

CRIMINAL DEPARTMENT – SPOTLIGHT CASE 1

CASE: United States v. Georgianna Giampietro

WHERE: Nashville, Tennessee

WHEN: Set for Federal Criminal Trial in January 2022

WHAT: Muslim convert Georgianna Giampietro had studied Islam in depth, she was following the sad and shocking events in Syria on the news between 2016 and 2019, and she had read about the different political groups in Syria fighting against Bashar Al-Assad. In 2016, she very briefly was vocally supportive of ISIS online, but she quickly realized that they killed innocent people, were violating the laws of war in Islam and were creating fitnah (division amongst the Muslims). At this point Georgianna took it upon herself to vocally denounce ISIS, HTS and other terrorist groups in Syria in every online forum she was part of. Georgianna used authentic Islamic hadiths and verses from the Quran to explain to ISIS and HTS supporters on the internet that they were wrong, that the terrorist groups should not be supported and that there would be punishment for those who fought with them.

But the FBI had been investigating Georgianna since 2015 and had spent significant resources embedding multiple undercover agents into her real life, and multiple online covert agents into her online life. By 2019, after multiple ham-fisted attempts to entrap Georgianna into supporting one of these terrorist groups, the FBI needed to indict her for something, anything. They relied on Georgianna's caring nature and made her best friend, an undercover agent and fake fellow convert to Islam, decide to travel to Syria to join HTS. This came out of nowhere and was alarming to Georgianna who did everything she could to dissuade and discourage the undercover from traveling. The government used Georgianna's efforts to dissuade the undercover to charge her with attempting to provide material support to a terrorist organization.

What is worse is that Georgianna made charitable contributions to humanitarian organizations in Syria providing clean water, assisting widows and orphans, and assisting the disabled. The government could not and did not charge those charitable donations for many years. But they did want to use those charitable organizations to try and imply that the money could have gone to terrorists. CLCMA filed a motion to prevent the government from misrepresenting Georgianna this way. In response, the government came back in late 2021 and charged Georgianna's charitable contributions as attempts to provide material support to a terrorist organization. The facts in this case do not support this charge.

WHY IT MATTERS:

Muslim Community: Our Muslim attorney Board of Directors chose this case because it includes many of the serious issues of discrimination, prosecutorial overreach, and oppression the FBI and federal prosecutors use against Muslim Americans. These tactics are not new to Georgianna, they have been used against Muslims since 9/11 in many prosecutions that have instilled fear, paranoia and mistrust amongst American Muslims. CLCMA brings a specialized focus to these cases ensuring issues of religion and culture are properly understood and addressed in federal courts and that complex areas of national security law are navigated with

precision to ensure the government is held accountable for its actions and does not abuse the law. This is a sensitive and complicated area of law with nearly unlimited resources dedicated to it by the government and will take our continued dedication to uncover, and ultimately, to reform through acquittals and other litigation wins so that American Muslims are free from unjust scrutiny, unjust prosecutions, and the fear they create.

FBI Entrapment - The FBI is running sting operations across America, targeting the Muslim community by luring people into fake material support of terrorist organization plots. The FBI sends thousands of informants to comb through Muslim communities, spend time in mosques and community centers, and talk of radical Islam in order to identify possible targets sympathetic to such ideals. FBI agents then run a sting, often over the course of multiple years with informants and undercovers developing close relationships with the Muslim individual, sometimes being family friends, relatives, roommates etc. The FBI provides the plan, the money, the organization, and critical elements of a crime (i.e. telling the Muslim individual they “swore bayat”, an oath of allegiance to a terrorist group that most Muslims are completely unfamiliar with, but which *legally satisfies* the requirement that someone *intended* to support the organization).

Overuse and abusive tactics re undercover agents and informants – The FBI is expending outrageous resources to entrap often vulnerable Muslims who pose no threat, have never committed any crimes in the past, and are non-violent, often hard-working and functional members of society. Georgianna was a clinical social worker who had worked very hard to get through college, get a master’s degree, and satisfy her training requirements, all while accruing significant student debt. She did this to secure a better future for herself, her daughter and her elderly mother whom she supported.

There were multiple points in the FBI’s investigation that it should have realized Georgianna was not supportive of ISIS or HTS, that she would never travel to Syria, and was so focused on her real life and career that she was a positive contributor to her society, not a potential supporter of terrorism. Instead of closing the investigation, they dug their heels in and created a criminal scheme themselves to secure a federal prosecution.

Grand Jury/ Indictments – There is a famous saying among defense attorneys that one could “indict a ham sandwich in this country”. That is especially true in FBI entrapment investigations into Muslim individuals. It means that the FBI can, and does, criminally charge anyone they want with terrorism-related crimes, whether there are facts to support the charge, or not, whether the criminal charge is warranted, or not. In Georgianna’s case, they are charging her with attempting to provide material support to a terrorist organization because she gave a social media contact to her friend, the undercover, after talking to the social media contact about dissuading the undercover from wanting to travel to Syria.

They also charged her charitable contributions to humanitarian charities in Syria without having evidence to link her donations to any terrorist organization. They are counting on the jury to be so scared of, and disgusted by, the talk of “terrorism” that they will convict her without sufficient evidence rather than be responsible for releasing an alleged supporter of terrorism.

What's worse is that defense attorneys cannot be present when the federal prosecutors are presenting their case to the Grand Jury to get the indictment/criminal charges, so the grand jury never hears the Muslim individual's side of the FBI's unethical investigations so the Grand Jury always decides to indict them.

First Amendment - Most of the evidence in Georgianna's case consists of her speech online. She was in social media groups and forums where they discussed the news events in Syria and the many different groups that were emerging. A lot of her speech is political or religious, that means it is protected under the First Amendment. That is why her statements online that were supportive of Osama Bin Laden's religious ideology are not charged as crimes. But the government relies entirely on her protected speech for its criminal charges and all of that speech will be used at trial to prejudice the jury against her, as it is in many of these cases.

Georgianna's case also presents a unique First Amendment issue regarding her private speech on social media app, Telegram. On Telegram Georgianna had private communications about politics and religion and she set the app to automatically delete those messages, as millions of people around the world who use the app do every single day. But for Georgianna, the government is making an exception and charging her with an extra criminal charge of obstruction of justice for keeping her private speech private. This should be setting off free speech alarm bells for the entire country.

Government expert witnesses used to prejudice jury – The government has the burden of proving every element of the alleged crimes that they charge Georgianna with. In many of its entrapment prosecutions the government's case is weak, there is a lot of evidence of that highlights the FBI's unethical tactics, and there is often the issue of an innocent defendant. To cure these problems with these cases the government has used "expert witnesses" to explain away these issues to the jury and to misrepresent what the Muslim individual actually did, said, or meant. For many years they used Evan Kohlman as an expert on Arabic and Islamic issues, he had no expertise in this area and created shocking prejudice in his testimony. In Georgianna's trial the government wants to use Dr. Mia Bloom, a non-Muslim, government-associated academic who has written anti-Muslim and Islamophobia commentary for years.

Oppressive criminal sentencing – If convicted, Georgianna, a clinical social worker, single mother, with no criminal history, no victims, and no acts of violence faces up to **80** years in prison thanks to the government's terrorism sentencing enhancement. That enhancement has been used largely for Muslim defendant's and it increases their recommended prison sentence by 10, 20, 30, 40, 50 years and even up to life in prison.

The Federal Sentencing Guidelines have been heavily reformed in the last decade, but the terrorism enhancement is draconian, oppressive, and remains untouched. It designates first time offender Muslims as career criminals, something that has been undone in other areas of the law.

HOW WE ARE TACKLING THE ISSUES:

FBI Entrapment – From the beginning of this case we have highlighted the many problems with the FBI's investigation into Georgianna. We filed multiple motions to dismiss the case

where we extensively documented the factual background of the case, the FBI's extensive reliance on undercovers and informants, the weak basis of the case, and Georgianna's positive Islamic speech denouncing the terrorist organizations.

We have filed other sealed motions highlighting to the court the abuses of the government's entrapment scheme and we have educated the judge in detail regarding the FBI's investigation and the government's attempts to keep the details secret and hidden from the public. We are continuing to pursue this process and have filed motions and other documents to ensure this issue is central to the case.

Overuse and abusive tactics re undercover agents and informants – The FBI has a bloated multiple billion-dollar budget for its counter-terrorism operations, unfortunately it has not prevented actual terrorist attacks and has mostly entrapped innocent Muslims into awkward, years long entrapment schemes. There are technical limits on how federal prosecutors should manage these investigations, including deciding and reviewing their decisions to use undercover agents and informants, factors they should consider before each step of investigation including how it will be viewed by the public etc. These guidelines were not followed in Georgianna's case and we have highlighted these issues in our motions to the court and will continue to push the question: if the government crossed the lines with this entrapment in their investigation, how will they be held accountable?

Grand Jury/ Indictments – While defense attorneys cannot be present during the grand jury proceedings and therefore could not explain Georgianna's side of the FBI investigation, we have been holding the government very tightly to the indictment it was able to secure. We have filed multiple motions highlighting the government's numerous attempts to deviate from the indictment. Most recently we showed the court that the government was unable to secure a charge on Georgianna's charitable contributions when it indicted the first time, or the second time. The government then had a third chance, years later, and has now secured a late third indictment. But our motions and efforts to hold them accountable at every stage are highlighting the weakness of their case.

First Amendment – Georgianna's political and religious speech are protected. Her use of social media apps and deleting her private messages is also protected. Everyone uses social media apps, everyone can and does delete private messages, and no one has a duty to record their private conversations for the FBI's use. We filed two motions to dismiss those charges and we filed replies to the government's responses to those motions. The issue is preserved for appeal and we will continue highlighting the importance of these novel and dangerous charges.

Government Expert Witnesses used to prejudice jury – We are very familiar with the government's use of these expert witnesses to hide the weaknesses of their case and prejudice the jury. We have filed a motion and a reply with the court arguing vigorously against the court allowing Dr. Bloom to testify. We highlight the biased and bigoted sources she relies on and the inaccurate and illegal forms of testimony the government wants to have her make. We are able to explain the actual Islamic meaning and significance of different sayings, actions, and texts and

are educating the courts on the issues of Islam and politics that the government wants to have these experts misrepresent.

Oppressive criminal sentencing – Georgianna is currently scheduled for trial in January 2022. We are working very hard to prepare every issue for this trial to ensure we employ the best strategies, to prepare for every witness and issue so that our presentation to the jury will make it clear that Georgianna is innocent, and the FBI and the government were wrong to take things as far as they have for as long as they have.

If Georgianna's case proceeds to sentencing, we will fight hard to ensure the draconian terrorism enhancement is not applied to her case. We have been carefully analyzing the evidence in the case and have explained in numerous motions that Georgianna hated ISIS and HTS and did not think anyone should join any terrorist group in Syria. We have tackled this enhancement with all of our criminal clients, we have filed appellate briefs tackling this issue and we will continue to highlight the dozens of ethical, constitutional, and discriminatory problems with the enhancement.