

EVIDENCE THE US BOUGHT THE MEGRAHI CONVICTION

The case against convicted Lockerbie/Pan Am 103 bombing suspect Abdelbaset Ali Mohmet al-Megrahi was always thin, at best. Despite all the commotion over his trial and conviction, the entire prosecution case was founded upon the testimony of a single clothing shopkeeper from Malta, Tony Gauci, that supposedly sold the clothes that were believed to be in the suitcase containing the bomb that brought down Pan Am Flight 103. Long after the unremarkable alleged sale, Gauci somewhat incredibly remembered selling the clothes to Megrahi. Megrahi has consistently maintained his innocence.

Megrahi's trial was held in a Scottish court that was constituted in the Netherlands by agreement in order to obtain the extradition of Megrahi for trial. Since the conviction at trial, Megrahi has appealed unsuccessfully, but the Scottish Criminal Cases Review Commission (SCCRC), which investigates possible miscarriages of justice, had taken jurisdiction of the case and referred it back to court for appeal, which is the posture the case was in when the Scottish Justice Ministry cut a deal to release him to his home country of Libya on compassionate grounds (Megrahi has terminal cancer) in return for Megrahi giving up his appeal.

With no appeal available to press his case, Megrahi has taken to releasing material and briefs that were to constitute the foundation of the appeal, and in that regard has opened a website where the material is posted. One of the filings disclosed yesterday on the website documents a blockbuster finding and allegation by the Scottish Criminal Cases Review Commission (SCCRC) on collusion of the Scottish Crown prosecution team and US authorities to effectively buy Shopkeeper Gauci's testimony

against Megrahi by paying Gauci two million dollars and Gauci's brother, Paul Gauci, a million dollars:

The SCCRC has recovered undisclosed material which indicates that:

(a) The witness Tony Gauci had, at an early stage, expressed an interest in receiving payment or compensation for his co-operation in giving evidence, and that this interest persisted until after the trial

(b) that the witness Paul Gauci had " a clear desire to gain financial benefit" from his and his brothers co-operation and that Paul Gauci exercised considerable influence over his brother

(c) that the U.S. authorities offered to make substantial payments to the witness Tony Gauci from an early stage

(d) that an application for reward monies was made on behalf of the SIO of the investigation team of the Scottish police to the U.S. Department of Justice, after the trial, and that substantial payments were received by both Tony (in excess of \$2m) and Paul Gauci (in excess of \$1m) after the appeal.

The Scottish Crown prosecution team concealed both the early discussion prior to the trial of financial reward to Gauci for his testimony and the big payoff by the US Government after his testimony and the trial concluded. The prosecution did not reveal the clearly material and exculpatory (in that it gutted the credibility of the sole direct witness against Megrahi) evidence to either the defense or the court. In fact, the investigation and prosecution team put numerous entries into their reports and records that "Tony Gauci has never at any stage sought to benefit" from his testimony, statements that appear to have been

designed to mislead.

There were already substantial questions regarding the credibility of Gauci's identification of Megrahi as the purchaser of the clothes (detailed in the above linked document and summarized here). There further appears to have been a series of inconsistent statements by Gauci prior to trial, and several indications that he was not confident in his identification, many of which were also not disclosed to the defense for trial. Although these are allegations not yet proven up in court, the work and findings were done by the SCCRC and carry some serious weight; they are not self serving pablum from a desperate defendant.

The clear inference from the putative facts and findings by the SCCRC is that Gauchi was the crucial witness for the prosecution, was wobbly on the critical identification facts, was looking for a payday out of his involvement and the Scottish Crown got the US to agree to reward him with a windfall in order to firm him up. To be fair, there is often financial payment made to government witnesses from reimbursement of travel and lodging, to money for inconvenience, to payment to informers. But two million dollars to an identification witness? And another million to his brother that did not even testify? And active concealment of the situation? If true, that is blatant prosecutorial misconduct and perversion of justice. Another day at the office for the US Department of Justice.

The lottery payoff to the Gauci brothers purportedly was financed by the US "Rewards For Justice Program", the same program that was used to pay the tipsters on Uday and Qusay Hussein. The Rewards For Justice Program (RFJ) is administered by the State Department and is described by the State Department as follows:

Under this program, the Secretary of State is currently offering rewards of up to \$25 million for information that

prevents or favorably resolves acts of international terrorism against U.S. persons or property worldwide. Rewards also may be paid for information leading to the arrest or conviction of terrorists attempting, committing, conspiring to commit, or aiding and abetting in the commission of such acts.

In short, the program is designed to entice tipsters and witnesses to come forward with information aiding the investigation and prosecution of terrorism cases. It seems a bit of a stretch to use it to make huge payments to identification witnesses already known to investigators and prosecutors but that are looking for a windfall to give the prosecutors the testimony they want. Not surprisingly, the US Government has concealed their involvement. US authorities were a formal part of the Lockerbie task force investigating the bombing, yet, according to the SCCRC, made no written reports whatsoever regarding this material portion of their involvement in the case.

American politicians, including President Obama and AG Eric Holder, Secretary of State Clinton and many Congress members from across the spectrum howled with outrage at the Scottish Justice Ministry's decision to release Megrahi in return for dismissal of his appeal out of concern that the convicted Megrahi was cut loose in a secret deal by the Brits for oil rights with Libya. Perhaps instead they should investigate whether the US colluded to buy dubious testimony from Gauci in order to convict Megrahi in the first place.

One thing is certain, if the evidence uncovered by the SCCRC is accurate, instead of howling US authorities might want to thank Scottish Justice Minister Kenny MacAskill for killing Megrahi's appeal, an appeal that very well may have led to a reversal of Megrahi's conviction based on misconduct involving the Americans. While it is unlikely either the US government or Congress will touch this bit of stench, let's hope the

authorities in Scotland take a hard look into
the matter.