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Democracy Dies in Darkness

After 20 Years, Deportation Case Against Palestinians Dismissed

By R. Jeffrey Smith
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A federal immigration judge in Los Angeles yesterday dismissed a 20-year-old effort by the U.S. government to deport two Palestinian activists who once supported a group later determined to be a terrorist organization, calling Washington's lengthy case against the men "an embarrassment to the rule of law."

Judge Bruce J. Einhorn acted in response to what he described as repeated failures by the FBI and the Department of Homeland Security to comply with his order to turn over any potentially exculpatory information about Michael Shehadeh and Khader Hamide.

Arrested on Jan. 26, 1987, because they distributed magazines and raised money, while students, for the Popular Front for the Liberation of Palestine, the men have maintained ever since that their activities were not unlawful and did not constitute terrorism.

"We did nothing wrong, but have a political view maybe contrary to that of the government," Shehadeh said yesterday. "I am flying high, and thinking this is the moment I've been waiting for for 20 years." He added, however, that his long legal battle has "engraved inside me" a sense of caution until the government decides whether to appeal.

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Virginia Kice, a spokeswoman for U.S. Immigration and Customs Enforcement, said that the agency "finds the judge's decision troubling as a matter of fact and law" and that "the agency is considering its legal options."

Einhorn -- who opened his ruling with a William Knox poem affirming that life must eventually come to an end -- wrote that the government had failed to respond appropriately to a June 2005 order to produce information sought by the activists and their lawyers, David Cole of the Center for Constitutional Rights, Marc Van Der Hout of the National Lawyers Guild and Ahilan Arulanantham of the American Civil Liberties Union.

That order followed similar demands by the court in 1986, 1993 and 1994.

One DHS official, who insisted on anonymity in discussing ongoing litigation, said the judge had issued exceedingly broad demands for documents in the case and that the government had done its best to comply.

A letter of response by FBI Assistant General Counsel John M. Clarkson III in March 2006 -- after a delay during which "one could conceive, carry, and deliver a child," according to the judge -- contained "errors and extrajudicial rewriting" of the 2005 order and disregarded its scope, Einhorn wrote.

If a judge cannot respond by penalizing the government, Einhorn said, he would be "reduced to the status of a Blanche DuBois, who must rely on the kindness of strangers." Homeland security, he said, "begins and ends with fidelity to the safety of the law as a shield against unregulated government power."

Staff writer Dan Eggen contributed to this report.