

Karim Koubriti's Lawsuit For False Terrorism Conviction Tossed By Federal Judge

Karim Koubriti's federal civil rights lawsuit against FBI agent Michael Thomas for fabricating evidence he was a terrorist was dismissed by U.S. District Judge Marianne Battani.

In June 2003 Koubriti and his co-defendant, Abdel-Ilah Elmaroudi, were convicted in federal court in Detroit of providing material support for terrorism. Koubriti, Elmaroudi and a third co-defendant, Ahmed Hannan, were also convicted of document fraud (allegedly possessing false identification papers), but Hannan was acquitted of the terrorism charge. A fourth co-defendant, Farouk Ali-Haimoud, was acquitted of all the charges. It was the first federal terrorism trial after September 11, 2001, and the jury deliberated for six days before reaching its verdicts.

The key witness against the defendants was Youssef Hmimssa, a Moroccan forger illegally in the U.S. who had been convicted of stolen credit card charges. [Youssef testified](#) the defendants attempted to recruit him into their scheme to overthrow the Algerian government. He also testified that Koubriti and Hannan talked about poisoning airline passengers at the Detroit Metro Airport, and that "Al-Haimoud talked about joining Osama bin Laden and killing Jews, Christians and wrong-thinking Muslims."

The lead FBI agent in the case was Thomas, Harry "Ray" Smith was the lead State Department official in the case, and the lead prosecutor was Assistant U.S. Attorney Richard Convertino.

The convictions were national news and U.S. Attorney General John Ashcroft [told reporters](#), "I congratulate the prosecutors and agents who worked tirelessly on this case." Ashcroft also noted that the case demonstrated the Justice Department's commitment to "detect, disrupt and dismantle the activities of terrorist cells in the United States and abroad."

Prior to their sentencing the defendants filed a motion for a new trial that alleged the prosecution concealed exculpatory evidence and witnesses, and offered tainted testimony. Among the motion's allegations were that Convertino failed to disclose a December 2001 letter Youssef wrote to another man he had been in jail with, that he made-up every-



Karim Koubriti after his release on October 12, 2004

thing he told law enforcement authorities about the defendants. [Youssef wrote](#), "how he lied to the FBI, how he fool'd the Secret Service agent on his case."

The motion also alleged that Convertino failed to disclose witness statements that the defendants were not devote Muslims, and that they were lazy, drank alcohol, smoked, and never talked about religion. Those witnesses would have undermined the prosecution's claim the defendants were fanatical Muslims engaged in a holy war.

U.S. District Judge Gerald Rosen ordered the Justice Department to respond to the motion. After receiving that order Detroit's U.S. Attorney removed Convertino and his superior from the case.

On August 31, 2004 the DOJ filed a 60-page response to the defendant's motion for a new trial. The DOJ conceded Convertino introduced false testimony and withheld exculpatory evidence from the defense on the terrorism charges. The DOJ requested that Judge Rosen vacate the defendant's convictions, and that they only intended to retry them on the document fraud charges.

On September 2, 2004 Judge Rosen vacated all the three defendant's convictions. In his order, [Judge Rosen wrote](#), "Certainly, the legal front of the war on terrorism is a battle that must be fought and won in the courts, but it must be won in accordance with the rule of law." He also wrote, that the prosecution's desire to convict the defendant's "overcame not only its professional judgement, but its broader obligations to the justice system and the rule of law. It is an inescapable conclusion that the defendant's due process, confrontation and fair trial rights were violated. There is at least a reasonable probability that the jury's verdict would have been different had constitutional standards been met."

With the charges dismissed, defense lawyer William Swor said about the government's case, "They lied, lied, lied and lied."

When the 26-year-old Koubriti was released on bail on October 12, 2004 [he told reporters](#), "I always say I was innocent. Three years ago I said I was innocent and nobody believed me except these guys," referring to his lawyers. He also said that after his arrest, "I thought it was a mistake or something and they would find out the truth. It took them too long to find out the truth." Koubriti said that he had been kept in an isolation cell 23 hours a day for

much of his incarceration. "All my time in Wayne County [jail] they didn't even let me out to smell air." He also said about his time in jail, "It was horrible, especially from some of the deputies - not all, to be honest with you. I heard all sorts of stuff - devil worshiper, monster, go pray to your terrorist god."

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 during the trial of the four defendants. 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.

On August 31, 2007, Koubriti filed a federal civil rights lawsuit (42 U.S.C. §1983) in Detroit's federal court that alleged multiple violations of his constitutional rights by Convertino, Thomas, and Smith.

U.S. District Judge Marianne Battani dismissed the claims against Smith, and in February 2010 the federal Sixth Circuit Court of Appeals ordered dismissal of the claims against Convertino because he is shielded by prosecutorial immunity from civil liability for any of his actions that may have harmed Koubriti. On remand Judge Battani [dismissed the claims](#) against Thomas, ruling that Koubriti had not disprove Thomas' declaration that he did not fabricate or withhold evidence.

Eight years after Koubriti was wrongly convicted of fabricated terrorism charges, he has not received a penny of compensation for the more than three years he was incarcerated after his arrest on September 17, 2001 when federal law enforcement officers raided his Detroit apartment.

Justice Denied has published the following four articles about the various twists and turns in the Detroit terrorism case:

Terrorism Conviction Of 2 Men Tossed, *Justice Denied*, [Issue 27](#), April 2005.

Federal Prosecutor Resigns Under Heat of Criminal Investigation For Possible Frame-up Of 35 People, *Justice Denied*, [Issue 28](#), June 2005.

Federal Prosecutor Indicted For Frame-up Of Four Men Innocent Of Terrorism, *Justice Denied*, [Issue 32](#), July 2006.

Ex-federal Prosecutor Richard Convertino Sued Over Fake Terrorism Prosecution, *Justice Denied*, [Issue 38](#), January 2008.

Other sources:

[Immunity Protects Prosecutor](#) Against Bivens Claims, *Koubriti v. Convertino*, Case No. 09-1016 (C.A. 6, Feb. 3, 2010). [Judge tosses lawsuit](#) by cleared terror suspect against Convertino, *The Detroit News*, May 23, 2011.

