

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MUSLIM COMMUNITY ASSOCIATION
OF ANN ARBOR, et al.,

Plaintiffs,

v.

JOHN ASHCROFT, in his official capacity
as Attorney General of the United States,
et al.,

Defendants.

Civil Action No. 03-72913

Hon. Denise Page Hood

Magistrate Judge R. Steven Whalen

DECLARATION OF ALAA ABUNIJEM

I, Alaa Abunijem, of Portland, Oregon, do declare:

1. I am the President of the Executive Committee of The Islamic Center of Portland, Masjed As-Saber (“ICP”), one of the plaintiffs in this case. ICP is a non-profit organization that administers a mosque known as Masjed As-Saber (Mosque of Patience) and an Islamic school known as the Islamic School of Portland. I have been President for the past 3 years. Before I attained the position of President, I was Vice-President for 1 year. My position as President is a volunteer position and I receive no compensation for serving in this capacity.

2. I was born in Saudi Arabia and came to the United States in 1989. I became a U.S. citizen in 1996. I am married to a U.S. citizen and have 5 children.

3. I received a B.S. degree in Electrical Engineering from the University of Colorado at Denver, and a M.S. in Engineering and Technology Management from

Portland State University. I have lived in Portland, Oregon, since 1999. I currently work as a technical marketing engineer for a Fortune 100 company.

4. My responsibilities as President of ICP require me to be intimately involved in the decision making process on behalf of ICP. I attend between three to five meetings a week at the Center, usually in the evenings and weekends. These meetings are held to discuss management or programming issues and other ICP related business.

5. Each ICP program area is supervised by at least two or three people and overseen by a committee. The education committee organizes classes to help students improve reading and writing skills, organizes lectures on Islam at schools and universities, and helps ICP members volunteer their time in public schools in Portland. The outreach committee focuses on efforts to improve the quality of life in the neighborhood by working with neighborhood associations. It also organizes community programs to raise awareness about Islam and Muslims, creates training materials for public service organizations in the Portland area, and holds open houses of our Masjed so that the public can learn about our religion and culture. The community service committee provides a variety of services for our community members, including the provision of marriage, family and teenage counseling; support for refugees by helping them integrate and find employment; financial assistance to needy families and widows; and meals for the poor and needy throughout the month of Ramadan. We are also involved with the State and Federal Inmate program.

6. At the weekly Board and committee meetings, I receive updates and hear about concerns facing each committee.

7. The ICP has been a presence in the Portland Muslim community for 24 years. Like many mosques, we play a central role in every aspect of our members' lives, providing a place for daily religious worship, performing Islamic marriages and funerals, organizing and hosting social functions, providing financial assistance during times of need, and providing religious counseling on a range of issues. We are the largest Mosque in the State of Oregon and the only mosque with a full-time Imam in the Portland area. Approximately 450 people attend services at the mosque each Friday; as many as 3500 attend services on religious holidays.

8. The ICP also serves its members by organizing and hosting formal talks and lectures on religious, political and historical topics. For instance, we have invited speakers to speak to members about immigration laws and we have co-sponsored anti-war talks and rallies; the most recent rallies were held on January 18, 2003 and March 16, 2003. At the January 18 rally, the Martin Luther King Peace March, we were among over 50 co-sponsors. Other co-sponsors included American Friends Service Committee, the Catholic Archdiocese of Portland's Office of Justice and Peace, Jews for Global Justice, and Amnesty International. More recently, on September 21, 2003, I was a speaker at a rally on civil rights and the Patriot Act, specifically speaking about FBI access to our records.

9. Our Islamic School, which teaches kindergarten to seventh grade, runs after school programs that help school-age children stay in touch with their culture and preserve or develop their ability to speak and write Arabic. The school also sponsors monthly overnight trips supervised by teachers and other volunteers.

10. Our community members are a diverse group and consist of people from different ethnic backgrounds: Arab, Asian, African, North American, South American and European. We are also diverse in terms of the countries that are represented by our community members: Somalia, Pakistan, Jordan, UAE, Egypt, India, Indonesia, Thailand, Iraq, and the United States. I would estimate that approximately 30% of our community is from Somalia and the rest of our community members come from other countries and the United States. Of the total population, I would estimate that about 60% are United States citizens, about 10% are non-citizen visa holders, and the rest are green-card holders.

11. We have 16 people on staff, the majority of whom are teachers for the Islamic School and work on a part-time basis. We have 4 full-time staff including our full-time Imam.

12. The mosque and all its activities are financed completely by donations from our members. The majority of our operational budget for the mosque is raised by annual or biennial fundraising events. In addition, we have donation boxes in the mosque so that community members may contribute money as they desire. There are two boxes, one for “Zakat” donations and one for “general” donations. “Zakat” refers to a Muslim’s mandatory obligation to donate 2.5% of his or her annual income to the needy. Most members give their “zakat” to the mosque for the mosque to manage and dispense. The “zakat” is distributed according to specific religious criteria and there is a strict prohibition on using “zakat” money for operating expense. Funds collected through the general donation box can be used for operating expenses. Of the total donations we receive, about one-half to one-third is designated as “zakat” money. We give away

almost all of our “zakat” designated donations every year and carry over anything that is left to the next year. The Islamic school obtains funds for its operational budget by charging its students tuition and collecting donation to cover any deficit.

13. ICP maintains a variety of records about community members, including their names and names of family members, home and business addresses, phone numbers, credit card information, and checking account information. Credit card information and checking information are especially important to the ICP for those members that wish to make automatic, regular donations. We also retain records of the services we provide to community members.

14. We maintain records of donations to the mosque and our distribution of “zakat” donations to the needy. Although some donations are anonymous cash gifts our usual practice is to keep records detailing how much each community member has given to the mosque. These amounts are totaled at the end of the year and provided to community members for their own tax purposes. ICP staff and I also look to these financial records to determine which community members we can approach when there is a fundraising event in the community.

15. The Imam maintains a library of religious books and readings along with his extensive lecture notes and notes taken during counseling sessions. The Imam will often counsel couples on marriage and divorce, perform Islamic marriages and maintain records of such events. Besides marriage and divorce, the Imam provides counseling for a wide range of other personal, spiritual and familial matters. The counseling sessions themselves are confidential, and while we do not maintain detailed records of who is scheduled to speak with the Imam or who actually meets with the Imam, the Imam may

keep notes on his meetings. In addition, there are members who do not seek the help of the Imam in person, but may write letters, sometimes anonymously. The Imam keeps these letters at ICP and may keep drafts of the letters he has written.

16. ICP does not keep a formal membership list as some churches or synagogues might. Rather, we have an open-door policy whereby any Muslim, whether from Portland or not, can become a “member” of our community. Our members include everyone who uses our facilities or has had some connection with us in the past. Although we do not maintain a membership list we do maintain mailing lists and email lists of people who are active in the community and who want to keep up to date with the activities and events at ICP. For instance, when we issue monthly prayer schedules, we ask all those interested in attending to add their contact information to a mailing list.

17. The Islamic School of Portland retains health, financial, and education records pertaining to students. The school also keeps detailed employment records of teachers and other staff.

18. Detailed minutes of ICP Board of Trustees meetings held at the mosque are written up and archived. The Board of Trustees meetings are not open to the public.

19. I, along with other staff and ICP leaders, tell community members that we keep our records and documents confidential. Our members rely on our assurances that their records will be kept confidential.

20. Section 215 compromises ICP’s ability to maintain the confidentiality of community members’ records. We believe that we could be served with a Section 215 order at any time. We understand that we would not be given a chance to challenge a

Section 215 order before being required to comply with it. Section 215 has already harmed our organization and our members in a number of ways.

21. Based on my own recent experiences as well as those of ICP's members and leaders, I believe that ICP is likely to be a target of a Section 215 order.

22. Since September 11, 2001, the FBI has investigated, questioned, detained, and arrested various ICP members and leaders, including myself.

23. I have been investigated by the government but have not been charged with any crime. On December 17, 2002, I was stopped at the Seattle airport by U.S. Customs and questioned by both U.S. Customs and FBI officials regarding the purpose of a trip to Saudi Arabia. The officials searched my documents, business cards, and credit cards for thirty minutes before making copies and returning them to me. On my return from Saudi Arabia on January 9, 2003, my luggage and documents were searched for over an hour and a half, and I was questioned by officials about my trip. I was also questioned and searched again upon my return from a business trip to Japan on or about April 16, 2003, and I was told by an immigration officer that my name was "flagged."

24. On February 26, 2003, an FBI agent called me at my work place and questioned me about a donation that I had made to a charity called Help the Needy. I had made donations of several hundred dollars to the organization over the preceding few years. The FBI did not inform me how it had learned that I had made a donation to Help the Needy. I told the FBI agent that I did not feel comfortable talking to the FBI without a lawyer.

25. Coincidentally, on the same day that the FBI questioned me, the Department of Justice announced that a federal grand jury in Syracuse, New York, had returned an

indictment charging Help the Needy and four individuals associated with it of transferring funds to persons in Iraq without having obtained the proper license. While Help the Needy was not accused of having provided anything other than humanitarian aid, the Justice Department's press release accused Help the Needy of attempting to undermine the President's efforts "to end Saddam Hussein's tyranny and support for terror."

26. Since 1999, I have served as a board member of the Islamic Assembly of North America ("IANA"), a non-profit organization dedicated to educating the public about Islam. IANA organizes conferences, publishes religious books, and supplies Qurans to incarcerated Muslims. The FBI raided IANA's offices in Michigan in February 2003, seizing computers and taking photographs of books. On the computers were files containing information about me. The government has not charged IANA with any crime but it has arrested one of the organization's former presidents, Bassem K. Khafagi, on federal bank fraud charges. Assistant U.S. Attorney Terry Derden of Boise, Idaho has stated publicly that "the investigations could expand to other directors and Islamic Assembly employees."

27. With respect to ICP leaders, our Imam was arrested in September 2002, almost one year after the September 11, 2001, tragedy. I consulted directly with the Imam and other members about the arrest. I and other leaders immediately took action upon the Imam's arrest, not only to help him but to help our community members understand how to react to the situation. I helped to raise funds for a lawyer, organized press releases and demonstrations, and helped fill the courthouse to show our support of the Imam.

28. Our imam is now back at ICP serving our community full-time. He is under probation for the next 5 years after pleading guilty to Social Security fraud and underreporting his income.

29. In October, 2002, a federal grand jury in the District of Oregon indicted six individuals and charged them with conspiracy to wage war against the United States and to provide material support to Al Qaeda; a seventh individual was indicted on similar charges in April 2003. The case, known as the "Portland 7" case, involved defendants who had attended the ICP. By October 2003, all of the Portland 7 defendants had pled guilty. The government has stated publicly that the investigation into alleged conspiracies is ongoing.

30. To support the indictment of one defendant, an affidavit submitted by Police Officer Thomas W. McCartney stated that a wired informant recorded conversations inside the ICP on June 6, 2002. The affidavit also stated that the government had obtained a number of records relating to the investigation. The affidavit did not state the legal authority used to obtain these records.

31. At the time of the indictments, the Muslim community in Portland created a legal organization to help the Muslim area get adequate legal representation and educate them about their legal rights. This legal organization was called the Greater North West Defense Association.

32. Soon after the indictments, many people in the ICP community were served with subpoenas in connection with the Portland 7 investigation. About 25 subpoenas were issued, most of them on individuals. I have been told by individuals served with

these subpoenas that the FBI questioned them not only about the Portland 7 but about other worshippers at ICP and their own political and religious views.

33. In March, 2003, ICP itself was served with a subpoena seeking financial records related to the defendants and their spouses in the Portland 7 case. ICP retained lawyers who moved to quash the subpoena because of the impact on the privacy rights of ICP's constituents, but we were ultimately required to disclose the records.

34. As a result of the Portland 7 investigation and the subpoenas served on our community members, ICP and community members began to discuss the possibility that the government could demand more of our records. I invited defense lawyers and immigration lawyers to give talks about civil rights and the government's expanded powers to investigate and demand personal records under the Patriot Act. Among other things, these talks addressed concerns that the FBI would demand our records and use them to single out our members for scrutiny. This concern was very strong since we had been required to disclose records in the past and could receive a demand for records at any time in the future.

35. The threat that we will be served with a Section 215 order has already caused us significant harm and caused us to make significant changes in the way our organization functions. Our mosque has seen attendance at Friday prayers plummet by more than half at some points. Fewer members are being married at the mosque and associating with the mosque more generally. Section 215 has thus directly affected our members' religious practices and discouraged them from practicing their religion openly.

36. In addition, the concern that the government will demand our records has caused a noticeable drop in donations. In the past, our fundraising events raised enough

money to cover our operating costs for a year. Now, fundraising events raise only a fraction of these costs making it difficult for us to meet our operating expenses and forcing us to reduce or change the level of services we provide to the community.

37. We have also had to modify our record-keeping policies. In the past, community members who made regular donations, whether by check, cash, electronic transfer, or credit card, were given receipts at the end of the year to submit with their tax returns as proof of their charitable giving. Now many people are reluctant to use bank accounts or credit cards to donate money, preferring anonymous cash donations. Members have specifically asked us not to keep any records on their giving patterns, preferring to make only anonymous cash donations and some have asked not to be given tax receipts.

38. I have been told by members that giving anonymous cash donations makes it difficult for them to fulfill their financial giving obligations. Giving money in cash form inhibits their ability to give larger sums or give in a manner that is convenient, such as through a checking account, credit card, or electronic transfer.

39. ICP, too, suffers from the shift to anonymous cash gifts. Cash gifts are often smaller than those that come from planned giving through accounts or electronic transfer. Furthermore if a gift is given anonymously, it is difficult for us to identify and follow up with individual members who may be willing to donate again. This impairs our ability to raise funds when the ICP has a specific project that requires funding. With fewer monthly and weekly contributions from checking accounts, it is also more difficult for us to make long-term financial plans for our organization. That members are afraid to donate money to ICP is of extremely serious concern to us.

40. The concept of financial generosity is a basic tenet of our faith, and “zakat” is a mandatory requirement. The Friday services and daily prayers are also basic practices of the faithful. The fear of a Section 215 order has already created an environment where our community members cannot fulfill their religious obligations or practice their religion freely.

41. As a result of fear about the government’s power to obtain our records, members have also approached me after prayers to ask that ICP not take positions on political issues and stop participating in rallies. Some members have asked me to request that speakers at the Masjed avoid speaking about political issues during lectures and sermons on Fridays fearing that any public discussion of controversial political issues will place more suspicion upon the ICP and community members and make us more likely targets of a government investigation.

42. Leaders at ICP have made personal decisions based on the threat of a future government demand for our records. I have counseled members who recently considered resigning from the Board. They were afraid that their association with the ICP, especially in a leadership capacity, might cause them some harm in the future.

43. If and when the ICP is served with a Section 215 order - and we firmly believe that we are likely to be targeted with one - it will also compromise our ability to protect community members and students from harassment, threats and violence.

44. Our mosque and community members received threats after 9/11 and again when it became known that our mosque and several of our members were under investigation. We received threatening phone calls to our office accusing us of being terrorists. Moreover, community members were harassed in public places. School

children were threatened and teased in school. Women were accused of being terrorists for wearing the hijab while they were at the grocery store. To protect the mosque and its community members, the ICP now has 24-hour camera surveillance and security guards. The initial installation of security cameras cost over \$4000 and the security guards are an ongoing expense.

45. A Section 215 order could lead to the disclosure of our community members' identities, just as investigations in the past led to public awareness of our mosque and individual community members. Publicity would lead to further harassment in the form of public accusations, media harassment, threatening phone calls, and personal threats.

46. When the FBI subpoenaed our records in the past, it was possible for us to challenge the demand. Under a Section 215 order we would not be afforded such an opportunity. Moreover, the Section 215 order would subject us to a gag order that would prohibit us from discussing the order with colleagues or our community members. In the case of the subpoena for our records relating to the Portland 7, we were able to consult with colleagues from other mosques and community leaders to help determine how to respond. If ICP were served with a Section 215 order, the gag provision would prohibit us from doing this.

47. Finally, I personally feel that ICP has an obligation to protect the trust we have established between our members and the organization. Section 215's gag provision, which does not allow us to notify people that their records have been obtained by the FBI, would force us to violate that relationship of trust. The gag order would effectively require me to act inconsistently with my religion and my role as a religious and community leader.