

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**Case No. 13-20772
Hon. Gershwin A. Drain**

RASMIEH ODEH,

Defendant

MOTION TO DISMISS INDICTMENT AND BRIEF IN SUPPORT

NOW COMES the defendant Rasmia Odeh, by her undersigned counsel and respectfully requests that this Court dismiss the above-entitled indictment as it is the product of an illegal investigation into the First Amendment activities of the Arab-American Action Network (AAAN) and intended to suppress the work of the defendant in support of the Arab community of Chicago.¹ In support of this request the defendant states the following:

1. In January of 2010, the FBI and office of the United States Attorney for the Northern District of Illinois were involved in the investigation of the AAAN

¹ When present counsel appeared before the prior judge on May 25, 2014, to replace appointed counsel, who had filed no pre-trial motions and expected to plead the defendant, new counsel was told that the time to file pre-trial motions had passed. Your undersigned objected arguing that new counsel should have the opportunity to file pre-trial motions since prior counsel had not done so. Judge Borman nonetheless refused to allow new counsel to file pre-trial motions. Since your Honor has now been assigned to replace Judge Borman, and since due process and fundamental fairness should allow the defendant to file pre-trial motions, the defendant submits this motion.

including its Executive Director, Hatem Abudayyeh and its Assistant Director, the defendant, Rasmae Odeh.

2. The AAAN is a well-respected community organization that provides social service and counseling to the Arab community of Chicago.
3. Members of the AAAN were surveilled and visited by the FBI and as a result of this investigation, the defendant was targeted by the Northern District of Illinois, U.S. Attorney's office.
4. In January of 2010 the Assistant U.S. Attorney, Brandon Fox, as part of his investigation into AAAN, initiated a request through the office of International Affairs, Criminal Division, of the U.S. Department of Justice from the State of Israel for records of the defendant.
5. In September of 2010, the FBI raided the home of AAAN Executive Director, Hatem Abudayyeh, and six other community and political activists.
6. Following the raids the U.S. Attorney Fox subpoenaed Mr. Abudayyeh and 25 other activists and supporters of justice for Palestine to a grand jury. The U.S. Attorney through the grand jury also subpoenaed the records of the AAAN.
7. The grand jury never returned any indictments from this investigation.
8. In July of 2011, the State of Israel provided to the Justice Department several hundred documents purportedly supporting the claim that Ms. Odeh

had been arrested, convicted and imprisoned by the military legal system imposed by Israeli in the West Bank.

9. Over two years later, with nothing to show for its raids in 2010, Ms. Odeh was indicted for falsely answering questions in 2004 in her naturalization application.

10. Interestingly, the indictment was obtained by the office of the United States Attorney's office from the Eastern District of Michigan through a grand jury sitting in the Eastern District of Michigan.

11. The United States Attorney in Illinois, which was the office that initiated the request for the Israeli documents and was carrying out the investigation, apparently passed the case to the office in Michigan, to divert attention from its failed efforts to criminalize the work of the AAAN in Chicago.

12. Ms. Odeh's indictment is the product of an illegal investigation into the First Amendment activities of the AAAN, and should be quashed as politically motivated and based on the selective use of the criminal law to target protected political work.

13. Pursuant to local rule the government was notified of this motion and stated that they are not in concurrence with its request.

WHEREFORE, the defendant requests discovery of the communication between the U.S. Attorney's office in Chicago and Detroit concerning the decision to indict

Ms. Odeh, an evidentiary hearing on the above- enumerate claims, and at the conclusion of such hearing the dismissal of the above- entitled indictment.

Respectfully submitted,²

Dated: August 13, 2014

/s/Michael E. Deutsch

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² A substantially similar motion to the above motion was filed as an exhibit in response to the government's motion in *limine* to preclude any claim at trial of selective enforcement. The exhibit was attached to make a record that if the defendant was allowed to file pre-trial motions he would have filed this motion.

BRIEF IN SUPPORT MOTION TO DISMISS INDICTMENT

The defendant has moved to dismiss her indictment based on the claim that it is the result of on an improper political motive to suppress the First Amendment protected work of her organization of which she is the deputy executive director, the Arab-American Action Network (AAAN). “Although prosecutorial discretion is broad it is not unfettered. Selectivity in the enforcement of the criminal law may not be deliberately based upon an unjustifiable standard such as race, religion or other arbitrary classification, *including the exercise of protected statutory and constitutional rights.*” *Wayte v. United States*, 470 U.S. 598, 608 (1985) (emphasis added)

The defendant has alleged that she and her organization was targeted by the government for their political work with the Arab community of Chicago. The defendant asserts that her indictment is the product of this discriminatory purpose and should be dismissed. The defendant is seeking an evidentiary hearing after discovery of the communications between the U.S. Attorney Offices in Chicago and Detroit. At the close of such hearing the defendant seeks the dismissal of her indictment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Michael E. Deutsch, hereby certifies that he has filed the above motion to the parties of record through the ECF system on August 13, 2014,

/s/ Michael E. Deutsch