

# Ex-U.S. attorney in terror case is indicted

Perjury, deception alleged in obtaining 2003 conviction

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DETROIT — Richard Convertino, the one-time federal prosecutor who triumphantly won two convictions in the nation's first terror trial after Sept. 11, was indicted Wednesday on charges that he built that case on perjury and deception.

The four-count indictment alleges Convertino and Harry Raymond Smith III, a State Department security officer in Amman, Jordan, concealed photographs and lied under oath about a hospital in that country that was supposedly a terrorist target. The pictures could have helped the defense attorneys, authorities say.

"They put a lot of people through a lot of misery. They didn't do their jobs," said William Swor, the attorney for one of the men convicted in the case.

The indictment marks another low point for the government in the disastrous Detroit sleeper cell case. Convertino promised a vigorous defense. "I'm going to continue to speak out and expose the corruption of this. If they think I'm going to be scared off by this, they picked the wrong guy."

"It's an outrage, and it's unprecedented that an assistant United States attorney would be



Convertino

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indicted under these circumstances," said Jeffrey Del Fuoco, one of Convertino's Washington, D.C.-based lawyers.

Drew Wade, a spokesman for the Justice Department, declined to comment about the indictment but said an investigation stemming from the terror case continues.

If convicted, Convertino faces up to 30 years in prison and a \$1 million fine. Smith faces up to 20 years and a \$750,000 fine.

Convertino, 45, has sued the Justice Department, claiming it has mismanaged the war on terrorism. Del Fuoco suggested the indictment may be intended to scuttle Convertino's lawsuit.

The indictment, expected for weeks, primarily centers on the hospital pictures and steers clear of Youssef Hmimssa, the government's star witness whose veracity was called into question after he was caught in a series of lies by U.S. District Judge Gerald Rosen.

Convertino and Smith, 49, are both charged with obstruction of justice stemming from allegations that they corruptly influenced the trial's outcome and that they thwarted the subsequent investigation.

The indictment implicates but doesn't charge Mike Thomas, the lead FBI agent in the case, in a conspiracy to lie under oath and withhold evidence from defense attorneys. Thomas was compelled to testify in the investigation and received at least partial immunity from prosecution.

The Detroit terror case against four North African immigrants began six days after the Sept. 11 attacks. In June 2003, a jury convicted two of the men of terror-related charges and another man of document fraud. The fourth man was acquitted.

At the time, then-Attorney General John Ashcroft trumpeted the verdict as a victory in the nation's ongoing war on terror.

Legal scholars called it a victory for the criminal justice system because it validated that even cases with sensitive national security matters could be handled by traditional juries.

But serious problems about

evidence and witnesses began seeping out after the verdict. By March 2004 — after Convertino sued the Justice Department — the government opened a criminal investigation of him. In August 2004, it asked Rosen to dismiss the terrorism convictions and acknowledged the case was fraught with errors and problems.

The Jordanian hospital and the area around it were contentious parts of the government's case against Abdel-Ilah Elmaroudi, Karim Koubriti, Farouk Ali-Haimoud and Ahmed Hannan.

Pictures of the hospital taken by the government did not exactly match a suspected sketch of it, a point that defense attorneys would have exploited during the trial if they had seen the photos.

A day planner found inside Koubriti's low-rent apartment had a sketch with the Arabic words "Queen Alia" and "Hashemite Kingdom of Jordan." In February 2002, Convertino and Thomas went to Jordan and, after visiting several sites, determined the sketch must be a hospital with the queen's name.

According to the indictment, Convertino had Smith take aerial pictures of the hospital in March 2002 ostensibly to bolster their contention that the sketch was of the hospital.

Six months later, Smith had ended his assignment in Jordan and in an e-mail asked a colleague to again take pictures of the site because his "never really came out."

The subsequent pictures were sent to Ed Seitz, a State Department agent working in Detroit. Seitz, who has since died in Iraq, passed the pictures to Convertino in February 2003, the indictment claims.

During the trial, Thomas testified that the sketch was "detailed" and an "almost exact representation" of the military hospital.

Convertino later questioned Smith on the witness stand about the sketch and the layout around the hospital. Smith told jurors that the area "started to match the sketch 'exactly' in his mind," the indictment says.

But, the indictment says, the pictures Convertino received

"contradicted parts of the testimony."

Throughout the trial, defense lawyers were incredulous that the government had sent Convertino and Thomas to Jordan but had returned with no pictures to help confirm their suspicions about the sketch and the hospital.

Smith told defense lawyers that government rules made it impossible for him to take such pictures.

Later, when the case was under investigation, Convertino told officials he shared the pictures with veteran prosecutor Keith Corbett, who joined the case before the trial.

Corbett, who testified before the grand jury in the Convertino inquiry, denied seeing the pictures before or during the trial.

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