

## Brandon Mayfield Awarded \$2 Million For False Imprisonment



By JD Staff

Bombs planted on four commuter trains in Madrid, Spain killed 191 people on March 11, 2004. Spanish authorities asked the FBI for help in identifying the person whose fingerprints were found on a plastic bag of detonators linked to the bombings.

Eight days later FBI fingerprint analysts identified the fingerprints were those of Brandon Mayfield, a 38-year-old Portland, Oregon attorney. Mayfield was also a Muslim. The FBI began intensive warrantless surveillance of Mayfield, his family, and his law practice, tapping home and business phone calls, monitoring emails, and secretly searching his home and his law office. In surveiling Mayfield, the FBI invoked Patriot Act provisions that eliminate the need for a warrant based on probable cause in cases involving terrorism allegations.

After six weeks of probing into every aspect of Mayfield's life, on May 6 the FBI arrested him on a material witness warrant for his suspected involvement in the Madrid bombings. However, Mayfield insisted to the federal public defender assigned to represent him, that it could not be his fingerprints on the bag because he had never been to Spain, he had not been out of the United States for ten years, and he didn't even have a passport.

Mayfield's protestations were validated on May 20 when the Spanish National Police (SNP) publicly announced that the prints on the bag matched an Algerian with a police record and a Spanish residency permit. It also became public that the SNP told the FBI on April 13 that their comparison of Mayfield's fingerprint with the one on the plastic bag was "conclusively negative." Mayfield was conditionally released the next day. Three days later the warrant against him was dismissed when the FBI conceded it had mistakenly identified his prints as matching those on the detonator bag. The FBI also issued a rare public apology to Mayfield.

In June 2004 Mayfield hired well-known attorney Gerry Spence as the lead lawyer for his civil lawsuit against the federal government. Spence said he agreed to become involved because, "Our basic rights under the Constitution are in jeopardy, and that's what this is about."

The lawsuit was filed in the U.S. District Court in Portland in the fall of 2004. In July 2005 U.S. District Judge Ann Aiken denied the government's motion for summary judgment, which allowed discovery to proceed.

A panel of international forensic experts commissioned by the FBI to investigate how the agency's crime lab misidentified Mayfield, issued its report in November 2004. It found that the three FBI's fingerprint examiners involved in the case had committed human error, caused by peer pressure to support the initial identification of Mayfield as the source of the print.

Mayfield settled the monetary part of his lawsuit for \$2 million in November 2006. However, the settlement allowed him to continue the part of the suit challenging the constitutionality of the USA Patriot Act's provisions allowing warrantless searches. When the settlement was announced Mayfield said, "The power of the government to secretly search your home or business without probable cause, under the guise of an alleged terrorist investigation, must be stopped. I look forward to the day when the Patriot Act is declared unconstitutional, and all citizens are safe from unwarranted arrest and searches by the Federal Government."

On September 26, 2007, Judge Aiken ruled that two Patriot Act provisions — authorizing secret and warrantless searches and wiretapping to gather evidence for a criminal case — are unconstitutional violations of the Fourth Amendment's protection against unreasonable searches and seizures. (The two sections are 50 U.S.C. §§ 1804 and 1823) Aiken wrote, "For over 200 years, this nation has adhered to the rule of law — with unparalleled success. A shift to a nation based on extra-constitutional authority is prohibited, as well as ill-advised." (43) *Mayfield v. United States*, No. 04-1427-AA (D.Ore. 09/26/2007). Judge Aiken's 44-page ruling will be appealed by the government to the Ninth Circuit Court of Appeals.

The Patriot Act provisions declared unconstitutional by Judge Aiken have caused much controversy since its enactment a month after the events of September 11, 2001. Only a handful of Representatives and Senators read the Patriot Act before voting for its passage — so they were unaware they were voting to undermine the rights of Americans under the Constitution.

Sources: "That's Not My Fingerprint, Your Honor", *Justice: Denied* magazine, Issue 25, Summer 2004, pp. 11-14, 19. Mayfield calls in heavy hitter. By Ben Jackett, *Portland Tribune*, September 28, 2004. (Spence quote.) Brandon Mayfield wins \$2 million against Feds. By Lew Nassa, *PDX Indy Media Cr.*, November 29, 2006. (Mayfield Patriot Act quote.) Panel: FBI peer pressure led to lawyer's arrest, AP story, Longview Daily News, November 17, 2004.

## Oklahoma Prosecutor Sues John Grisham For Libel

By JD Staff

Ronald Williamson and Dennis Fritz were exonerated by DNA evidence and freed in 1999 after 12 years of wrongful imprisonment for the 1982 murder of Debbie Sue Carter in Ada, Oklahoma.

Pontotoc County D. A. William Peterson prosecuted Williamson and Fritz, and former Oklahoma Bureau of Investigation agent Gary L. Rogers investigated the case. On September 29, 2007, Peterson and Rogers filed a federal lawsuit in Muskogee, Oklahoma that alleges they were libeled and slandered by a conspiracy engaged in by the authors of four books that discuss the case of Williamson and Fritz.

The lawsuit's most prominent defendant is author John Grisham, whose many books have sold more than 250 million copies. His only non-fiction book is *The Innocent Man*, which is a quasi-biography of Williamson. Fritz is named as a defendant for *Journey Toward Justice*, his autobiographical account of his prosecution. Robert Mayer is named as a defendant for *The Dreams of Ada*, about the prosecution of two men for a woman's 1984 murder in Ada that had similarities to Carter's murder — which Mayer discusses in his book. Also named as a defendant is Barry Scheck, who was one of Fritz's lawyers and a co-author of *Actual Innocence*, that discusses Williamson and Fritz's case. In addition to these individuals, the publishers of the four books are named as defendants.

The lawsuit claims the defendants conspired to libel Peterson and Rogers, portrayed them in a false light to promote their books, and intentionally inflicted emotional distress upon them. The lawsuit claims "the defendants launched this attack through the use of speeches, interviews and simultaneously publishing three books that were all three strategically released in October of 2006." *The Innocent Man* and *Journey Toward Justice* were published in October 2006, and *The Dreams of Ad* was reissued in October 2006 with new comments by Mayer.

Fritz said when informed about the lawsuit, "It's nothing more than a power play to get people to believe (Peterson) did nothing wrong. It has no merit. We simply told the truth and I have a right to write what my thoughts were."

Sources: *Peterson, et al v. Grisham, et al*, 07-CV317 (E.D.Okla.) John Grisham named in libel lawsuit, AP report, *MSNBC.com*, September 28, 2007. (Fritz quote.)