

# Accused of “providing material support for Al Qaeda”: Justice for Yemini Sheik

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This time is different for Yemini Sheik Mohammed Ali Hassan Al-Moayad and his assistant Mohammed Mohsen Yahya Zayed. On October 2, the 2nd US Circuit Court of Appeals unanimously reversed their unjustifiable convictions. More on that below.

On March 10, 2005, both men were convicted on multiple charges of conspiring to and providing “material support” for Al Qaeda and Hamas and became victims of the Bush administration’s “war on terrorism” and Jihad against Islam. On August 2 and September 1, they received 75 and 45 year sentences respectively.

The charges were outrageous on their face and followed similar type persecutions of other Muslim figures like Sami Al-Arian, Rafil Dhafir, Yassin Aref, Seyed Mousavi, and many more. Innocent men unjustly convicted in kangaroo court proceedings. Often because of their prominence, leadership positions, and affiliations with Islamic organizations. Charity initiatives to others less fortunate. Efforts to promote unity among all faiths. Teach others about Islam, and work for social progress, peace and against war. As a result, be charged with “terrorism,” tried, and become victims of police state justice in a climate of fear.

Both Yemeni clerics were targeted for their faith, ethnicity, activism, prominence and notable charitable efforts. Germany unjustifiably extradited them to the US to be prosecuted for their entirely legal activities. With testimony from a notoriously unreliable informant. Paid \$100,000 by the FBI for his services. Then pressuring the agency for more.

At trial, the prosecution repeatedly attempted to prejudice the jury. Scare them with allegations about a Koranic verse being a “terrorist” one. A Palestinian-born attorney posing an “increased risk” because her “foreign born” status. Using this accusation to keep her off the case at first. Doing everything possible to convict two innocent men and claim a victory in “the war on terrorism.”

## Arrest and Charges

On January 10, 2003, both clerics were arrested In Germany with the help of FBI informant Mohamed Al- Anssi. A man with a dubious history of theft, burglary and defrauding Islamic organizations and charities. Stealing their property. Running up phone bills. Using public, private individual, and mosque services for his own benefit. Then in November 2004, pressuring the FBI for more money by setting himself ablaze in front of the White House.

Al-Anssi was an out-of-status immigrant fearing deportation. To avoid it, he contacted an FBI Terrorism Task Force agent. One eager to produce results by reeling in suspects. Islamic ones in a climate of fear. That juries would convict. Al-Anssi offered to help. With no

substantiating evidence, he claimed that Sheik Al-Moayad supported Al Queda, mujahideen Islamic fighters, and even North Korea.

A month later, the FBI sent him to Yemen to target Al-Moayad even though his own government knew and approved of his activities. Their legitimacy having nothing to do with "terrorism." Over the next year, Al-Anssi and Yemeni-based FBI agents produced scant "evidence," none of which was incriminating:

- three Palestinian charity donation receipts; ones not to designated Foreign Terrorist Organizations (FTOs); and

- a 30-minute video of a five-day Yemeni group wedding at which a Hamas representative to Yemen spoke.

Based on this alone, Al-Moayad and Zayad were to be charged with conspiring to and providing material support for Al Queda and Hamas. An entrapment scheme then followed in Germany. An Agent "Sharif" became involved, posing as a former Black Panther supportive of "Jihadist causes." The "civil rights movement" among them, according to an FBI agent BM.

A sting was arranged as follows. Agent "Sharif" instructed Al-Anssi to tell Al-Moayad and Zayad that he wished to donate \$2 million for their work, and conversations were secretly videotaped. When the clerics learned it was for another purpose, they disapproved. "Sharif" then said: "I know what you're here for and I will give you what you want if you give me what I want." Both clerics still objected and wished only for funding help to build their charitable center. "Sharif" claimed conversations with him were about funneling it to Hamas. Based only on his word. Masked officers arrested both clerics three days after they arrived in Germany.

They were held for six months. Indicted on March 4, 2003. Extradited to the US in November. At a Senate hearing, Attorney General John Ashcroft called them "big fish." Claimed that they funneled millions of dollars to Al Queda and Hamas, and that Al-Moayad boasted of personally delivering \$29 million to bin Laden.

The charges were concocted and false. Evidence showed both clerics supported Palestinians in the Occupied Territories. Others in refugee camps in other Arab countries. Also that they knew Hamas members throughout the Arab world, in Africa, and in some European states. Entirely legitimate activities in Yemen and Germany unrelated to "terrorism." Not according to the FBI and John Ashcroft even though both men never raised funds in America or broke US laws.

### Sheikh al-Moayad's Background

Early in life, he came to love the oppressed and indigent. He was born in May 1948 to a peasant family in Safya. A Sanaa, Yemen suburb. His father was a village teacher who earned only what local parents paid him in food and personal effects. He developed a desire to do community service like his father, and in the 1970s built a dam in Sanaa to distribute water more effectively.

In the early 1980s, he moved to Asbahi, Yemen. A town with no mosque, so he opened his home for worship. He convinced the government to provide land for a mosque and built one. Then expanded it to include religious services for women and a small basement elementary

school.

By the early 1990s, Al-Moayad was well-respected for his honesty, charity and grassroots activism. His Al Ihsan Charitable Organization provided aid and got government support. He opened a bakery that fed hundreds of families daily. A market that charged wholesale prices and had fresh water for those without it.

He expanded his school to accommodate students from kindergarten through high school. One for girls as well and personally encouraged reluctant families to enroll their daughters. More efforts to teach trade skills.

In all, a near-endless number of charitable initiatives addressing all aspects of daily life for around 9000 needy families. Individual, communal and religious. An orphan fund project, blanket distribution, and full meal provisions during Ramadan. Group wedding coordination for poor groomsmen. Holistic healing. Computer training and a free medical clinic.

Al-Moayad is also a father of seven. However, he became known as the “Father of Orphans” throughout Sanaa and was appointed honorary supervisor of the Al Aqsa Foundation.

All along, he supported the Palestinian struggle for liberation. Their right of return, justice, and self-determination. He raised money and other essentials for Palestinians in refugee camps. Others in greatest need in Occupied Palestine. Efforts that Washington calls supporting “terrorism.”

Al-Moayad is so well respected that Yemenis were outraged. Especially in Sanaa. Thousands protested publicly for over two years demanding his release. His assistant, Mohamad Zayed as well. Yemeni president, Ali Abdallah Saleh, said neither man had links to Al Qaeda, and they have every right to support Hamas and the Palestinian people. In vain, he urged Washington to release them.

The Indictment - United States of America v. Mohammed Ali Hassan Al-Moayad and Mohammed Mohsen Yahya Zayed

Count One: defendants “knowingly and intentionally conspired to provide material support and resources to a foreign terrorist organization, to wit, al Qaeda.”

Count Two: defendant Al-Moayad “knowingly and intentionally provided material support and resources to a foreign terrorist organization, to wit, al Qaeda.”

Count Three: defendants conspired to provide material support to Hamas.

Count Four: defendant Al-Moayad provided material support to Hamas.

### Trial and Convictions

For five weeks in early 2005, the proceedings took place in a Brooklyn courtroom. Unfairly described by New York Times writer William Glaberson (on February 6 in his opening paragraph) as the same one where “thousands of past cases (of) mobsters, drug dealers and con artists” were tried. Now the “sheik, in his silk hat and flowing robes....heard in hours of secretly recorded videotapes talking in a convoluted style....his meanings elusive....his style indirect. (Recounting) tales from the Koran or sayings of the Prophet Muhammad....In a

conversation about a man who seemed to be offering a big donation to Muslim causes, the sheik started a discourse on a battle from the time of the prophet.”

Both men “remain enigmas....mysterious figures, charged with funneling money to Al Queda and Hamas. Much of it raised in Brooklyn.” In fact, none of it was or was it used for “terrorism.” Nor did Al-Moayad issue a “public call for revenge against Americans for his arrest” as Glaberson wrote earlier (again in his opening paragraph) on September 22, 2004.

The trial was a travesty of justice in which Al-Anssi’s unsubstantiated testimony, written notes and videotapes were the key “evidence”. Plus US Attorney Mauskopf demonizing Palestinian resistance and saying that supporting their right of return is “extremism.” Terrorism.

Unrelated testimony from a Scottish law student, Gideon Black, was also introduced. About a Tel Aviv suicide bombing that killed his cousin. Over defense objections, the judge allowed it and biased the jury. A bin Laden “terror camp” video as well. DOJ’s customary strategy to portray Muslims as terrorists to instill enough fear to convict. Give jurors no other choice.

In the end, Al-Moayad and Zayad were acquitted of supporting Al Queda. Al-Moayad was convicted of conspiring to and providing support for Palestinian resistance fighters, Hamas, and bin Laden. Zayed was convicted of the Hamas conspiracy and support charges as well as conspiring to support Al Queda. Some of the many “material support” charges that DOJ cites in its worldwide war on Islam. Portraying Muslims as dangerous. Terrorists. Others who supports Arab rights. Palestinian self-determination. Equal justice the way US and international laws demand. What targeted Muslims almost never get in US courtrooms.

Nor did they on March 10, 2005 when both men were convicted. Or again on August 2 when Al-Moayad was sentenced to the maximum 75 years and fined \$1.2 million. A beloved Yemeni cleric US Attorney Roslynn Mauskopf called a “master terrorist financier.” On September 1, Zayad received a 45 year sentence and was fined \$750,000. Both men were sent to the US federal Florence, Colorado Supermax prison.

#### Conditions In and Effects of Supermax Confinement

These prisons are intended for “the worst of the worst.” Society’s most dangerous, violent and incorrigible on the notion that behavior modification will result from solitary confinement, sensory deprivation and punitive treatment.

These facilities are known for their harshness. They crush the human spirit, mind and body through isolation and cruelty. Physical abuse is common and inflicted as punishment. Deprivation extreme. Inmates have little contact with staff. None with other inmates. They’re confined alone in small windowless cells for 23 hours a day. Have no work, social contact, education, recreation, rehabilitation or personal privacy. Nearly everything is delivered there - food, medical supplies, other materials. Outside their cells, they’re escorted everywhere by 4-man teams, painfully handcuffed and shackled. Over time, the effects are devastating:

- severe anxiety;
- panic attacks;
- lethargy;

- insomnia;
- nightmares;
- dizziness;
- irrational anger; at times uncontrollable;
- confusion;
- social withdrawal;
- loss of memory;
- loss of appetite;
- delusions and hallucinations;
- self-mutilations;
- profound despair and hopelessness;
- suicidal thoughts;
- paranoia; and
- for many a totally dysfunctional state and inability ever to live normally outside of confinement.

Prisoner anecdotes describe the experience:

- “People come in here with a few problems and will leave sociopaths.”
- You’re like a “caged animal. I’ve seen people just crack and either scream for hours on end or cry.”
- Isolation “creates monsters (who) want revenge on society.”
- We “have a sense of hopelessness. Plus my anger (is) a silent rage....I am beginning to really hate people.”
- “They....try to break a person down mentally (and) mental abuse leaves no evidence behind (like) physical abuse.”
- others describe isolation as like being buried alive; living in a tomb; and in a March 2006 US Gulag Prison System article this writer tried to give readers a sense of what it’s like by saying: “Try locking yourself in your bathroom with a little food and water for 24 hours and see how you (react). Then (do it for) 20....years” or the rest of your life.

Overall for many, prolonged isolation results in irreversible psychological trauma and harm. A condition no society should inflict on any human being. Nor should any law allow it.

Justice for Both Clerics

On November 26, 2007, attorneys for both men appealed their convictions. On October 2, AP reported that the 2nd US Circuit Court of Appeals “overturned the convictions of a Yemeni cleric and his deputy, finding they were prejudiced by inflammatory testimony about unrelated terrorism links.” The decision means both men can have new trials under a new judge if DOJ orders them.

In its 68-page opinion, the three-judge panel was unanimous and referred to an FBI “sting operation.” Video tapes of “FBI-orchestrated meetings between the defendants and government informants.” The FBI paying Al-Anssi \$100,000 for his role. Over defense’s objections, allowing unrelated testimony to be introduced that was “enormously prejudicial (and) is a central issue in this appeal.”

Noting that Al-Anssi’s “evidence” can’t be substantiated. That he couldn’t “specify when Al-Moayad allegedly provided money to either Al-Queda or Hamas.” Nor did Al-Moayad ever say he sent any. That “any support Al-Moayad may have provided to Al-Queda lasted only through the Afghan conflict in the 1980s” when the Reagan administration called the Mujahideen “freedom fighters” and provided billions in aid against the Soviet occupation.

The Appeals Court mentioned other reasons for their reversal as well. Relating to a second FBI informant named Saeed. When he “asked what he could do for Al-Moayad, Al Moayad described five goals: (1) teaching people their religion; (2) uniting Muslims; (3) raising young men in a manner of which God approves; (4) helping young people in need; and (5) doing everything for God’s sake. Al-Moayad also discussed more specific projects, including the charitable bakery, educating Muslim women, and aiding the families of people who have been jailed or martyred.”

Saeed expressed willingness to support these efforts, “but that he primarily wanted to fund mujahidin. Al-Moayad replied, ‘(l)et me tell you that I want to be honest with you....We can’t say yes, yes to what you’re asking then lie to you....’ Discussions about money involved using it for charitable efforts. “Al-Moayad also explained....that although he had delivered money to Bin Laden during the (1980s) ‘Afghani Jihad,’ he distanced himself from al-Queda once that conflict was over.”

The justices agreed that district court errors “when considered collectively denied (the defendants) due process of law and fundamental fairness.” Enough “to warrant reversal of (their) convictions” and for the 2nd US Circuit Court of Appeals to “VACATE the judgments of conviction and REMAND to the district court for further proceedings consistent with this opinion before a different district court judge.” A harsh and rare rebuke of trial judge Sterling Johnson Jr. showing no confidence in him, according to legal ethics professor Stephen Gillers.

Al-Moayad’s lawyer, Robert Boyle, said he was “extremely gratified” by the decision, “particularly its emphasis on the cumulative effect of the trial errors. I hope this means that Sheik Moayad, who’s elderly and not in good health, will be able to go back to his country in the very near future.” Zayed’s attorney, Steven Feldman, said “Even in the war on terror, justice knows no country. Justice was served.” Robert Nardoza, the US Attorney’s spokesperson, said “We are reviewing the decision and will consider the options available to the government before deciding our next course of action.”

This decision is extremely important and follows US District Court Judge Brinkema’s granting Sami Al-Arian bail on July 10. Then his release on September 2. After five and a half years of

unjustifiable and extremely harsh confinement. Both cases offer hope, if just a glimmer. For these men. All Muslim defendants. Those imprisoned on false charges and unfair convictions, and others yet to be targeted. In a climate of fear and the wrong time to be Muslim in America.

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