

ON-AGAIN, OFF-AGAIN TERRORIST

A jailhouse chat, a busted deal, and an odd tale of a guy named Omar

BY CHITRA RAGAVAN

When is a suspected terrorist not a terrorist and then a terrorist once again? Apparently, when the Justice Department says so.

Take Omar Shishani. Arrested in Detroit in July 2002 for smuggling \$12 million in counterfeit cashiers' checks from Indonesia, Shishani was held without bond—deemed a danger to the community and a flight risk—because of his alleged ties to terrorists. Detroit federal prosecutor Eric Straus said Shishani, a U.S. citizen and Jordanian of Chechen ancestry, even had a business associate whose daughter was named "Al-Qaeda." Nine months later, Straus released Shishani on a personal recognizance bond as part of a plea deal. "They essentially told him, 'Walk the streets freely; get out of jail,'" says Shishani's attorney, Corbett O'Meara. But six months after that, Straus, citing new intelligence from Moscow, said Shishani was a Chechen terrorist. He asked a judge to revoke Shishani's bond so he could be rearrested.

O'Meara says the government is retaliating against Shishani for having the "temerity to testify" against its star witness in an unrelated terrorism trial last year. That trial has turned into a three-ring circus for the Justice Department, with the lead prosecutor, Richard Convertino, his supervisors, and their bosses slinging mud madly at each other ["A Real Case of Snakebite," March 22–29]. Detroit U.S. attorney Jeffrey Collins has alleged that Convertino improperly tried to get dirt on Shishani to discredit him. Convertino denies that, adding that his colleagues seemed to be at cross-purposes with him on the terrorism case. "In 14 years as a prosecutor," he said, "I've never seen anything like this." Collins, citing a gag order, declined to comment for this story.

Jailhouse talk. The Shishani situation is perplexing for many reasons, not least because he had no ties to Convertino's terrorism case. Indicted on fraud, smuggling, and conspiracy charges, Shishani met one of the four defendants in the other case,

Karim Koubriti, in the lockup just weeks before the terrorism trial was to begin. Koubriti was on his way to court for a pre-trial hearing, and Shishani was headed to meet his prosecutor for a debriefing. Koubriti, recognizing Shishani from the newspapers and knowing Shishani was housed with the prosecution's star witness, Youssef Hmimssa, asked Shishani what Hmimssa was going to say to implicate him and the other defendants. "Hmimssa," Shishani is said to have replied, "is a jerk and a liar."

cally obligated to notify his prosecutors.

Convertino says Gershel refused to divulge Shishani's name and any details of what he might say because of a "promise" he had made to the defense team. "I said, 'Are you kidding me?'" Convertino said. "We need to know who it is we're going to cross-examine and what he is going to say, *now*." Once they learned Shishani's name—from an FBI agent—says Convertino, it was Corbett, not Straus, who first insisted that Shishani submit to a polygraph to verify his upcoming testimony, as defendants are required to do, if asked, under plea agreements. Shishani refused. Straus ripped up the plea deal, despite past assurances that the two criminal matters were unrelated.

On May 7, Shishani testified that Hmimssa had told him he wanted revenge because Koubriti and his friends had given him up to the FBI. Shishani added that the government had forced him to testify, against his better judgment.

The story took another twist in October, when Straus, citing the Russian intelligence, tried to revoke Shishani's bond. Straus said the intelligence had surfaced in May, which would have been just after Shishani had been set free and around the time he testified against Hmimssa. "But we had

no clue of this until I read it in October in the newspaper," says Convertino, who, along with Corbett, has been taken off the case. "That is information that should have been shared with us."

The judge denied Straus's request to have Shishani detained again as a suspected terrorist. But she did give Shishani a stiff sentence on the conspiracy charges after Straus and Collins argued against any leniency.

Hmimssa is now in prison awaiting sentencing. Shishani is in a medium-security federal prison in Illinois. O'Meara says Straus has told him the only way out for Shishani is if he admits he is a terrorist and cooperates fully. O'Meara says his personal appeals have fallen on deaf ears. All Straus will say is, "It's old news." ●

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TWOFER. Shishani (left) was housed in the same prison as Youssef Hmimssa, the star witness in a terrorism trial. Shishani testified that Hmimssa wanted revenge against the defendants.

Lawyers for Koubriti and the other three defendants sought to put Shishani on the stand to discredit Hmimssa. But they also wanted the prosecution's assurance that any such testimony unfavorable to the government would not hurt Shishani's plea deal. "Please rest assured," U.S. attorney Collins wrote to O'Meara, "that your client has every right to submit to interviews with anyone and of course, if subpoenaed, would have to testify." Shishani was released on personal recognizance after pleading guilty to two check-smuggling-conspiracy counts. Just to be sure, the defense team also asked criminal division chief Alan Gershel to create a "Chinese wall" between Shishani's plea negotiator, Straus, and the trial prosecutors, Convertino and his supervisor and trial partner, Keith Corbett. But O'Meara says Gershel refused to keep the information confidential, saying he was ethi-