

Who are US Attorneys, Assistant US Attorneys, and the Attorney General? What is their role?

US Attorney: “A lawyer appointed by the President to represent the federal government in civil and criminal cases in a federal judicial district.”

Asst. US Attorney (AUSA): “A lawyer appointed by the Attorney General to act under the direction of the United States Attorney and represent the federal government in civil and criminal cases filed in federal courts.”

US Attorney General: The chief law officer of the United States, responsible for advising the government on legal matters and representing it in litigation.

Attorney General Mukasey and Assistant Attorney General Mark Filip play an important role because they are the key policy makers in the Department of Justice. In appealing to them, focus should be laid on the unethical manipulation of the grand jury system to keep Dr. Al-Arian incarcerated, while they should be urged to maintain the integrity of the rule of law in the United States. The AUSA—Gordon Kromberg— essentially answers to the DOJ, and by putting pressure on the DOJ to comply with the rule of law – our hope is to curb his continued harassment of Dr. Al-Arian (for sample letters, please visit

www.freesamialarian.com/help.html):

Attorney General Michael Mukasey
Fax Number: (202) 307-6777
ASKDOJ@usdoj.gov

The government’s actions in this case also raise issues of **Prosecutorial Misconduct and Grand Jury Abuse, which can be directed to:**

U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Avenue, NW
Washington, DC 20530

Who are the judges in this case, and what are their roles?

The presiding judge in the original trial, sentencing and with context to the plea agreement in Florida, was Judge James Moody. There are currently no matters before Judge Moody.

The judge presiding over the grand jury investigation in Virginia is Judge Gerald Lee:

Honorable Judge Lee
U.S. District Court for the Eastern District of VA
401 Courthouse Square, Alexandria, VA 22314
Fax: (703) 299-3339

Judge Lee has the power to deny a motion for civil contempt and, in the event that criminal contempt charges are brought, he will likely preside over the arguments. Any letters to Judge Lee should mention that the terms of the plea bargain exempt Dr. Al-Arian from testifying before the third grand jury to which he was recently summoned and that this is a blatant perjury trap. In making this appeal, please note that the prosecutor, Gordon Kromberg has repeatedly made outrageously bigoted statements against Muslims, publicly supported the principle of punishing those who he finds guilty but who are acquitted in court, and has successfully engineered the perjury conviction of another Muslim acquitted of terrorism charges who is now carrying out a ten-year sentence. It should be stressed that all these tactics are a gross manipulation of our justice system and an abuse of grand jury proceedings.

Sources All definitions, in quotes, are from *Black’s Law Dictionary*, 8th Edition, unless otherwise noted.



**Stand up for
Justice: Speak up
for Sami**



Legal Terminology



“In the end we will remember not the words of our enemies, but the silence of our friends.”

-Martin Luther King Jr.

What is this case about?

This case is about Dr. Sami Al-Arian, a former University of South Florida Professor, who was arrested on trumped-up charges of terrorism and conspiracy to commit terrorism—in 2003.

This case addresses the United States Constitution and fundamental freedoms. All the evidence presented in the case against Dr. Al-Arian merely attacked his First Amendment rights to freedom of speech and freedom of association.

Where was the case tried?

The jury trial took place from June 6 to December 6, 2005, in Tampa Bay, FL. It was tried before a federal district court in the 11th Judicial Circuit.

What is an acquittal?

“The legal certification, usually by jury verdict, that an accused person is not guilty of the charged offense.”*

In a criminal trial, a jury must find that an individual is “guilty” beyond a reasonable doubt; hence, a verdict of “guilty” requires all 12 jurors to vote “guilty.” Similarly, to be found “not guilty,” all 12 jurors must vote “not guilty.”

If all 12 jurors cannot agree, this is known as a “hung jury” and the issue remains unsettled. If a jury is “hung” on a particular charge, the defendant may be retried for that charge.

Dr. Al-Arian was acquitted (found “not guilty”) of 8 out of 17 counts, which represented the most serious charges against him. On the remaining 9 charges, the jury was hung – but the vote was 10-2 in favor of acquittal.

With numbers overwhelmingly in favor of acquittal, the government could not realistically expect a conviction upon retrial and, under normal circumstances, would not retry the case. In Dr. Al-Arian’s case, the government indicated that it would, in fact, retry the 9 remaining counts.

What is a plea bargain or plea agreement?

“A negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to ... one of multiple charges in exchange for some concession by the prosecutor, usually a more lenient sentence or dismissal of other charges.”

Dr. Al-Arian, upon the advice of his attorneys, agreed to plead guilty to the count of “Conspiracy to make or receive funds, goods or services to or for the benefit of the Palestinian Islamic Jihad” in exchange for the government dropping the remaining 8 charges.

The substance of the plea, however, reveals that all Dr. Al-Arian was really admitting to was: helping two Palestinians with immigration matters and not revealing another Palestinian’s political associations to a local reporter. Since the government claims the three men in question were *associated* with the PIJ, it could twist the language and say that Dr. Al-Arian was giving support to the PIJ itself.

Standard plea agreements in Florida include a “cooperation clause.” Dr. Al-Arian’s agreement, however, did not include such a clause – and in fact, the clause was intentionally removed during negotiations with federal prosecutors.

What is a grand jury investigation, or proceeding?

“A body of (often 23) people who are chosen to sit permanently for at least a month – and sometimes a year – and who, in *ex parte* proceedings, decide whether to issue indictments.” [The Fifth Amendment to the U.S. Constitution requires an indictment by a grand jury before a person can be tried for a serious offense].

The grand jury investigation at issue with Dr. Al-Arian is **unrelated** to his 2005 trial in Florida and is an entirely separate proceeding. He has been called, as a witness, before three grand juries (the most recent one in March 2008) in a blatant disregard for the terms of his plea agreement, and has refused to testify to avoid an inevitable perjury trap.

What is contempt?

Contempt is an action against an individual for failing to obey a court order. In this context, there are two types of contempt: (1) civil contempt, and (2) criminal contempt.

Civil contempt: “The failure to obey a court order that was issued for another party’s benefit. A civil-contempt proceeding is coercive or remedial in nature. The usual sanction is to confine the contemnor until he or she complies with the court order.” [Incarceration for civil contempt may not exceed the duration of the grand jury, which is usually twelve to fourteen months]

Criminal contempt: “An act that obstructs justice or attacks the integrity of the court. A criminal contempt proceeding is punitive in nature. The purpose ... is to punish repeated or aggravated failure to comply with a court order.”

Most recently, Dr. Al-Arian was held in civil contempt from November 7 till December 12, 2007 for refusing to testify in front of the grand jury. The contempt charges were lifted after Dr. Al-Arian’s attorneys argued that the purpose of civil contempt is to coerce an individual to cooperate, and the contempt is not serving its purpose.

For refusing to testify at the third grand jury, Dr. Al-Arian faces the possibility of being sentenced for criminal contempt which carries a minimum sentence of five years.

What is a perjury trap?

A perjury trap, according to Bennett Gershman, one of America’s leading legal scholars on prosecutorial misconduct, is a common ruse used by prosecutors to secure a conviction for someone they cannot otherwise prove committed any serious crime. It entails summoning that person to testify in an unrelated case, and then trying to argue that that person lied under oath to the grand jury. As Jonathan Turley, one of Dr. Al-Arian’s attorneys, bleakly noted, “If the government wants to charge your client with perjury, it is almost certain to be able to do so by asking enough questions over the course of the proceeding.”

What is double jeopardy?

“Being tried twice for the same offense; prohibited by the 5th Amendment to the U.S. Constitution. [T]he Double Jeopardy Clause protects against three distinct abuses: [1] a second prosecution for the same offense after acquittal; [2] a second prosecution for the same offense after conviction; and [3] multiple punishments for the same offense.” U.S. v. Halper, 490 U.S. 435, 440 (1989). (<http://www.lectlaw.com/def/d075.htm>)