

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES

v.

SAMI AMIN AL-ARIAN

Case No. 1:08cr131

DECLARATION OF WILLIAM B. MOFFITT, ESQ.

I, William B. Moffitt, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney, duly licensed to practice in the state of Virginia, and I was lead counsel for Dr. Sami Al-Arian in criminal proceedings against him in Florida in 2005.
2. I was informed that this Court has ordered discovery into the negotiations that led to Dr. Al-Arian's plea agreement and specifically the assurance by the government that he would not have to testify or cooperate in respect with future investigations.
3. First, and foremost, I want to be clear about the fact that the issue of cooperation was the most significant issue throughout these negotiations.
4. Before the trial, the subject of a plea agreement was broached with the government and, at that meeting, the government stated that it would expect Dr. Al-Arian to testify and cooperate in future investigations before his deportation. I stated at that pre-trial meeting (and every time subsequently when the issue of cooperation was raised) that Dr. Al-Arian would not agree to anything that involved his cooperation and that he would only agree to a plea agreement that established that he would have nothing to do with the Justice Department in any investigation or case.

5. Soon after the Dr. Al-Arian's acquittals, I, along with Linda Moreno, Esq., another one of Dr. Al-Arian's attorneys, engaged in plea negotiations with the Department of Justice's Counter-terrorism Division in Washington, D.C. and the United States Attorney for the Middle District of Florida.

6. I also want to stress that the later post-trial negotiations were primarily with representatives from Main Justice's Criminal Division in Washington. During these discussions, the subject of the Eastern District of Virginia was raised. Specifically, the IIIT investigation and the use of the grand jury subpoenas by Gordon Kromberg were discussed. This was my main reason for insisting that the agreement not include a cooperation provision.

7. Special Assistant United States Attorney Cheri Kringsman, who worked in the counter-terrorism branch of the Department of Justice, initiated negotiations on behalf of the government. Assistant United States Attorneys Terry Zitek and Walter Furr were also involved in the negotiations. At various times, United States Attorney Paul Perez and Assistant Attorney General for the Criminal Division, Alice Fisher, were also involved with the negotiations.

8. After receipt of the government's initial offer, I drafted our plea agreement offer to the government. The Government's initial offer contained a commitment for cooperation that was understood to include testimony and assistance to the government in any future investigation or case. I struck any language from the agreement that insisted on Dr. Al-Arian's cooperation.

9. I, along with Ms. Moreno, met with government negotiators on numerous occasions and on each occasion that I was present, it was made clear that there would be no agreement if cooperation was being required of Dr. Al-Arian.

10. Indeed, the amount of time that Dr. Al-Arian would likely have to serve was lengthened due to his refusal to agree to the standard cooperation provision.

11. This position on non-cooperation included Dr. Al-Arian's refusal to provide any information, whether sought by compulsion or not, on other individuals being investigated by the United States government or by foreign governments including testimony to a grand jury pursuant to a compulsion order.

12. As a practicing criminal defense attorney for decades, there is (and was) no question as to the meaning of cooperation. When the government seeks an agreement on cooperation, it obviously means potential testimony in future cases. It was understood by all attorneys in these meetings that we were talking about any and all cooperation, including testimony. Indeed, I expressly raised the IIIT investigation and Mr. Kromberg as one of the reasons that we would not budge on this threshold issue in meeting that I had in Washington.

13. Dr. Al-Arian was aware that there were several other investigations taking place in the United States of Muslim organizations. He understood, that because his name recognition, he might be otherwise called as a witness in come of those investigations. We were all aware that the search warrant and other material associated with the IIIT investigation expressly mentioned Dr. Al-Arian. It was the IIIT investigation that framed much of our discussions.

14. Dr. Al-Arian made clear that he would never agree to a plea agreement that contained any cooperation agreement.

15. After the acquittals in Florida, Dr. Al-Arian was primarily motivated to plea to spare his family further pain and expense. The Florida trial had exhausted his resources.

16. Dr. Al-Arian only agreed to the plea if he would have nothing to do with the Justice Department after the plea and would be allowed to serve the time and be deported.

17. The government understood this to be Dr. Al-Arian's stance and explicitly discussed terms related to Dr. Al-Arian's position on non-cooperation. The government agreed to this threshold demand and expressly agreed to waive any cooperation provision.

18. We conveyed the government's assurance to Dr. Al-Arian that he would not be expected to testify or cooperate in any investigation. We showed him that the cooperation provisions that are contained in the standard agreement, including the original draft of the Al-Arian agreement, had been removed with the consent of the government.

19. The purpose of the plea agreement was to terminate all business between the United States and Dr. Al-Arian. The plea bargain was designed to be the end of Dr. Al-Arian's involvement with the U.S. government. There were to be no grand jury subpoenas, no proffer agreements, no further briefings or discussions. The only thing left was for Dr. Al-Arian to be deported.

20. Once plea negotiations commenced, we made clear to the government that we wanted to bind all prosecuting authorities in the U.S. federal government to the plea agreement. We believed this was possible because the Justice Department was not only active in the negotiations but was leading the negotiations on behalf of the government.

21. In my many years as a criminal defense attorney, I have never witnessed this type of bait-and-switch of a client. Before this case, it was understood that lawyers of good-faith would fulfill their clear agreements. I was, therefore, shocked by the subpoena issued by the Eastern District of Virginia and the Counter-Terrorism section of the U.S. Department of Justice, which was actively involved in these negotiations.

22. In conclusion, the Justice Department, including the Counter-Terrorism section, knew that Dr. Al-Arian signed this agreement on its express understanding that he would not be

expected to testify in any existing or future cases and he only signed the agreement on the basis of that understanding.

In conformity with 28 U.S.C. § 1746, I, William B. Moffitt, Esq., declare under penalty of perjury that the foregoing is true and correct. Executed on February 19, 2009.

/s/

William B. Moffitt