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counterpunch

edited by alexander cockburn and jeffrey st.clair

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May 4, 2009

James G. Abourezk
[The AIPAC Spy Case](#)

Jeff Leys
[Obama's War Budget](#)

Patrick Cockburn
[Afghan Ayatollah's Press Marital Rape Law](#)

Andy Worthington
[A Start on Guantánamo, But Not Enough](#)

Jaime Avilés
[Mexico's Plague-Bringers](#)

David Swanson
[An Even Worse Bybee Memo](#)

P. Sainath
[Celeb Crusades and the Death of Politics](#)

Eugenia Tsao
[Canada's Obama and the Cult of the Prof](#)

Benjamin Dangl
[Protest and Rubber Bullets in Paraguay](#)

Sami Al-Arian
[Mourning William Moffitt](#)

May 1 - 3, 2009



May 4, 2009

Where's the Justice at the Justice Department?

The AIPAC Spy Case

By JAMES G. ABOUREZK

The big news last week was the defection of Republican Senator Arlen Specter to the Democrats; the bankruptcy filing of the Chrysler Corporation, and finally, the retirement of Justice David Souter from the U.S. Supreme Court.

A much smaller news item competing with these sensational stories was that the U.S. Justice Department announced that it is dropping the espionage charges against two former AIPAC agents. The story was so small that it barely was a blip on the media's radar, bringing absolutely no comment on the network news and talk shows.

That's known as clever public relations. Announce the bad news on a day when it won't be noticed.

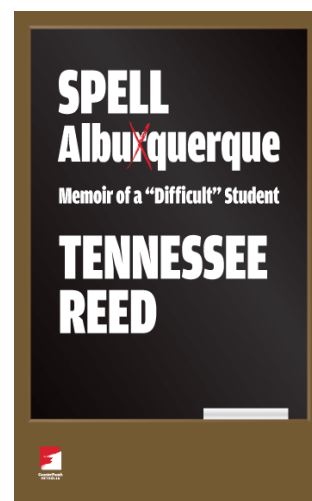
Steven Rosen and Keith Weissman had been charged in 2005 with the crime of espionage; specifically, handing over to Israel secret information they had retrieved from Larry Franklin, who was then a policy analyst in the U.S. Defense Department, working for Douglas Feith and for Paul Wolfowitz.

Franklin pleaded guilty to relaying top secret information on Iran to Rosen and Weissman, and was sentenced to 12 years and 7 months in prison, a term he is currently serving.

In the *New York Times* story detailing the Justice Department's decision to drop the charges against Rosen and Weissman, the prosecutors claimed that the presiding federal judge, T.S. Ellis III, had raised the bar for the prosecution to prove its case against the two to a

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Steven Higgs

level they did not believe they could meet. The Judge said that the prosecutors could only prevail if they could prove that Rosen and Weissman "knew that their distribution of the information would harm U.S. National Security." That was enough to make them dismiss the charges.

No one in the headquarters of the Justice Department took part in the announcement, but it was made by the prosecutors themselves, presumably the U.S. Attorney in charge of prosecution.

I've had some experience in court with U.S. Attorneys. What I know about how they operate is that if they don't have a case, they will bring so many charges that forces the unlucky Defendant to plead guilty to at least one or two of them.

I would like to turn now the case of Sami Al-Arian, who was a college professor in Florida. Sami is a Palestinian, born in Kuwait. And why wasn't he born in Palestine like a good Palestinian should be? Because, most likely, his parents were chased out of Palestine when Israel undertook its ethnic cleansing of that land in order to create an exclusive Jewish state.

Al Arian was charged in 2003 in a 50 count indictment, essentially with a plethora of terrorism charges. He waited 28 months in solitary in harsh conditions, before being tried in 2005. The trial lasted six months, with some 80 witnesses and 400 transcripts of intercepted phone conversations and faxes.

At the end of the prosecution's case, Al Arian's lawyers rested without offering any evidence or witnesses in his defense. After 13 days of deliberation, the jury acquitted Al Arian on 8 of 17 counts, and deadlocked on the other with 10 to 2 favoring acquittal. Two of the co-defendants charged along with Al Arian were totally acquitted.

Undaunted, the Justice Department prosecutors said they were considering re-trying Al Arian on the deadlocked jury charges, one of which carried a life sentence.

Rather than fighting on, Al Arian agreed to plead guilty to one count of conspiracy to contribute services to or for the benefit of the Palestinian Islamic Jihad (which is designated as a terrorist organization, but which the FBI admitted during trial had never carried out an attack outside of Israel. The United States has designated a number of Palestinian liberation groups as terrorists at the behest of Israel —groups that have never attacked the United States).

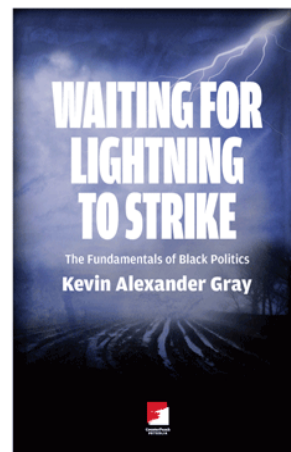
Al Arian had spent years in solitary confinement awaiting his trial. As part of his plea agreement the prosecution agreed not to charge Al Arian with any other crimes, and Al Arian agreed to expedited deportation.

He was, however, nearly re-charged when he refused to testify against another Palestinian organization. He went on a hunger strike, dangerous for a diabetic, but finally the prosecutors agreed that the agreement exempted him from testifying in other cases. Yet the charges have not been dropped and the government wants to strip Al-Arian of all his defenses. The judge in the case is considering a motion for dismissal based on the government's bait and switch tactics. The government is opposing this motion

One would have thought that, following the jury's decision, the bar set by the jury in the Al Arian case would be so high that the prosecution would finally leave him alone. But there is apparently a difference between a Palestinian patriot and Americans spying for Israel. One group has a powerful lobby in Washington, and the other has nothing, except the urging of that powerful lobby to go after any Palestinian activist with criminal charges or anything else they can get their hands on.

The question is: Can you find the justice in the Justice Department?

James G. Abourezk is a lawyer practicing in South Dakota. He is a former United States senator and the author of two books, *Advise and Dissent*, and a co-author of *Through Different Eyes*. This article also runs in the current issue of *Washington Report For Middle East Affairs*. Abourezk can be reached at georgepatton45@gmail.com



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