

Source: [News & Business](#) > [Combined Sources](#) > **News, All (English, Full Text)** 

Terms: **detroit free press and terror case prosecutor and date is 2004** ([Edit Search](#) | [Suggest Terms for My Search](#))

 Select for FOCUS™ or Delivery

Terror case prosecutor is probed on conduct Detroit Free Press January 17, 2004, Saturday

Copyright 2004 Knight Ridder/Tribune News Service
Knight Ridder/Tribune News Service
Detroit Free Press

January 17, 2004, Saturday

SECTION: DOMESTIC NEWS

KR-ACC-NO: K6685

LENGTH: 1922 words

HEADLINE: Terror case prosecutor is probed on conduct

BYLINE: By David Ashenfelter

BODY:

DETROIT _ The U.S. Justice Department is investigating possible misconduct by the lead prosecutor in last year's terrorism trial in Detroit, a development that could force a new trial.

Department officials told the Detroit Free Press this week that U.S. Attorney Jeffrey Collins requested the investigation last November after discovering possible ethical violations involving the prosecutor, Assistant U.S. Attorney Richard Convertino.

The inquiry is being conducted by the Justice Department's Office of Professional Responsibility (OPR), according to the officials, who spoke on condition of anonymity, fearing repercussions.

They said Collins told the department that Convertino:

Failed to get approval before arranging plea deals and sentence reductions for several criminal defendants.

Tried to persuade a pretrial services employee at U.S. District Court to dig up damaging confidential information about a federal prisoner, Omar Shishani, so Convertino could discredit him at the terrorism trial. Shishani testified that Convertino's star witness, Youssef Hmimssa, was lying about the defendants in the terrorism case.

Failed to inform another federal prosecutor before he approached a drug defendant to assist in the terrorism case. The other prosecutor wasn't aware of what Convertino had done until the man's lawyer asked for a reduction at sentencing, catching the other prosecutor off guard.

Withheld evidence that defense lawyers could have used to attack the credibility of Hmimssa's trial testimony. Then, he threatened to launch a baseless criminal investigation against the lawyer when the lawyer threatened to report Convertino's conduct to the judge.

Collins wouldn't discuss the investigation.

Convertino said Collins and two of Collins' top assistants are trying to destroy his reputation and career.

"This is so untrue, one-sided and about as low as it gets," Convertino told the Detroit Free Press on Friday.

His lawyer, former federal prosecutor William Sullivan of Washington, D.C., said "Obviously, I can't comment on the existence of an OPR investigation. But to the extent such allegations exist, we categorically deny them as untrue and unsubstantiated.

"The fact that anyone would approach the media with information relating to the purported existence of such an investigation is highly suggestive of reprisal and retaliation. It's unethical, illegal and improper," Sullivan said.

Sullivan said he is disturbed that the names of government informants were disclosed, jeopardizing their safety. He said he plans to request an investigation by the Office of the Inspector General.

Defense lawyers for the convicted terrorism defendants said the charges are alarming.

"If this all turns out to be true, then they've got a rogue prosecutor on their hands," said deputy federal defender Richard Helfrick, who is defending a suspect in the terror case.

He said the allegations, if proven, could affect whether the terrorism defendants get a new trial.

The allegations surrounding Convertino also raise questions about whether the terrorism case _ despite being a high-profile matter within the Justice Department _ was being monitored closely by people up the chain of command.

The OPR, the internal affairs section of the Justice Department, will issue findings, which Collins can use in deciding whether to discipline Convertino. The discipline, if any, could range from a reprimand to dismissal. The OPR has asked Convertino to respond.

Convertino, 42, a prosecutor since 1991, was the lead prosecutor in last year's federal terrorism trial in Detroit. Two men were convicted of conspiring to support terrorism. The Bush administration hailed the verdicts as a major victory in the war against terror.

The trial has produced controversy and acrimony.

Defense lawyers repeatedly complained that Convertino and his boss, Keith Corbett, head of the office's Organized Crime Strike Force Unit, concealed witnesses, held back evidence favorable to the defendants and engaged in other improper tactics that prevented the suspects from receiving a fair trial. The prosecutors denied doing anything improper.

Corbett could not be reached for comment.

U.S. District Judge Gerald Rosen criticized the prosecutors at a hearing last month for withholding evidence that defense lawyers might have used to impeach Hmimssa's credibility. Corbett's boss, Alan Gershel, chief of the criminal division, told Rosen that he had ordered Corbett to turn over the evidence. Corbett said he couldn't recall receiving the order. Rosen is expected to decide within weeks whether to order a new trial.

Collins removed Convertino and Corbett from the case in early September, just days before Convertino and Hmimssa testified before the Senate Finance Committee in Washington about document fraud. Insiders said Convertino failed to clear the trip with the Justice Department. It's rare for line prosecutors to address Congress. Convertino said he received a subpoena

from the committee on short notice and couldn't ignore it.

At the hearing, Senate Finance Committee Chairman Charles Grassley, R-Iowa, praised Convertino as "a model public servant. And as far as I am concerned, you should be hailed as a hero." Grassley has accused Collins and Attorney General John Ashcroft in a series of letters of trying to retaliate against Convertino for appearing before the committee.

Collins hasn't responded publicly to Grassley's charges or explained why he removed the prosecutors from the case. This month, Convertino went to work for Grassley's Senate Caucus on International Narcotics Control for six months to a year. He remains on the Detroit office's payroll.

People who know Convertino describe him as a tough, no-nonsense, competitive prosecutor who is well-liked by federal agents. Defense lawyers say his determination to win has caused him to break court rules.

"I do not believe anyone in the United States Attorney's Office is attempting to ruin his reputation _ I think he's well on the road to accomplishing that himself," said Detroit lawyer Robert Morgan, a former federal prosecutor who won the only acquittal in the Detroit terrorism trial. Morgan said Convertino's conduct, "is in no sense representative of the other prosecutors in his office, who conduct themselves in a manner consistent with the highest professional standards."

Detroit criminal lawyer Steve Fishman added: "Nothing that comes out about his conduct surprises me because he believes in trial by ambush."

Fishman last year defended NBA star Chris Webber against charges of lying to a federal grand jury. Convertino prosecuted the case.

Officials said much of the OPR investigation focuses on Convertino's dealings with Marwan Farhat, 34 of Dearborn, Mich., who was indicted in March 2001 on cocaine distribution charges.

Farhat, an illegal immigrant from Lebanon with two prior weapons convictions, spent nine months in custody awaiting trial in the drug case before Convertino arranged his release in December 2001 to become an informant in the terrorism case.

Farhat spent hundreds of hours at the U.S. Attorney's Office translating Arabic tapes seized in a flat where three terror defendants lived. Officials said he also frequented bars in Dearborn to pick up information for terrorism investigators.

In exchange for Farhat's help, officials said, Convertino asked U.S. District Judge Julian Cook to sentence Farhat to eight months in prison rather than the 9 to 11 years called for by federal sentencing guidelines in the drug case. Prosecutors almost never recommend reductions below half of the guideline range. Collins told the OPR that Convertino improperly calculated Farhat's sentence by failing to take into account all of the cocaine Farhat had sold agents or informants.

At Farhat's closed-door sentencing in July 2003, officials said, Convertino told Cook that Farhat had turned his life around and provided invaluable assistance in the terrorism probe. In response, Cook sentenced Farhat to the nine months he had previously spent in custody and approved Convertino's request that Farhat forego three years of probation. Prosecutors and lawyers say it is virtually unheard of for defendants to be released without supervision. Officials said Convertino also told Cook that he wanted to obtain a special visa that would allow Farhat to stay in the United States.

Farhat told Cook that Convertino also had asked him to testify before Congress _ an

indication that Convertino had been working with Grassley's committee at least two months before Convertino said he was subpoenaed at the last minute to testify.

Officials said Convertino failed to clear Farhat's plea deal with superiors, a procedure designed to ensure that sentence reductions are in the best interests of the United States.

They said Convertino also persuaded the Dearborn Police Department to seek the dismissal of felony charges in Wayne County Circuit Court against two defendants accused of beating a Dearborn physician outside his clinic in May 2000. Officials said Convertino told police he wanted to fold the case into a broader federal probe, but he never filed any federal charges. He also never told Cook that Farhat also was a suspect in the beating, officials said.

The case was never prosecuted.

"Basically, you've got two people walking around who tried to murder a doctor and got away with it," one Justice official remarked.

Farhat's whereabouts are unknown.

Defense lawyers in the terrorism trial said they weren't aware of Farhat's involvement.

"I'm astounded that with all of the interpreters they have on the payroll, they would turn to a suspect in a narcotic trafficking case to act as an interpreter," said Helfrick, the deputy Federal Defender.

Helfrick said defense lawyers always had been led to believe that an FBI interpreter translated the tapes.

Another part of the OPR probe involves Convertino's dealings with Abed Makalda, 33, of Dearborn, who was indicted in December 2001 for allegedly conspiring to distribute methamphetamine. Makalda, an illegal immigrant, pleaded guilty in September 2002 to a cocaine conspiracy charge and eventually was sentenced to 52 months in prison.

Justice Department officials said Convertino approached Makalda without telling Assistant U.S. Attorney William Sauget, who was handling Makalda's case. It's unclear what services Makalda provided Convertino, but Sauget expressed surprise at sentencing when Makalda's lawyer asked the judge to impose a shorter sentence based on Makalda's "substantial assistance" in Convertino's terrorism case.

Sauget objected, saying Makalda had repeatedly lied to investigators about his own case, according to a transcript of the sentencing.

"Four attempts were made by the DEA (Drug Enforcement Administration) to debrief this individual and four times, he kept coming up with fairy tales," Sauget said at Makalda's sentencing.

Sauget then made the kind of remark defense lawyers rarely hear from federal prosecutors. They said he told the sentencing judge that if Convertino ever called Makalda to testify, Sauget would provide defense lawyers with information to impeach Makalda's credibility.

Convertino told Rosen during a hearing last month that it is improper for one prosecutor to approach a defendant in another prosecutor's case without the other prosecutor's approval.

—

(c) 2004, Detroit Free Press.

Visit the Freep, the World Wide Web site of the Detroit Free Press, at <http://www.freep.com>.

JOURNAL-CODE: DE

LOAD-DATE: January 17, 2004

Source: [News & Business](#) > [Combined Sources](#) > **News, All (English, Full Text)** 

Terms: **detroit free press and terror case prosecutor and date is 2004** ([Edit Search](#) | [Suggest Terms for My Search](#))

View: Full

Date/Time: Monday, July 24, 2006 - 11:00 AM EDT



[About LexisNexis](#) | [Terms & Conditions](#)

[Copyright](#) © 2006 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.