentions. The first is that Kromberg has publicly and unabashedly stated his belief in his right to punish those he finds guilty but who are not found guilty in a court of law. As Melva Underbakke has written:

In May 1999, Kromberg spoke to the Cato Institute about asset forfeiture in a lecture which was called "shocking" by Michael Lynch. In an article in *Reason Magazine*, Lynch wrote that Kromberg "admitted that he currently had 10 money laundering cases in which he couldn't figure out how the people were washing the dough. But still, he knew these people were guilty and was certain they needed to be punished. 'Should we let these people get away?' he asked, before answering in an illuminating way: 'Not if we can punish them through other means' [Kromberg]

trap is further supported by revelations of a conversation in the fall of 2006 between Assistant U.S. Attorney Gordon Kromberg and Dr. Al-Arian's attorney, Jack Fernandez. During the conversation, Mr. Kromberg referred to the plea agreement as "a bonanza," and proceeded to make racist statements. Because Dr. Al-Arian would not be called before the grand jury until six weeks later, Mr. Fernandez requested to delay his transfer to Virginia until after the Islamic holy month of Ramadan, which was to begin in a few days. Dr. Al-Arian sought to stay near his family during this special time and to avoid the grueling ten-day journey it would take the U.S. Marshals Service to transport him to Virginia.

In response to the request, Mr. Kromberg said, referring to Muslims: "If they can kill each other during Ramadan, they can appear before the grand jury; all they can't do is eat before sunset. I believe Mr. Al-Arian's request is part of the attempted Islamization of the American justice system. I am not going to put off Dr. Al-Arian's grand jury appearance just to assist in what is becoming the Islamization of America." Defense attorneys called the prosecutor's objectivity into

trap is further supported by revelations of a conversation in the fall of 2006 between Assistant U.S. Attorney Gordon Kromberg and Dr. Al-Arian's attorney, Jack Fernandez. During the conversation, Mr. Kromberg referred to the plea agreement as "a bonanza," and proceeded to make racist statements. Because Dr. Al-Arian would not be called before the grand jury until six weeks later, Mr. Fernandez requested to delay his transfer to Virginia until after the Islamic holy month of Ramadan, which was to begin in a few days. Dr. Al-Arian sought to stay near his family during this special time and to avoid the grueling ten-day journey it would take the U.S. Marshals Service to transport him to Virginia.

In response to the request, Mr. Kromberg said, referring to Muslims: "If they can kill each other during Ramadan, they can appear before the grand jury; all they can't do is eat before sunset. I believe Mr. Al-Arian's request is part of the attempted Islamization of the American justice system. I am not going to put off Dr. Al-Arian's grand jury appearance just to assist in what is becoming the Islamization of America." Defense attorneys called the prosecutor's objectivity into

Continued Harassment

In October 2006, a government prosecutor from Virginia named Gordon Kromberg, who has made numerous racist and anti-Muslim statements, called on Dr. Al-Arian to testify before a grand jury investigating an Islamic think-tank in Virginia.

Following an initial hearing in which Dr. Al-Arian refused to testify, defense lawyers argued that the grand jury subpoena was a violation of the plea agreement. The issue was then referred back to Florida to the court that originally oversaw Dr. Al-Arian's trial and plea negotiations.

On October 26, 2006, attorneys for Dr. Al-Arian filed a motion calling on Judge Moody to enforce the plea agreement by quashing the subpoena. The motion provided both factual and legal reasons to the court and even included affidavits by government attorneys who had participated in the negotiations. Among the reasons provided in the motion: "The overarching purpose of the parties' plea agreement was to conclude, once and for all, all business between the government and Dr. Al-Arian."

Continued Harassment

In October 2006, a government prosecutor from Virginia named Gordon Kromberg, who has made numerous racist and anti-Muslim statements, called on Dr. Al-Arian to testify before a grand jury investigating an Islamic think-tank in Virginia.

Following an initial hearing in which Dr. Al-Arian refused to testify, defense lawyers argued that the grand jury subpoena was a violation of the plea agreement. The issue was then referred back to Florida to the court that originally oversaw Dr. Al-Arian's trial and plea negotiations.

On October 26, 2006, attorneys for Dr. Al-Arian filed a motion calling on Judge Moody to enforce the plea agreement by quashing the subpoena. The motion provided both factual and legal reasons to the court and even included affidavits by government attorneys who had participated in the negotiations. Among the reasons provided in the motion: "The overarching purpose of the parties' plea agreement was to conclude, once and for all, all business between the government and Dr. Al-Arian."

In fact, defense attorneys had **“made [it] clear to the government that Dr. Al-Arian would never enter into a plea agreement requiring his cooperation. [They] were adamant on this point and the government did not take a contrary position. Because the parties understood at the outset of plea negotiations that Dr. Al-Arian would not cooperate with the government, the issue of cooperation was immediately taken off the table and never raised again”** (emphasis added).

Furthermore, defense attorneys cited numerous legal opinions stating **that upholding plea agreements are a crucial part of maintaining the “honor of the government, public confidence in the fair administration of justice and the effective administration of justice in a federal scheme of government.”** Any oral promises made by the government during plea negotiations must be kept. In the Al-Arian negotiations, a government attorney **bound the Eastern District of Virginia, where Dr. Al-Arian was summoned to testify, in particular to the plea agreement.** As Jonathan Turley, a law professor at George Washington University and one of Dr. Al-Arian’s attor-

In fact, defense attorneys had **“made [it] clear to the government that Dr. Al-Arian would never enter into a plea agreement requiring his cooperation. [They] were adamant on this point and the government did not take a contrary position. Because the parties understood at the outset of plea negotiations that Dr. Al-Arian would not cooperate with the government, the issue of cooperation was immediately taken off the table and never raised again”** (emphasis added).

Furthermore, defense attorneys cited numerous legal opinions stating **that upholding plea agreements are a crucial part of maintaining the “honor of the government, public confidence in the fair administration of justice and the effective administration of justice in a federal scheme of government.”** Any oral promises made by the government during plea negotiations must be kept. In the Al-Arian negotiations, a government attorney **bound the Eastern District of Virginia, where Dr. Al-Arian was summoned to testify, in particular to the plea agreement.** As Jonathan Turley, a law professor at George Washington University and one of Dr. Al-Arian’s attor-

neys, noted **“What is interesting is that the Justice Department has not argued that there was no understanding or discussion of non-cooperation. They have based their entire argument on the technical point that there is no expressed language in the agreement.”**

Finally, as Peter Erlinder, a former president of the National Lawyers’ Guild and currently one of Dr. Al-Arian’s former lawyers, has pointed out, **“The duplicity of the Justice Department and the failure of the courts to recognize basic contract-law principles in this case is an example of how politically-motivated ‘war on terror’ prosecutions are distorting the American legal system.”**

The defense expressed concern that the subpoena was essentially a perjury trap. Based on past experiences, as well as the private comments by the prosecutor in Virginia, Gordon Kromberg, there was little reason to believe the government was genuinely interested in Dr. Al-Arian’s testimony, as much as it was interested in continuing to punish him following his vindication.*

The notion that the summons to testify is a perjury

neys, noted **“What is interesting is that the Justice Department has not argued that there was no understanding or discussion of non-cooperation. They have based their entire argument on the technical point that there is no expressed language in the agreement.”**

Finally, as Peter Erlinder, a former president of the National Lawyers’ Guild and currently one of Dr. Al-Arian’s former lawyers, has pointed out, **“The duplicity of the Justice Department and the failure of the courts to recognize basic contract-law principles in this case is an example of how politically-motivated ‘war on terror’ prosecutions are distorting the American legal system.”**

The defense expressed concern that the subpoena was essentially a perjury trap. Based on past experiences, as well as the private comments by the prosecutor in Virginia, Gordon Kromberg, there was little reason to believe the government was genuinely interested in Dr. Al-Arian’s testimony, as much as it was interested in continuing to punish him following his vindication.*

The notion that the summons to testify is a perjury