

Journey for Justice

July 12 to July 23, 2013

Thank you very much for inviting me here today to speak about the Journey for Justice. My name is Lynne Jackson and I am from Albany, NY. I was one of the founders and I am the president of Project SALAM — Support and Legal Advocacy for Muslims. Also, I have been involved as an environmental activist for more than 30 years, working to save an endangered species known as the Pine Bush.

I am going to speak to you today about the Aref-Hossain case, preemptive prosecution of Muslims, the special horrific Muslim prisons, and what we can do about these un-American injustices.

What happened in the Aref-Hossain case?

Let me begin by not using my words, but to use the words James Comey used to describe the case. Mr. Comey is currently President Obama's choice to be the director of the FBI, at the time of this speech, Mr. Comey was a Deputy Attorney General:

August 5, 2004 at a United States Department of Justice News Conference in Washington, DC, James Comey said, and I quote:

Last night, FBI agents in Albany, NY arrested two men on the basis of warrants issued on a criminal complaint filed in federal court in Albany.

Those men have been identified as 34 year old Yassin Muhiddin Aref and 49 year-old Mohammed Musharraf Hossain. Aref is the imam of the Masjid As-Salam mosque in Albany is a member of that mosque.

Let me say a word about what this case is and what it is not. This is not a case connected to the current terrorist threat. This is not a case where the defendants were discovered plotting terrorist violence.

If, as Mr. Comey says, this is not a case connected to terrorism or plotting of terrorist violence, then, what is this case about?

I believe the case is about “preemptive prosecution” of Muslims- the prosecution of Muslims before a crime has been committed, to “prevent” the possibility of a crime from happening in the future. Like the department of pre-crime in the movie Minority Report.

I will outline the basic facts of the Aref-Hossain case:

On August 4, 2004, two Muslim men in Albany, New York, Yassin Aref and Mohammed Hossain, were arrested by the FBI. Their houses were raided in the middle of the night, their wives and children were terrorized.

This raid and arrest were a huge story in Albany. Albany is the capital

city of New York, located about 150 miles north of New York City. It is a little place — about 90,000 residents.

This raid was so big — the FBI had a press conference — the governor came, the senator came, the mayor came, this was huge. The case even made the NY Times. Big news in Albany, NY.

Yassin Aref was the Imam of the Masjid Al-Salam mosque. He and his wife and children were UN refugees from northern Iraq. They had come to Albany in 1999 from Syria. Yassin had survived Anfal, the systematic extermination of the Kurds by Saddam Hussain. Mohammed Hossain was a proud American citizen who had come to this country 20 years before from Bangladesh. He worked very hard and supported his wife and children through a small pizza shop and renting a few apartments.

The Aref/Hossain case was instigated by an FBI Informant, Shahid Hussein. It involved a convoluted plot where Shahid loaned money to Mohammed as a money laundering scheme for Shahid's illegal buying and selling of missiles from China. Supposedly, one of the missiles was going to be used in an attack on the Pakistani Embassy in New York City.

Like all of these types of cases, the details are endless and, in the time I have, I cannot do justice to the case. I am happy to go into the details later or read the book "Rounded-Up" by Shamshad Ahmad, the president of the Mosque. He had a front-row seat in the case. The book is a quick

read- I could not put it down. I have some here for sale, only \$10.

Briefly, some of the elements of the case involved:

incorrect translations

the use of secret evidence

the tape recording device “fell off” the informant during the most important meeting; which meant the prosecution relied on the informant (who was known to lie) to provide critical evidence and, that Yassin was targeted for his beliefs

The most telling part of the case, was a the post-sentencing press conference.

At the press conference, a reporter asked if the government believed Yassin Aref was actually a terrorist, the prosecutor made this response:

“Did he actually himself engage in terrorist acts? We, we didn’t have the evidence of that, but he had the *ideology* . . . Our investigation was concerned with what he was going to do here and in order to preempt anything else we decided to take the steps we did.” (transcript posted online of the press conference, March 8, 2007)

Which begs the question: Was Yassin Aref targeted for what he did or what the government thought he might do?

Ultimately, Yassin Aref and Mohammed Hossain were given 15 years in prison.

Yassin was the target of the FBI, Mohammed was considered “collateral damage.”

During the time Yassin was in jail between his conviction and he sentencing, he wrote an autobiography of his life, called “Son of Mountains.” I urge people to read the book. We have no more copies left, but, you can buy a used copy on Amazon. We hope, soon, to have the book available online.

I believe the Albany community was shocked when the men were sentenced to 15 years. The FBI had asked for 30, but, because of the activism which included twice weekly vigils at the court, a thousand-signature petition, letters to the judge, — even prisoners in jail with Yassin wrote about what an amazing person he is — the judge “only” gave him 15 years.

The cartoonist at the daily paper drew a cartoon indicating the book had been thrown at them.

Carl Strock, a columnist at the other daily paper wrote “I hang my head in shame.”

I became involved in the case because I had read that Yassin listened to Democracy Now in jail, and that it seemed that the prison Yassin was

going to be sent to would not get Democracy Now, so, I decided to send Yassin a CD player and CDs of Democracy Now.

I asked Steve Downs, an attorney I was working with on an environmental case, if I should send CDs to Yassin, and he said “it will be an adventure.”

To make a much too long story short, I bought a CD player, made a case for it, and bought CDs. I burned 10 shows onto the CDs, boxed it all up, and sent it to Yassin. I wrote a letter and sent it separately in case the CD player was not given to Yassin.

Yassin was sent to the Communications Management Unit in Terre Haute, IN. Has anyone here heard of a CMU? According to Peter Goldberger, a Philadelphia civil rights attorney:

“What’s different” about the [CMU] program, “is limitation of contact with friends, family and outsiders -- instead of 300 minutes of telephone time per month, it’s one 15 minute call per week, which can be reduced in the Warden’s discretion to a mere three minutes once a month.”

“Instead of all-day visiting every week or every other week, it’s only two hours at a time, twice a month, with no physical contact, presumably sitting on opposite sides of a

plexiglas window,” Goldberger continued.

“And all letters, except to lawyers, courts, and Congress, will be read and copied, with weeks of delay, instead of cursorily inspected and sent right on,” he adds. “It’s a totally new and different program.”

Yassin wrote back to me:

Dear Ms Jackson

Thank you very much for your kind words, beautiful letter and generous gift. I really appreciate it here because I am very danger!! They put me in special unit. We are not allowed to have CD player, and we can’t get any books or magazine or newspaper or clothes or food from any one out side. . . And other big problem here its phone we have just 15 minutes one time a week including legal phone, and visit its uncontact one. It’s really unfair to pick up innocent man on street and distress his family - send him too far - lock him down and claim he is threat for National Security. While you know he is completely innocent and everything was fabricated!!

What we can do? I am waiting for Appeal Court to prove people are good and freedom is for everyone in this country, and being Muslim is not crime. My big problem is my family my children are too young and my wife is sick they are really suffering. They are real victim.

Finally, I like to assure you I never in my life participate in any violence and never did any thing against this country. God knew my intention, never had any intention to do any harm for anyone. Doesn't matter what is they did and how much more make my Family to suffer, I am not person of revenge or hate. God knew and I promise you never do any revenge or call for it. I told my children and friends I am not allowed any one be cause me hate them or think for revenge. May God guide them and forgive all. . .

Yassin lost his appeal. We began to hear about other cases. That is when we started Project SALAM and created a database of these cases. You can go online now to projectsalam.org, to see the database.

What is preemptive prosecution? And why is the government doing this?

Following 9/11 the FBI and Justice Department indicated that they were operating under a new paradigm of preventing terrorist attacks before they occurred. This paradigm suggested that charges could be brought against people who they suspected might commit crimes in order to obtain convictions before any crimes actually occurred. Such prosecutions seem in fact to have occurred and it appears that completely innocent Muslims have been convicted and sent away for long prison sentences based only on suspicion and concocted charges.

At Project SALAM, we have created a database of these so-called “terrorist” cases, and are working on an analysis of whether the cases involved preemptive prosecution. We have about 800 cases in our database. Of the 400 cases in the National Security Division Statistics on Unsealed International Terrorism and Terrorism-Related Convictions between 9/11/01 and 3/18/10, 94% we have classified as preemptively prosecuted or have elements of preemptive prosecution.

The FBI uses two main type of tactics in preemptive prosecution - entrapment and material support. I think it is useful to pause for a moment and look back at history.

Add piece about Fred Korematsu.

Entrapment cases are the most dramatic. The FBI gets to play cops and robbers mixed in with spys and covert operations and creates plots. They coordinate the whole scenario until they have enough evidence to arrest the targets.

Perhaps the most egregious is the Newburgh 4 case. The FBI entrapped four African-American men in the impoverished city of Newburgh, NY. The FBI created the plot - which was to blow up a Jewish community center. I often ask myself - why a Jewish community center? Why not an Episcopalian church or perhaps a gun shop? Why does the FBI choose a location based on prejudice?

The Fort Dix Five case is the one that gives me a lot of distress. The entire case started when a large group of young Muslim men were on vacation in the Pocanos, horseback riding, pillow-fighting, and shooting guns at a legal gun range. When they dropped the video they had made on vacation at a Circuit City to make copies, the store clerk contacted the FBI, which immediately began a sting operation. Three of the men are brothers. All five were given life in prison for a conspiracy they did not know about. The three brothers, two of whom are married and have little children, are located in three different prisons, thousands of miles from home. I have met their families the Dukas. The Dukas are the nicest people you would ever want to meet, and I think about them every day.

The other tactic the FBI uses are the material support laws. The FBI has targeted, arrested, and convicted men for raising money for charity, for taking trips overseas, and for translating texts, among other things. A case that happened near here was Dr. Rafil Dhafir, an oncologist from Syracuse. The government could not convict him of raising money for charity during the sanctions in Iraq - instead he was given 22 years in prison for Medicaid billing errors. The usual resolution to these billing errors is to adjust the books. No one goes to jail for that.

If time - explain the Albany Resolution.

So, what is the Journey for Justice all about and what is Yassin appealing?

The FBI targeted Yassin Aref; Mohammed Hossain was considered “collateral damage”. Most of the reasons Yassin was targeted were classified. Because neither the defense or the jury was not allowed to see this secret evidence, the judge gave a targeting instruction to the jury, telling the jury that “The FBI had good and valid reasons to target Yassin Aref” - essentially telling the jury Yassin was guilty.

1. Yassin was misidentified - About a year and a half ago, Yassin FOILED his FBI file. Aref was misidentified as Mohammed Yasin, a Pakistani Al Qaeda agent, and we believe the government supplied this erroneous (and previously classified) information to both the trial and appeal courts, or at least told them falsely that he was involved with Al Qaeda. Especially egregious was the secret argument the prosecution was permitted to make before the 2nd Circuit Court of Appeals in 2008, which the defense was not allowed to attend and which likely included this misidentification. It also was probably the true impetus for the trial judge’s instruction to the jury in 2006 that there were “good and valid” reasons to target Aref.

2. The prosecution failed to disclose damaging information about its key witness, con man Shahed Hussain, the FBI informant in the case (based partly on his testimony during the Newburgh 4 trial in 2010, in which he was also the key witness).

3. The government failed to disclose the existence of an NSA recording of the February 12, 2004 meeting in the Aref-Hossain case, which would have shown conclusively that Aref was never told the meaning of the code word for “missile” that day, thus directly affecting Aref’s conviction.

4. Aref is actually innocent: “The FBI acknowledged at the outset that because of certain information, some of which was classified, it targeted Petitioner because he was a possible security risk.” In disclosing the existence of the NSA, the *New York Times* stated in January 2006 that some “...officials said the eavesdropping program might have helped uncover people with ties to Al-Qaeda in Albany...different officials agree that the NSA’s domestic operations played a role in the arrest of an imam and another man in Albany in August 2004 as part of an F.B.I. counterterrorism sting investigation.”

5. Aref was preemptively prosecuted: “...the government’s program to eliminate potential security risks by prosecuting targets with contrived, manufactured, or pretext charges.”... “The government...decided to neutralize [Aref] by setting him up in a preemptive sting operation. Surely there is no security interest involved in targeting and convicting the wrong person...”

The 2255 Motion Requests That the Court:

- Unredact those portions of the FOIA file that were sent to Aref
- Provide the defense with a description of the classified material given to the trial and appeal courts, especially material that misidentified Aref as Mohammed Yasin
- Provide the defense with exculpatory material not previously provided at trial
- Grant a new trial
- Dismiss the charges against Aref on grounds of prosecutorial misconduct

Mohammed Hossain

I just want to mention Yassin's co-defendant for a minute. He is completely innocent - he was tricked by the informant. His wife and six children miss him very much. Should Yassin win his appeal, I hope that Mohammed will also file an appeal for his freedom.

Why the Journey for Justice?

I know the judge will make the proper ruling in the case whether I deliver petitions supporting Yassin to his court or not.

How do I put this? Losing fifteen years of your life in prison is horrible. I cannot imagine what it would be like to be so far from your wife, your children. Every time I go canoeing or running around the park or even now, walking on the highway, I think of how free I am. How I can go where I want and be with who I want to be with.

I am not a lawyer or anyone special. While we would talk about the 2255 I kept thinking, what can I do? At some point, I learned that though the judge hears cases in Albany, that he is located in Binghamton. Since I know route 7 well, I just decided to take a walk.

To emphasize to the judge how much we still really care about Yassin Aref and Mohammed Hossain.

Yassin Aref is a poet. I would like to end with a poem he wrote, so you get a little bit of a feel for who he is:

Soul

As they say,
when someone dies
you must open a window
to allow his soul to get out
and fly back to the sky

I'm wondering:
if I die in this prison cell
where there is no window,
what will happen to my soul,
how it will fly,
where it will go?