



Mistrial Declared in Islamic Charity Case

Jurors Find No Proof That Donations Indirectly Aided Militant Hamas

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MIAMI, Oct. 22 -- The trial against what was once the nation's largest Islamic charity ended in a mistrial Monday as federal prosecutors in Dallas were unable to gain a conviction on charges that the group's leaders had funneled millions of dollars to Mideast terrorists.

The jurors in the high-profile case acquitted Mohammad el-Mezain, the former chairman of the Holy Land Foundation for Relief and Development, on virtually all the charges brought against him and deadlocked on the other charges that had been lodged against four other former leaders of the charity.

Monday's developments were a setback for the Bush administration, which had frozen the group's finances three months after the Sept. 11, 2001, terrorist attacks and indicted its officials three years later on charges that they provided funds in support of Hamas, a militant Palestinian group that the United States considers a terrorist organization.

During the trial, the government did not argue that Holy Land directly supported terrorist groups. Instead, prosecutors asserted that the charity provided money to committees in the West Bank and Gaza that were controlled by Hamas and, in doing so, created goodwill toward the militant organization, helping it recruit members.

But at least some of the jurors apparently did not see strong links between the charity and terrorists.

Juror William Neal told the Associated Press that the panel found little evidence against Mezain, Mufid Abdulqader, a top fundraiser for Holy Land, and Abdulrahman Odeh, the group's New Jersey representative. It was evenly split on charges against Shukri Abu Baker, the charity's former chief executive, and former Holy Land chairman Ghassan Elashi, who were seen as Holy Land's principal leaders.

"I thought they were not guilty across the board," said Neal, 33, an art director from Dallas. The case "was strung together with macaroni noodles. There was so little evidence."

News of the mistrial set off a celebration by the defendants' supporters outside the Dallas federal courthouse where the trial was held. The crowd held some of the defendants aloft and cheered. The lack of convictions showed that at trial facts had triumphed over fear, they said.

"It's a huge sense of relief," said Nihad Awad, executive director of the Council on American-Islamic Relations, who was there. "Twelve regular people in the U.S. couldn't be convinced to issue a single guilty verdict. That's a sign of good news that the justice system is working and the campaign of fear is apparently not working."

Under a judge's order, neither the prosecutors nor the defense attorneys were allowed to comment on the trial. Prosecutors said in the courtroom that they would probably retry the charity's leaders.

The FBI had begun to investigate the case as far back as 1993, but it was not until the Sept. 11 attacks that the government decided to move against the group.

David Zaring, a visiting professor at Vanderbilt Law School who has written about the financial aspects of the war on terror, says that the closure of Holy Land and other similar charities and the subsequent inability to convict their operators of financing terrorism raises questions about fairness.

"The difficulty the government has had in getting convictions in these cases suggests to me that there is something wrong with the process and the targets of the closures," he said.

During the trial, prosecutors charged that the men had essentially operated as part of a Hamas conspiracy. According to prosecutors, the charity work funded by the foundation, which included aiding schools and donating food and medicine, was done in the name of Hamas and helped the group win a campaign of "hearts and minds" among Palestinians in the West Bank and Gaza.

They presented evidence showing that the Holy Land officials sometimes sympathized with the anger, and even the actions, of extremists.

In one wiretapped call played at the trial, for example, one of the men describes a suicide bombing near Tel Aviv as a "beautiful operation." The defendants faced counts of conspiracy to provide material support to a terrorist organization, providing material support to a terrorist organization, conspiracy to launder money and other charges.

But defense attorneys argued that their clients, while sympathetic with Hamas, were engaged in bona fide efforts to relieve hunger and medical crises in the West Bank and Gaza.

There was no dispute at the trial that the foundation had sent money to aid the "zakat," or charity, committees in Gaza and the West Bank.

One of the key questions at the trial was whether those zakat committees aided by Holy Land were part of Hamas, the militant organization.

On that point there were two critical opposing witnesses.

For the federal prosecutors, there was an Israeli security officer identified at trial only as "Avi." He said the groups aided by the Holy Land Foundation were unquestionably part of Hamas.

The defense countered with Edward Abington, formerly the U.S. consul general in Jerusalem and the State Department's second-highest-ranking intelligence official. Abington testified that during his years in the region, when he received daily CIA briefings, he was never told that the Palestinian charity committees aided by the Holy Land Foundation were controlled by Hamas.

In closing arguments, defense attorneys appealed to jurors to sympathize with the poor of Gaza and the West Bank who had been aided by the Holy Land defendants and to look skeptically at the claims of the Israeli security agent.

Without Holy Land, "I wonder where those families go," defense attorney Lindo Moreno told jurors. "I wonder where those children go. Do they go to the government of Israel? Does the cynicism and cruelty of this prosecution inspire any hope that these people will be helped?"