

United States v. Holy Land Foundation: Supplemental Jury Instructions on Forfeiture

Hon. Jorge A. Solis
Northern District of Texas
November 24, 2008

The following supplemental jury instructions were prepared by the Northern District of Texas's United States District Judge Jorge A. Solis in a retrial for conspiracy to fund terrorism, *United States v. Holy Land Foundation*, No. 3:04-cr-240 (N.D. Tex. July 26, 2004).

Court's Supplemental Instructions to the Jury

MEMBERS OF THE JURY:

Forfeiture

Now that you have decided that Defendants Holy Land Foundation, Shukri Abu Baker, Ghassan Elashi, Mufid Abdulqader, and Abdulrahman Odeh are guilty of the offenses alleged in Count 22 of the Indictment, you must now decide whether Defendants Holy Land Foundation, Shukri Abu Baker, Ghassan Elashi, Mufid Abdulqader, and Abdulrahman Odeh should forfeit the property described in the forfeiture allegations of the Indictment. "Forfeiture" means to be divested or deprived of the ownership of something as a penalty for the commission of a crime.

Title 18, United States Code, Section 982(a)(1) provides that any person convicted of a conspiracy to launder monetary instruments shall be ordered to forfeit to the United States any real or personal property involved in the offense or any property traceable to such property.

In the forfeiture count of the Indictment, the government contends that at least \$12,400,000.00 in United States currency represents the property involved in the offense alleged in Count 22, conspiracy to launder monetary instruments or property traceable to such property.

You are instructed that the phrase "property involved" in the offense includes,

1. The amount of the monetary or financial transaction alleged;
2. Any fees or commissions paid to persons involved in the offense;
3. Any property used to facilitate the commission of the offense; and
4. Any property traceable to such property.

To "facilitate" the commission of an offense means to aid, promote, advance, or make easier the commission of the act or acts constituting the offense. Property used to facilitate an offense can be in any form.

You must decide by a preponderance of the evidence what property, if any, set forth in the forfeiture count of the Indictment should be forfeited. A "preponderance of the evidence" means the matter in question is more likely true than not true. If in your minds the evidence is equally balanced on a matter to be proved, it has not been established by a preponderance of the evidence.

In determining whether any fact in issue has been proven by a preponderance of the evidence, you may consider the testimony of all witnesses, regardless of whom may have called them, and all the exhibits received in evidence, regardless of whom may have produced them.

In order to be entitled to forfeiture based on a defendant's conviction on Count 22, the government must prove by a preponderance of the evidence that the property to be forfeited was property involved in that offense or property traceable to such property.

While deliberating, you may consider any evidence offered in this trial before or after your previous deliberations. In reaching a verdict on the forfeiture allegation regarding Count 22, you may not consider the degree to which a particular defendant was involved in the offense. By law, each defendant is individually liable for the entire amount of the money judgment.

A special verdict form has been prepared for your use. You are instructed to indicate on the form your determination whether any property is subject to forfeiture to the United States. You will take the verdict form to the jury room. When you have reached a unanimous agreement on the forfeiture verdict, the Presiding Juror must fill in, date, and sign the verdict form. Once you have done this, the Presiding Juror is to notify the Court Security Officer that you have reached a unanimous verdict so that you can return to the courtroom.