

Karim Koubriti and three other Muslim immigrants living in the Detroit area were arrested weeks after the events of September 11, 2001, on suspicion of being members of a terrorist "sleeper cell." Almost a year later, on August 28, 2002, the four men were indicted for material support of terrorism and document fraud (possessing false identification papers).

In June 2003 Koubriti and Abdel-Ilah Elmaroudi, both Moroccan nationals, were convicted of the terrorism and document charges. Another defendant was only convicted of the document charge, and the fourth defendant was acquitted of all charges.

After the trial, but prior to sentencing, Koubriti and Elmaroudi's lawyers discovered that Richard Convertino, the Assistant United States Attorney in charge of the prosecution, had failed to disclose exculpatory documents that undermined the very basis for the terrorism charge, and that he may have also presented tainted trial testimony. The U.S. Department of Justice (DOJ) responded to the defendant's subsequent post-trial motion for a new trial by conducting an extensive investigation of Convertino's handling of the case.

That investigation's report concluded that Convertino had deliberately concealed exculpatory evidence and several federal agents had given falsely trial testimony. On August 31, 2004 the DOJ acted on those findings by filing a 60-page response to the defendant's motion for a new trial. The DOJ requested that the judge vacate all the convictions of the three defendants, and then order their retrial only on the document fraud charges.

Ex-federal Prosecutor Rick Convertino Sued Over Fake Terrorism Prosecution

By JD Staff

The DOJ conceded that Convertino had offered false testimony and withheld exculpatory evidence from the defense on the terrorism charges, and that charge would be dropped against the defendants.

Two days later, on September 2, U.S. District Judge Gerald Rosen vacated the convictions. Koubriti and Elmaroudi were then released on bail after being held for three years in the Wayne County Jail.

"They lied, lied, lied and lied."

Defense lawyer William Swor's description of the government's case after the terrorism convictions of Koubriti and Elmaroudi were vacated.

The retrial on the document charges was delayed when Koubriti challenged his retrial on the basis that it would constitute double jeopardy. On December 12, 2007 the Sixth Circuit Court of Appeals ruled that Koubriti's retrial would not place him in double jeopardy. (*U.S. v. Koubriti*, 07a0475p-06 (6th Cir. 12-12-2007)) Koubriti's lawyers are appealing that ruling to the U.S. Supreme Court.

On August 31, 2007, Koubriti filed a lawsuit (42 U.S.C. §1983) in Detroit's federal court alleging that his civil rights were violated by the primary people named in the DOJ's report: Convertino, FBI agent Michael Thomas, and State Department official Harry "Ray"

Smith. Convertino's defense may be prosecutorial immunity.



Karim Koubriti after his release

Koubriti had earlier filed a federal civil rights lawsuit against Wayne County. He alleged that his constitutional rights were violated by his mistreatment in the Wayne County Jail during the three years between his arrest and his release on bail. In early 2007 a federal judge denied summary judgment for Wayne County and ruled the case can go to trial. As of early 2008 both of Koubriti's lawsuits are pending.

After a two-year DOJ criminal investigation, Convertino and Smith were indicted in March 2006 on charges of conspiracy, obstruction of justice, and false statements. On October 31, 2007, a federal jury in Detroit acquitted both defendants of all charges. The jury foreman told reporters the jury acquitted the men because Convertino could have mistakenly failed to disclose the crucial exculpatory evidence, and Smith could have misspoke when he repeatedly testified falsely during the trial.

Previous *Justice:Denied* articles about the Detroit Four case: "Terrorism Conviction Of Two Men Tossed - Prosecutor Criminally Investigated For Frame-up," *Justice:Denied* Issue 27, Winter 2005, p. 7. "Federal Prosecutor Resigns Under Heat of Criminal Investigation For Possible Frame-up Of 35 People," *Justice:Denied* Issue 28, Spring 2005, p. 11. "Federal Prosecutor Indicted For Frame-up Of Four Men Innocent Of Terrorism," *Issue 32*, Spring 2006, p. 10. Additional sources: "Former Detroit terror suspect files civil rights lawsuit," *Jurist*, August 31, 2007. "Federal jury acquits terror prosecutor," *The Detroit News*, November 1, 2007. "Ex-terror suspect can face fraud charge," *The Detroit News*, December 13, 2007.

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who handled the case, five other police department employees, and the lab that handled the DNA work. The lawsuit claims that Nifong's sole motive was to win support for his reelection bid, and alleges he told his campaign manager that the case would provide "millions of dollars" in free advertising.

While Nifong has had his career devastated, two Durham police officers involved in the case have been promoted.

In December 2007 the US Department of Justice announced it would not criminally investigate Nifong's handling of the case.

At least two books have been written about the case, and HBO has bought the movie rights.

Sources:

Civil suit in lacrosse case filed, *News & Observer*, October 6, 2007. How it came to this — a lacrosse case recap, *News & Observer* (Durham, NC), October 6, 2007. Darryl Hunt, The NAACP, And The Nature Of Evidence, *Justice:Denied*, Issue 35, Winter 2007.

James Love was convicted by a jury in 1996 of having oral sex many years earlier with the daughter of a woman he had dated. The prosecution didn't inform Love of when the alleged crimes occurred, and it wasn't until the next to last day of his trial that the then 18-year-old testified they happened in Cincinnati in December 1988, and January and February 1989. Love collected extensive alibi evidence after his trial that he was continuously outside the United States from November 1988 to mid-May 1989. Love filed a post-conviction motion for a new trial based on that new evidence. In November 2006 the Ohio Court of Appeal overturned Love's convictions and ordered his retrial. (See, *State v. Love*, 2006 -Ohio- 6158 (Ohio App. Dist.1 11/22/2006))

After Hamilton County's prosecutor failed to act on the court ordered retrial, Love filed

Prosecutor Changes Dates of Alleged Rapes After James Love Wins Retrial

By JD Staff

a motion on May 31, 2007 to enforce his right to a speedy trial.

On October 2, 2007 the Hamilton County Prosecutor's Office signed a Stipulation that Love was in Mexico and Belize from November 17, 1988 until July 20, 1989, with the exception of May 17 to 21 when he returned to the U.S. to renew his Ohio driver's license. The Stipulation was an acknowledgment that Love was in another country almost 2,000 miles from Cincinnati at the time of the alleged rapes the jury convicted him of committing.

The prosecutor then filed an amended Bill of Particulars to Love's February 1996 indictment, alleging the oral sex didn't happen on the dates the alleged victim testified to during Love's 1996 trial, but between the "latter half of 1989 to April 2, 1990." Thus more than

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