

## Informants' actions key in Fort Dix terror plot case

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CHERRY HILL, N.J. -- He railed against the United States, helped scout out military installations for attack, offered to introduce his comrades to an arms dealer, and gave them a list of weapons he could procure, including machine guns and rocket-propelled grenades.

These were not the actions of a terrorist, but of a paid FBI informant who helped bring down an alleged plot by six Muslim men to massacre U.S. soldiers at New Jersey's Fort Dix.

And those actions have raised questions of whether the government crossed the line and pushed the six men down a path they would not have otherwise followed.

It is an argument \_ entrapment \_ that has been made in other terrorism cases, and one that has failed miserably in this post-Sept. 11 era.

One defense attorney on the case, Troy Archie, said no decision has been made on whether to argue entrapment, but based on the FBI's own account, "the guys sort of led them on."

Rocco Cipparone, a lawyer for another one of the defendants, said he will take a hard look at "the role of paid informants and how aggressive they were in potentially prodding or moving things along."

The Fort Dix Six were arrested earlier this week after a 15-month FBI investigation that relied heavily on two paid informants who secretly recorded meetings and telephone conversations in which the suspects talked of killing "in the name of Allah."

U.S. Attorney Christopher Christie defended the government's handling of the case. He and the FBI portrayed the defendants as Muslim fanatics who were nearly ready to strike. They were arrested Monday night during what the FBI said was an attempt to buy AK-47 machine guns, M-16s and other weapons.

Former FBI agent Kevin Barrows said prosecutors appeared to have done things right.

"They corroborated with surveillance, and they had a gun buy set up," Barrows said. "That further solidified the case, as opposed to it just being a tape of somebody saying, 'Yeah, I want to buy guns.' They worked this for a long time and the evidence seems really, really solid."

Prosecutors portrayed the six men \_ Serdar Tatar, 23; Agron Abdullahu, 24; Mohamad Ibrahim Shnewer, 22; Dritan "Anthony" or "Tony" Duka, 28; Shain Duka, 26; and Eljvir "Elvis" Duka, 23 \_ as driven by hatred of America, a description disputed by relatives and acquaintances.

"I never in my wildest dreams imagined what they've been accused of," said Ismail Badat, trustee of the Islamic Center of South Jersey in Palmyra, where the Duka brothers worshipped.

The same documents that prosecutors used to build a case against the suspects also depict them as somewhat disorganized, lackluster plotters. And clumsy and amateurish, too: The FBI learned of the alleged plot when the men went to a Circuit City store and asked a clerk to transfer a jihad training video of themselves onto a DVD. Also, they mistakenly thought an AK-47 costs \$500, instead of \$1,500 to \$3,000.

Also, one of the men, Tatar, called a Philadelphia police officer in November, saying that he had been approached by someone who was pressuring him to obtain a map of Fort Dix, and that he feared the incident was terrorist-related, according to court documents.

"It could be a defense, that he felt he was being pressured to do things and actually called law enforcement to report it," Sohail Mohammed, a lawyer and Muslim community leader in New Jersey who is not involved in the case.

Entrapment occurs when law enforcement officials entice others into committing a crime they otherwise would not have committed. Under the law, people cannot be convicted if they were entrapped. But there is no entrapment if a person is willing to break the law and law officers offer to help.

"If the source talks them into committing a crime, that is entrapment," said retired FBI agent Craig Dotlo, a 32-year veteran. But "if they are predisposed to commit a crime, and you give them the opportunity, that's fine."

Among other things, even before the informant presented the list of weapons he said he could get, Dritan Duka unwittingly asked an undercover federal agent he had seen at a firing range about where he might buy an AK-47 or M-16, according to the FBI.

Archie, the defense attorney, conceded it is difficult to win an entrapment defense. "Basically, if they are just constantly pushing someone to go in a particular direction," he said. "It's just got to be obvious, obvious entrapment for it to fly."

Attorney Henry Klingeman unsuccessfully argued that government agents had

entrapped London merchant Hemant Lakhani, convicted in New Jersey in 2005. Lakhani was caught in a sting trying to arrange the sale of at least 50 shoulder-fired missiles for shooting down American airliners. He is serving a 47-year prison sentence.

"In the post-9/11 era, the entrapment defense is basically useless," Klingeman said. "For a defendant, merely saying he wishes he could do harm to America, the jury has heard enough."

Entrapment also failed as a defense in the case of Shahwar Matin Siraj, who was convicted in New York City of plotting to blow up the Herald Square subway station in 2003. Authorities had recruited an Egyptian man as an informant.

Siraj's lawyer, Martin R. Stolar, argued at trial that Siraj had no interest in violence until the informant showed him photos of prisoners being abused at Abu Ghraib and told him it was his duty as a Muslim to retaliate. Siraj was found guilty and sentenced to 30 years.

"The government often overreaches in its zeal to give itself a pat on the back," Stolar said. "In my case, my position was that they created the crime in order to solve the crime so that they could then claim a victory in the war on terror."

Vincent Henry, director of the Homeland Security Management Institute at Long Island University and a 21-year veteran of the New York Police Department, said he is convinced that the Fort Dix defendants really were capable of pulling off such an attack.

"I'm sure they were," he said. "The arrests were made as they were on their way to purchase the weapons, or at least some of the weapons. They had seemed to plan it out very, very well."

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Associated Press writers Wayne Parry in Trenton, Jeff Gold and David Porter in Newark, Chris Newmarker in Palmyra and Deborah Yao in Philadelphia contributed to this story.

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