

Friday, December 7, 2007

Recharging batteries at premier of "USA v. Al-Arian"

Â Bill of RightsÂ (From public domain.)Â Two nights ago, I attended the D.C. premier of USA v. Al-Arian, whose sponsors include two organizations to which I belong: the local American Civil Liberties Union and the local National Lawyers Guild. On this snowy night, the tickets were sold out in advance, and the great majority of the seats were filled. I blogged in advance hereÂ about Sami Al-Arian and this event. Â USA v. Al-ArianÂ not only focuses on the gross overkill and overly-hyped prosecution, very successful defense, and personal and family turmoil involved in the years-long prosecution of Sami Al-Arian, but also provides a window into the dehumanization, government brute force, and challenges for defendants not to beÂ broken down that is common in the American criminal justice and incarceration system. For around eighteen months, director Line Halvorsen and her crew closely followed the comings and goings of the Al-Arian family -- including countless intimate family moments at their home -- as it struggled forward after Sami's arrest several years ago, during his six-month trial, after his acquittal on most counts and a 10-2 hung jury on most of the remaining counts, and pleading guilty to one of the lesser counts only to have the judge deviate to the top of the guidelinesÂ from the prosecutor's recommendation for a sentence at the bottom of the guidelines.

Â Today,Â Sami sits in Virginia's Northern Neck Regional Jail under a civil contempt order from federal judge Gerald Lee (E.D. Va., Alexandria Div.) for refusing to give immunized grand jury testimony, thus frustrating the very reason he entered a guilty plea, which was finally to put this case behind him and to start over in a new country, rather than moving on to an expectedÂ multi-year challenge against otherwise likely efforts to deport him. Â Following the film was a top-notch panel discussion moderated by Democracy Now's Amy Goodman, who always floors me for her excellence in presentation, regardless of the strong biases (many of which I agree with) that she wears on her sleeve and through her on-mike voice. Florida lawyer Linda Moreno -- who defended Sami in his criminal trial along with D.C. lawyer Bill Moffitt, whoÂ tells reporters in this film that the case is about First Amendment rights -- struck me heavily in real life, in the film and on the panel with her calmness andÂ absence of any displayed anger. She clearly believes strongly in his legal cause and against Sami's prosecution, sentence, and current civil contempt incarceration. Nevertheless, she exudes calmness and optimism. In so doing, she is a critical teacher for me. Â George Washington Law School Professor Jonathan Turley -- who leads Sami's legal team (along with lawyers at the Bryan Cave law firm)Â fighting his current civil contempt incarceration -- presented an interesting mix of ongoing optimism in the American legal system with being strongly convinced that Sami's getting a raw deal. Georgetown Law School Professor David Cole -- previously with the Center for Constitutional rights when William Kunstler was there, where David's work included defending flag burning cases -- presented the matter in starker terms, including voicing strong dissent at the Bush Administration's efforts to shred the Bill of Rights, and urging non-violent resistance (in that regard, I think he included mention of speaking out and getting this USA v. Al-Arian film shown -- in the last paragraph of this blog entry, I tell you where to order the film) to such a state of affairs. Linda Moreno, Jonathan Turley, and David Cole in particular helped me recharge my batteries for the passionate defense of the Bill of Rights by putting the whole matter in a context that includes and goes well beyond Sami's plight. Â After the panel discussion, I finally met Linda Moreno for the first time. That alone would have been worth taking time out that night. Before my January 2006 O'Reilly Factor interviewÂ where I supported the dismissal of Sami's prosecution after the jury returned its verdict, Linda spent substantial time bringing me up to speed on what had happened in the courtroom during the course of the six-month trial, and she did so at a moment's notice, because I was only called to be on the show the same day that it aired. Â I also met Sami's eldest son Abdullah. On the panel, he included a discussion of his father's weeks long hunger strike earlier this year that seriously weakened his health and made him drop fifty pounds. He also said that the United States Marshals Service denied his request this year for a hernia operation, saying not unless the situation was life-threatening. Earlier this year, Amnesty International stated its concerns about alleged ill-treatment of Sami by his jailers, due to views that he is a terrorist. Amnesty's public statement in part says: Â "Amnesty International has raised concern before about Dr Al-Arian's treatment in prison, in particular the harsh conditions under which he was held for three years of pre-trial detention, when he was confined to a cell for 23 hours a day with inadequate exercise. In its latest letter, AI expressed concern about reports that Dr Al-Arian had been moved to an isolation cell in the Virginia jail where he is currently held, with no reason given. "Dr Al-Arian was due to be released from prison in April 2007. However, in November 2006 he was sentenced to a further 18 months' imprisonment for refusing to testify before a grand jury investigating another case. His attorneys claim that this was in breach of a plea bargain agreement. Amnesty International has called on the Attorney General to review Dr Al-Arian's case to determine whether use of the grand jury proceeding was politically motivated."Â One of the panel members -- I think it was David Cole or Jonathan Turley -- said that the Bush II administration's anti-terrorism campaign includes efforts to chill SUSPECTED terrorists. One of these two also said that a huge problem is that Bush II and his gang do not have a crystal ball about who will or will not commit terrorist acts. Of course, in the process of its anti-terror campaign, the Bush II regime has been terrorizing plenty of innocent Moslems, among others. Â I also met the film's director, Line Halvorsen, who flew from her home in Norway. I mentioned to her that one of my law school classmates seemed hesitant about

attending the film, apparently concerned about Sami's very different views from his (and from mine) about Israeli-Palestinian relations. She felt that Jewish people -- from their own history of struggling against oppression -- should be able to identify with the oppression of Palestinians, which makes sense. A line mentioned earlier during the program that a television broadcast of this documentary was rejected by PBS and the other American broadcast outlets she approached, whereas some European stations accepted it for broadcasting. For me, the jury is out about whether PBS's rejection of the film represented fear of lost funds from corporations, individuals and the government (and/or non-financial-based censorship) versus an acknowledgment that the film shows a very strong bias that came out in the production and editing process. I do not dissent from the film's bias, however, and encourage everyone to see it. The film is available here in DVD format for around \$33 after shipping and handling, converted from Norwegian kroner. This is the Norwegian version of the film -- the English version is not yet available on DVD -- but I understand from talking with the director and reviewing the film's website that the only significant difference is that the Norwegian version includes Norwegian subtitles (and, possibly, the Norwegian language in the brief introductory and ending text). However, all speaking is in English, except that English subtitles are provided during the few scenes where Sami and his family are talking in Arabic. When inputting your credit card information to buy the film online, the entire ordering process will be in English until you are asked to input your credit card information, where the format will make it easy to understand the information being sought; the prompts for selecting the credit card type, card number and expiration date will be obvious, and the remaining input is the three-digit security code on the back of the card. If you watch the film, I will welcome your feedback. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00