

ACLU CHALLENGES GOVERNMENT'S STIGMATIZING OF MAINSTREAM MUSLIM GROUPS IN HOLY LAND CASE

Group Asks Court To Clear Names Of Two Organizations Unconstitutionally Labeled 'Unindicted Co-Conspirators'

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DALLAS - The American Civil Liberties Union and the ACLU of Texas filed a legal challenge today to clear the names of two mainstream Muslim organizations labeled by the government as "unindicted co-conspirators" in its criminal case against the Holy Land Foundation (HLF). Government attorneys publicly identified the Islamic Society of North America (ISNA) and the North American Islamic Trust (NAIT) as co-conspirators before the HLF trial, even though neither organization was the subject of a criminal investigation or charged with any crimes.

"By publicly branding these groups as criminals without providing a forum for them to defend themselves or clear their names, the government has acted with blatant disregard for their constitutional rights," said Hina Shamsi, staff attorney with the ACLU National Security Project.

"The government's action is especially shameful because the charge it makes is so inflammatory - it has caused each organization's reputation and good name to be dragged through the mud. The government has a constitutional obligation to correct the record and clear the names of ISNA and NAIT."

In a pre-trial brief in the HLF case - which ended in a mistrial last fall and is scheduled for a retrial in September - government lawyers broke with Department of Justice policy and settled law when they publicly labeled ISNA and NAIT as unindicted co-conspirators in a prosecution alleging that the Holy Land Foundation, a Muslim charity, provided material support for Hamas. The government conceded, however, that it had absolutely no evidence proving that either ISNA or NAIT had engaged in a criminal conspiracy. The lead prosecutor in the case told lawyers for the two organizations "that ISNA and NAIT were not subjects or targets in the HLF prosecution or in any other pending investigation." The prosecutor also acknowledged that the public labeling was simply a "legal tactic" intended to allow the government to introduce hearsay evidence against HLF later at trial.

Both ISNA and NAIT are mainstream charitable organizations that provide valuable services to the Muslim community and beyond. ISNA supports American Muslim communities, develops educational, social and outreach programs and fosters good relations with other religious communities as well as civic and service organizations. NAIT holds in trust titles to mosques, Islamic centers, schools and other real estate belonging to Muslim communities across the U.S., enabling these communities to safeguard and pool their assets in accordance with U.S. law and Islamic principles.

"ISNA's goal is to promote the participation of American Muslims in this country's civil and political life, and in interfaith dialogue," said Ingrid Mattson, President of ISNA. "Our efforts have been severely undermined by a government-imposed stigma and the inflammatory misrepresentation of ISNA in the public sphere. Until now, we've had no way to clear our names and we're asking the court to set the record straight."

In today's motion, the ACLU is asking a federal court to declare the government's public naming of ISNA and NAIT as unindicted co-conspirators a violation of the Fifth Amendment; to order the expunging of the organizations' names from any public record that identifies these groups as unindicted co-conspirators; and to block the government from labeling ISNA and NAIT this way in the future without specific permission from the court.

"The violation of the rights of these groups implicates both their reputations as well as core constitutional principles like the Fifth Amendment's presumption of innocence," said Lisa Graybill, Legal Director of the ACLU of Texas. "The law is clear - the harm ISNA and NAIT have suffered must be remedied."

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