

The Buffalo Six and Rambo III

THE HIGHLY CHOREOGRAPHED Friday the 13th (9/13/02) bust of Buffalo's supposed terrorist cell has finally culminated with a similarly choreographed string of sentencing hearings – and New York State's most notorious citizens are all off to the slammer.

Though identified in the national media, and later in George W. Bush's now infamous 2003 State of the Union speech, as a "terrorist cell," the Justice Department only charged the men with an ambiguous provision of the 1996 anti-terrorism law, "providing material support or resources to designated terrorist organizations." The passive voice "designated" in this case, means an organization that the US Secretary of State designates as fitting his department's description of "terrorist." Organizations such as South Africa's ruling party, the African National Congress, and the El Salvadoran opposition party FMLN, have in the past enjoyed such politically motivated State Department designations.

The September 2002 arrests seemed premature – much ado about nothing, but the FBI agent in charge, Peter Ahern, assured the media that the Bureau's investigation was ongoing, implying that more specific charges would eventually follow once the Lackawanna men were safely tucked away. *The Buffalo News* initially added fuel to the fires of speculation, reporting that, "The suspects are believed to have had contact with those involved in the September 11 attacks on the United States." They never quite said who "believed" this, other than, perhaps, their own misinformed readers.

It's now 15 months later. The FBI, it turns out, has not leveled any additional charges against the men. There is absolutely no indication that they had any connection with the predominantly Saudi 9-11 hijackers, as the media alleged. And the US Attorney readily admits that there is no indication that the men had any plans or intentions to engage in any sort of terrorist act. In short, John Ashcroft and George W. Bush's allegations of a

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Buffalo terrorist cell have proved false.

The falsehood of the terrorist cell allegation was apparent from the beginning. The day after the initial arrests, I attended a press conference at FBI headquarters. Security there was unusually lax although Governor Pataki, Congress Member Tom Reynolds, and a host of other politicians crowded into a small room with forty journalists for the purpose of verbally attacking al-Qaeda on live television. Reporters were able to bypass metal detectors as they rushed into the building carrying large cameras and other pieces of equipment. While announcing the presence of a terror cell in Buffalo, the FBI apparently didn't sense any real local terror threat.

Bling terrorists?

The suspects themselves didn't fit any existing terrorist profile. They hung with a crew of hip young Yemeni-Americans whose bling style of dress was clearly more influenced by MTV than by Islamic law. Press reports alleging that some of the suspects had expensive tastes, yet scant sources of income, seem more apt to support the supposed initial tip-off to the FBI that the men were involved in the drug trade. They were, after all, traveling in the heart of poppy country, associating with a group previously linked to the drug trade, and receiving a regimen of small arms training that would be the envy of any drug dealer.

This isn't to say that these men were involved in the drug trade, however, as some locals speculate – but at this point such a scenario seems more likely than the discredited "terrorist cell" myth. Yet the FBI never publicly pursued investigating these charges, although they could have yielded longer sentences than the ambiguous material support charge – especially in light of the fact that the 1996 law that the Lackawanna Six plead guilty to has already been ruled unconstitutional in a California federal court, and will likely be ruled unconstitutional by the US Supreme Court. The political reality here is simple. If these men, hypothetically, were charged as drug dealers, George Patacki wouldn't have flown to Buffalo to announce their arrest. George W. Bush wouldn't have been touting their arrest in his State of The Union address.

Like the initial arrests, the sentencing circus we just witnessed is little more than cheap political theater. The six men pleaded guilty earlier, with a full understanding of how they would be sentenced. The six days of sentencing amounts to little more than six days of a jingoistic media celebration of the rather ambiguous "war on terror."

Not Really a Bargain

The men all pleaded guilty in what the media calls, "plea bargains." A plea bargain, however, usually implies that a defendant is copping a plea to a lesser crime, whether or

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not they are guilty, to avoid the gamble of facing prosecution on a greater charge. These deals and the coercion behind them usually represent one of the most serious flaws in our legal system. But in this case, there seems to be a strange twist, with the men pleading guilty to the only serious crime they were charged with, while at the same time getting either maximum or near maximum sentences for such a crime. This hardly constitutes a bargain.

On face value, the pleas make little sense – forcing observers to try to scratch beneath the surface. If the six were facing drug charges, as some speculate, then eight to ten years might not have been such a bad deal – especially considering that the law they pleaded guilty to has already been struck down in the 9th Circuit Court, meaning they'll likely be freed when the Supreme Court affirms that decision in about two years. In the meantime, the Bush administration gets a Potemkin victory in the war on terror. There's no publicly available evidence, however, that their plea bargain involved waiving drug charges.

Democracy Now! host, Amy Goodman, alleges a different scenario. She cites one of the defense attorneys, who claims that the Justice department hinted that the men would possibly be deemed "enemy combatants" if they didn't plea guilty to the material support charge. Once classified as "enemy combatants," a new legal condition created by the Bush administration, the men would lose all of their constitutional rights as Americans, including their right to trial, their right to meet with lawyers and their right to communicate with their families. Given the political climate in the US prior to the Iraq war profiteering scandals, such a police-state nightmare scenario presented a real threat – especially since other American citizens had already found themselves thrust into this legal black hole. The defense attorney complained that this threat was "heavy handed," and influenced his client in his decision to plead guilty.

The execution of Defendant Seven

And then there's the case of Lackawanna resident and US citizen, Kamal Derwish. A potential codefendant of the Lackawanna Six, he was summarily executed without trial in Yemen by a CIA missile that incinerated the car he was traveling in. In Derwish's case, there were no pretenses of either a trial, or indefinite detention. His execution made legal history with the federal government squishing its toes into the mud of a post-constitutional America. No doubt Derwish's death also served to intimidate the remaining men into pleading guilty and remaining in the world of the living.

The 1996 law expands on previous prohibitions against supporting "terrorist activity," criminalizing any perceived support of any organization unilaterally identified by the Secretary of State as a supposed terrorist group, without regard as what constitutes such

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support. Hence, in this case, we have Americans going to jail for the crime of attending weapons training classes and listening to political speech. Both of these activities, however, are legally protected by the US constitution. Organizations ranging from the National Rifle Association to a host of mercenary training camps celebrated in *Soldier of Fortune* magazine, offer similar weapons training. Likewise, maintaining our right to hear political speech and even hate speech, offensive as it may be, are both central to maintaining our American political fabric. Nobody has ever gone to jail before for hearing a speech or practicing at a rifle range. In this case, there are no allegations of illegal actions or even plans to break the law.

Most people seem to have forgotten that the six men traveled to Afghanistan before the Sept. 11 attacks. This was before the onset of "the war on terrorism," at a time when it was legal to travel to Afghanistan, when the U.S. was funding supposed Taliban drug eradication efforts, and when U.S. oil companies were still hoping to cut a deal with the Taliban to build a trans-Afghanistan pipeline. None of these oil industry CEOs have been charged with providing material support for a terrorist organization.

Rambo IV - We were always at war with the Taliban

Last week I wrote about George W. Bush's Orwellian "memory hole." The Bush administration would like us to forget about our whole pre-9/11 relationship with the Taliban and Osama bin Laden. But the past keeps popping up. Recently, after the cancellation of a planned televised sporting event, a mischievous producer ran an old copy of Sylvester Stallone's *Rambo III* in its place. The multibillion dollar grossing *Rambo* series has proven itself a stalwart of late cold war propaganda, beginning with the first *Rambo* film in 1982, when Stallone single-handedly avenged the loss of the Vietnam war. In the 1988 film, *Rambo III*, Stallone helps the Mujahadeen Taliban in their fight to oust the Soviets and create a fundamentalist Afghanistan. This fictive account paralleled the real-life Reagan-Bush era efforts to arm, finance and train the organizations we now know as al Qaida and the Taliban.

Of course, timing is everything. Had he made *Rambo III* ten years later, perhaps he could have been facing a material support charge for creating propaganda in support of a terrorist organization. This, I would think, would be more serious than shooting targets and listening to speeches. Or, looking at it another way, had the Buffalo Six traveled to Afghanistan ten years earlier, *People* magazine would be profiling them as real-life *Rambos*, pedestrian as their trip might have been.

Stallone, in any event, seems particularly aware of the new embarrassing reality of *Rambo III* - a film that just about now he's probably wishing we'd all forget about.

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But this is the Bush era. We don't just ignore or forget history – the new tactic is to challenge it head-on. Hence, Stallone, rather than try to explain away his Taliban-loving character in Rambo III, is in Miami writing the script for a proposed fourth and presumably final Rambo film. This time the 55-year-old action hero returns to Afghanistan to, as ABC News puts it, "Kick some Taliban butt." Rambo III was simply dismissed away by ABC as the film where "our hero joined Afghan fighters to oppose Russian invaders." Any more detailed account of Rambo III, like the historical record of US support for the Taliban and al Qaida, is no doubt destined to be incinerated in the memory hole.

We have always been at war with the Taliban. Long live Rambo IV. Didn't the Lackawanna Six know this? ●

*Click here to read Michael I. Niman's September 16th 2002 column, **"Is the Buffalo, New York, Terrorist Cell for Real?"***