

Letter may toss out terror convictions - Undisclosed evidence raises questions about feds' witness

Detroit News, The (MI) - Thursday, December 11, 2003

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DETROIT The government's first major terrorism **convictions** after the September 11 attacks are in danger of being tossed **out** by a judge, federal officials and legal experts said Wednesday.

U.S. District Judge Gerald E. Rosen has ordered FBI agents and federal prosecutors to appear Friday at an unusual hearing after the government acknowledged it failed to turn over to the defense a potentially significant piece of evidence. A Dec. 30, 2001, **letter** from a notorious convicted drug dealer, Milton "Butch" Jones, raised questions about the government's key witness in the trial of four Metro Detroit men accused of forming an underground cell to support terrorism.

Justice Department attorneys will acknowledge at the Friday hearing that its prosecutors erred, senior law enforcement officials told the Associated Press. The officials said the Justice Department is concerned about how Rosen will rule.

A federal official told The Detroit News on Wednesday that the Justice Department believes the two prosecutors in the trial, Assistant U.S. Attorneys Richard Convertino and Keith Corbett, were told by a superior to turn over the **letter** from Jones to the defense, but they didn't do so.

A ruling tossing **out** the **conviction** would be a major embarrassment for the Bush administration.

The two **convictions** the government won in June in the Detroit terrorism were cited by U.S. Attorney General John Ashcroft and other officials as a key win in the Bush administration's war against terrorism.

"Today's verdict represents an important victory in the ongoing war against terrorism," U.S. Attorney Jeffrey Collins said.

In the **letter** he sent to an assistant U.S. attorney in December 2001, Jones, who is awaiting trial on drug and murder charges that could carry the death penalty, said Hmimssa told him he lied to the FBI and Secret Service about the four defendants.

"Youssef get to telling me the roll he played with the terrorists of Sept. 11, 2001 and how he made ID and documents for them," Jones wrote in the three-page **letter** .

Eric Straus, an assistant U.S. attorney who is deputy chief of the counter-terrorism unit in Detroit, sent the **letter** to defense lawyers **out** of "an abundance of caution" on Nov. 18, three months after the trial.

Records turned over Tuesday by Wayne County Sheriff Warren Evans confirm that Hmimssa and Jones were housed near each other in the Wayne County Jail, an official said.

On Sept. 4, the government removed Convertino and Corbett from the case and replaced them with Straus.

Testifying before Congress

Convertino has raised concerns that the Justice Department is retaliating against him for complying with a subpoena and providing testimony Sept. 9 to the Senate Finance Committee on how easy it is for terrorists to obtain false identification, officials said.

Convertino testified before Congress five days after he was removed from the case. He didn't tell his bosses about the subpoena until shortly before he testified, officials said.

Hmimssa also testified, appearing behind a protective screen to hide his face. Convertino arranged for Hmimssa to appear before the committee.

"As far as I am concerned, you should be hailed as a hero," committee Chairman Charles Grassley, R-Iowa, told Convertino at the hearing.

"I certainly do not expect there to be repercussions because Mr. Convertino is here to explain how the Justice Department is winning the war on terrorism. But just in case someone is thinking about retaliation, this committee is not going to tolerate it. We take seriously the protection of our witnesses," Grassley said.

Grassley acknowledged that it is unusual for an assistant U.S. attorney to testify before Congress.

Convertino has hired a Washington lawyer, William Sullivan, to represent him.

Sullivan told The News that Convertino's decision not to turn over the **letter** was approved by his boss, Corbett, who is chief of the organized crime strike force at the U.S. Attorney's office in Detroit.

"It was not impeachment material" that would be relevant to the terrorism trial, Sullivan said.

"The **letter** made no sense. It was the correct decision these two gentlemen made not to turn over the **letter** ."

The **letter** also has unexplained references to the "Bush Family Drug Dealers" and talks about how Hmimssa "was going to help bring down the United States electorally."

The case

The Detroit terrorism case stems from the Sept. 17, 2001, raid of an apartment on the city's southwest side. FBI agents found three of the men with phony identification, airport employee badges and a day planner with drawings they said were "casing sketches" of military targets in Jordan and Turkey.

Karim Koubriti faces up to 10 years in prison and Abdel-elah Elmardoudi 20 years after they were convicted of conspiracy to provide material support or resources to terrorists in June.

Ahmed Hannan was convicted of document fraud and acquitted on the **terror** charge. The fourth defendant was acquitted.

In April, Hmimssa pleaded guilty to 10 felonies committed in Michigan, Illinois and Iowa, including document fraud. Under a plea agreement, he faces no more than 46 months in prison, though Rosen can reduce his sentence if he believe Hmimssa provided "substantial assistance" to the government.

The three convicted defendants are scheduled to be sentenced Tuesday they have been in custody since September 2001.

The U.S. Attorney's Office declined to comment. Corbett and Convertino didn't return telephone calls.

Other developments

In another development in the **terror** case, Straus turned over to defense attorneys two FBI interviews with a former roommate of Koubriti and Hannan in Canton, Ohio. That roommate said the men never discussed radical Islam and engaged in drinking and carousing.

Straus' **letter** said the government doesn't believe the decision to withhold the interviews was improper.

Under tight security, Hmimssa, the three defendants and possibly Jones will appear Friday. At least eight federal officials ? including six government lawyers and two FBI agents ? are expected to appear in court.

"This was a significant failure to turn over the **letter** ," said Corbett Edge O'Meara, a Grosse Pointe Farms lawyer who represented Omar Shishani, a man who also claimed he heard Hmimssa admit to lying to the government while the two were in custody. "There was bad faith on the part of the government. They wanted a **conviction** to whip the country into a frenzy at the start of the war."

The controversy over the **letter** from drug dealer Jones is the latest one to hit the Detroit terrorism case.

Rosen is set to hear the defense's motion for a new trial on Tuesday. Defense attorneys accused the government of prosecutorial misconduct and failing to turn over other documents.

Prosecutors said Rosen should dismiss the defense motion because it is without merit in a court filing Wednesday.

"Their misplaced complaints as to the conduct of the government and the court are either not consistent with the actual evidence, are overstated, or simply not supported by law," Straus wrote in a 45-page legal brief.

Rosen is still considering whether to charge U.S. Attorney General John Ashcroft with criminal contempt for allegedly twice violating a gag order in the **terror** case.

Lawyers for the three convicted men asked Rosen to order Ashcroft to appear in Detroit to face contempt charges after he praised Hmimssa at a news conference.

A contempt proceeding could result in the appointment of a special prosecutor to investigate and seek Justice Department documents, such as the e-mails of officials who worked on Ashcroft's April 17 speech, the second apparent violation of the gag order by Ashcroft.

On Sept. 26, Rosen held a two-hour, closed-door meeting about the matter with defense lawyers and Justice Department officials, including Christopher Wray, the assistant attorney general who heads the department's criminal division.

More than two months later, Rosen hasn't given any indication when he might rule. The Justice Department has discussed ways of resolving the matter short of contempt proceedings.

Caption: Hmimssa Convertino

Edition: Two Dot

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Index Terms: TERRORISM ; UNITED STATES ; TRIALS ; DETROIT

Dateline: DETROIT

Record Number: det17864519

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