

FOR IMMEDIATE RELEASE

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CONTACT: Kathy Manley, (518) 434-1493, mkathy1296@gmail.com
Jeanne Finley, (518) 438-8728, finlandia@nycap.rr.com

PRESS CONFERENCE WILL DETAIL IMPACT OF NEW POLICY ABOUT NSA SURVEILLANCE EVIDENCE ON ALBANY “STING” CASE

The Muslim Solidarity Committee, Project SALAM, and the Aref-Hossain/Albany chapter of the National Coalition to Protect Civil Freedoms (NCPFC) invite all media to a **press conference** on **Tuesday, December 3 at 11:00 a.m.** at the new section of the **Masjid As-Salam, 280 Central Avenue** in Albany. Speakers will reveal details of the recently filed Reply Memorandum in Yassin Aref’s appeal, as well as the impact of a new Department of Justice policy about warrantless surveillance evidence on the Albany “sting” case.

Aref, the Albany imam convicted of material support for terrorism along with pizzeria owner Mohammed Hossain in a fictional FBI sting in 2006, filed a new appeal (called a 2255 post-conviction motion) in July 2013 that asked for his conviction to be overturned or for a new trial. The appeal was based on new evidence, obtained by Aref through a Freedom of Information Act (FOIA) request, that he had been misidentified by the FBI. The prosecution filed a response to the appeal in August, and now Aref’s defense has filed a reply to the prosecution. This Reply Memo notes that Attorney General Eric Holder announced on November 15 that the DOJ will notify defendants—*including those in past cases*—if evidence derived from NSA surveillance was used in their cases.

Classified Evidence

The *New York Times* reported on January 17, 2006 that warrantless NSA surveillance was used in Aref’s case, but over the years Aref and his attorneys have not been able to obtain any more information about it, since the information was classified. A still-controversial part of Aref’s 2006 trial featured the government’s use of secret evidence, which to date has never been seen by the defense, the jury, or Aref himself. Defense attorneys believe that this secret evidence included NSA surveillance.

Aref’s attorneys expect DOJ to notify Aref that NSA evidence was used in his case, but Aref also has good reason to believe that the information derived from this NSA evidence is false. Aref’s 2255 appeal highlights new evidence that shows that as early as December 2002, the FBI thought he was an Al Qaeda agent named Mohammed Yasin. But an Al Qaeda agent named Mohammed Yasin was killed in Gaza in 2010, and thus could not have been Aref. Aref’s attorneys believe that the government falsely and secretly told both the trial court in Albany and the 2nd Circuit Court of Appeals in New York City that Aref was part of Al Qaeda, and that this false information ensured both his conviction and denial of his original appeal in 2008.

Aref is serving a 15-year sentence at the low-security federal prison in Loretto, PA. His release date is October 2018.

Press Conference Speakers

Speakers at the December 3 press conference will include criminal defense attorney Terence Kindlon, Esq., Aref’s original trial attorney who submitted the 2255

appeal, and Honorable Dominick Calsolaro, outgoing Albany Common Council member who sponsored the “Albany Resolution” (passed by the Albany Common Council in 2010). The resolution called for the Justice Department to reopen all post-9/11 terrorism cases to determine whether classified exculpatory information was withheld from the defense. The Albany Resolution was based on a 2009 U.S. Inspector General report that recommended that the DOJ search for and provide exculpatory information in these cases—as all prosecutors must—yet until now the DOJ never acted on the recommendation.

Background of the New DOJ Notification

The new DOJ notification policy may have come about in part because of the recent leaks by Edward Snowden, public outrage over the scope of NSA surveillance, and because U.S. Solicitor General Donald B. Verilli, Jr. told the Supreme Court last year that information about NSA surveillance was indeed being provided in criminal cases. However, apparently unknown to Mr. Verilli, that was not true. After an internal battle within DOJ, the decision was finally made to start providing such evidence to defendants.

Kathy Manley, one of Aref’s attorneys, said, “We’ve been waiting since 2006 for this evidence, and then we learned that it involved a misidentification of our client. Now we are hopeful that the truth will finally come out.”

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- Complete Reply Memorandum online:

http://projectsalam.org/documents/11-25-13_Aref_Reply.pdf

- Arguments Contained in the 2255 Motion:

http://www.projectsalam.org/walk/press/2255_arguments_requests.pdf