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Former Federal Prosecutor, State Department Agent Indicted For Obstruction Of Justice And Presenting False Evidence In Terrorism Trial

WASHINGTON, D.C. – A former federal prosecutor and a Department of State special agent were indicted by a federal grand jury today in Detroit on charges of conspiracy, obstruction of justice and making false declarations in the 2003 terrorism trial *United States v. Koubriti* in the Eastern District of Michigan, the Department of Justice announced today.

Former Assistant U.S. Attorney Richard G. Convertino, 45, of Canton, Mich., and Regional Security Officer Harry Raymond Smith III, 49, were named in the indictment returned by a federal grand jury in Detroit. The grand jury also charged Convertino with obstruction of justice in a second criminal case in the Eastern District of Michigan described only as *United States v. John Doe*.

Convertino was the lead federal prosecutor in *Koubriti*, a criminal case in Detroit, in which four defendants were charged with providing material support for terrorism and document fraud. Smith was an assistant Regional Security Officer with the Diplomatic Security Service of the Department of State at the American embassy in Amman, Jordan, from 1999 through July 2002. In that capacity, Smith assisted in the investigation of the *Koubriti* case and testified as a government witness at the *Koubriti* trial.

The indictment alleges that Convertino and Smith concealed photographs of a key site from the defendants and others at trial, and presented false testimony indicating that they were unable to obtain photographs of the site. According to the indictment, Smith testified falsely at trial that he had not and could not take photographs of Queen Alia Hospital. In fact, the indictment alleges that at the time Smith testified, he had already taken photographs of the site and, when they did not come out well enough, he asked colleagues to take additional photographs of the site for Convertino. The indictment charges that Convertino received the additional photographs of the site, but concealed them from the defense and others.

According to the indictment, the existence of the photographs was material to Convertino's argument in *Koubriti* that the site, a hospital in Jordan, closely matched a sketch found in the apartment of three of the *Koubriti* defendants, and that the sketch was consistent with a terrorist casing sketch. The *Koubriti* defendants disputed that the drawing was a terrorist casing sketch, and questioned Smith at length about the absence of photographs.

Convertino is also charged with obstructing justice in a second criminal case, *United States v. John Doe*, in which it is alleged that Convertino presented false information in a sentencing hearing in order to obtain an unusual downward departure for a defendant, from a guidelines range of 108 to 135 months imprisonment to just eight months with credit for all of it already served.

At the sentencing hearing, the judge told Convertino, the defendant and the defense attorney: "I have never seen such a gross disparity between the sentencing guidelines and the Rule 11 plea agreement. So I must have some very good reasons for the difference."

According to today's indictment, as part of satisfying the judge's demand at the sentencing hearing, Convertino falsely suggested that the original narcotics prosecutor had doubts about the accuracy of the amounts of drugs attributed to the defendant. The indictment also charges that Convertino misled the court about the nature and extent of the defendant's cooperation with the government.

If convicted on all charges, Convertino faces a maximum sentence of 30 years in prison and a \$1 million fine. Likewise, Smith faces a maximum of 20 years in prison and a \$750,000 fine.

An indictment is only a charge and is not evidence of guilt. A defendant is entitled to a fair trial in which it will be the government's burden to prove guilt beyond a reasonable doubt.

This case is being prosecuted by Trial Attorneys Daniel Schwager and Eileen Gleason of the Public Integrity Section of the Criminal Division, headed by Acting Chief Andrew Lourie. The U.S. Attorney's Office for the Eastern District of Michigan, where Convertino was employed, is recused from this case. The case is being investigated by the Public Corruption and Government Fraud Unit of the Federal Bureau of Investigation, with assistance from the Department of State Office of the Inspector General.

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