

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
Tampa Division**

**UNITED STATES OF AMERICA**

v.

**Case No. 8:03-CR-77-T-30TBM**

**SAMI AMIN AL-ARIAN, *et al.*,**

**Defendants.**

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**DEFENDANT AL-ARIAN'S MOTION TO ADOPT DEFENDANT FARIZ'S  
MOTION TO DISMISS BASED ON THE SELECTIVE NATURE  
OF THE PROSECUTION AND/OR FOR DISCOVERY  
ON THE SELECTIVE PROSECUTION CLAIM**

COMES NOW the Accused, Dr. Sami Amin Al-Arian, by counsel, and moves this Honorable Court for the entry of an Order permitting him to adopt Defendant Fariz's Motion To Dismiss Based On The Selective Nature Of The Prosecution And/Or For Discovery On The Selective Prosecution Claim. (Doc. 571). As grounds for this request, counsel states as follows:

1. Defendant Fariz has filed a motion to dismiss the instant matter due to the selective nature of the prosecution. (Doc. 571). Defendant Fariz correctly states that "the decision whether to prosecute may not be based on an 'unjustifiable standard such as race, religion, or other arbitrary classification.'" (Doc. 571, p.3-4, quoting United States v. Armstrong, 517 U.S. 456, 464 (1996). To demonstrate a selective prosecution claim, the proponent must show that the prosecution decision or policy has had a discriminatory effect and was motivated by a discriminatory purpose. Id. In the prosecution of Dr. Al-Arian, the government has been motivated by a desire to scrutinize, prosecute, and punish individuals of

Arab descent and Muslim faith while permitting others to support terror groups from this country. The effect of this policy has been to subject Muslim individuals of Arab descent to federal prosecution while non-Muslims of European descent – involved in the same or similar activities – escape prosecution and punishment.

2. Dr. Al-Arian is a Palestinian Muslim and has been outspoken in his support for the rights of Palestinians against the unlawful occupation by Israel of Palestinian lands. It is undisputed that neither Dr. Al-Arian nor his co-defendants planned or executed any violent acts. (See Al-Arian Bond Hearing Transcript, March 25, 2003, Page 127, lines 10-13). Nor is it alleged that Dr. Al-Arian or his co-defendants planned or participated in violent acts against the United States or within its borders.<sup>1</sup> Instead, Dr. Al-Arian's advocacy has been deemed unlawful solely because the PIJ is an FTO. While awaiting trial on charges of unlawful advocacy on behalf of the PIJ, Dr. Al-Arian is confined in the most strict and oppressive prison conditions possible. By stark contrast, individuals who have provided money or advocacy to other, non-Arab, non-Islamic terrorist groups enjoy freedom from prosecution. As discussed in Defendant Fariz's motion, the discriminatory effect and purpose of the government's policy are clear.
3. The investigation, prosecution, and confinement of Dr. Al-Arian in this matter are examples of Attorney General John Ashcroft's War on Islam in which thousands

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<sup>1</sup> According to the United States State Department, the PIJ "has not targeted US interests and continues to confine its attacks to Israelis inside Israel and the territories." "Patterns of Global Terrorism, Appendix B: Background Information on Designated Foreign Terrorist Organizations," Office of the Coordinator of Counterterrorism, April 29, 2004 at <http://www.state.gov/s/ct/rls/pgtrpt/2003/31711.htm>.

of Arabs and Muslims in this country and abroad have been rounded up, detained, interrogated, monitored, and, as in this case, prosecuted in the absence of any evidence of violent activities or goals. (See e.g., Neil Lewis, “Judge Orders U.S. to Release Names of 9/11 Detainees,” New York Times, August 3, 2002.) (Attached as Exhibit 1).

4. As evidence of the government’s selective prosecution of Muslim Middle Eastern supporters of alleged terror organizations, Defendant Fariz cited the government’s failure to prosecute supporters of two Israeli FTO’s (Kach and Kahane Chai) or supporters of the “Real IRA,” an Irish FTO.
5. Dr. Al-Arian would add the following examples illustrating the government’s unjustifiable choices to prosecute some alleged terrorist supporters, but not others:
6. The Irish Republican Army is a known terrorist group. Yet, due to the European composition of its membership and its close ties with Irish-Americans, the IRA has never even been designated as a FTO despite the government’s acknowledgement of the historic evidence of the IRA’s terrorist activities. (See 1999 Report Index, “Foreign Terrorist Organizations, Designations by the Secretary of State,” October 8, 1999 at <http://state.gov/s/ct/rls/rpt/fto/2682.htm>.) (Attached as Exhibit 2.)
7. Exemplifying the government’s arbitrary embrace of the IRA to the exclusion of other groups, Robert O’Neill, the Chief of the Criminal Division in the United States Attorney’s Office for the Middle District of Florida, who participated in the investigation of Dr. Al-Arian, is an owner of Four Green Fields, a bar in Tampa that has held numerous fundraisers for the IRA and hosted personal visits from



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been

served this 27th day of July, 2004 upon:

Walter Furr, Esq. &  
Terry A. Zitek, Esq.  
Office of the U.S. Attorney  
400 N. Tampa St., Suite 3200,  
Tampa, Florida, 33602;

Kevin Beck, Esq. &  
M. Allison Guagliardo, Esq.  
Assistant Federal Public Defenders  
400 N. Tampa St., Suite 2700,  
Tampa, Florida, 33602;

Steven Bernstein, Esq.,  
P.O. Box 1642,  
Gainesville, Florida, 32602; and,

Bruce Howie, Esq,  
Piper, Ludin, Howie & Werner, P.A.  
5720 Central Ave.  
St. Petersburg, Florida  
33707

\_\_\_\_\_/s/\_\_\_\_\_  
LINDA MORENO, ESQ.  
1718 E. 7<sup>th</sup> Avenue  
Suite 201  
Tampa, Florida 33605  
Telephone: (813) 247-4500  
Telecopier: (813) 247-4551  
Florida Bar No: 112283  
Attorney for: Sami Al-Arian