SCARY IRAN PLOTTER GETS 25 YEARS

The prosecutors in Manssor Arbabsiar's case succeeded in convincing Judge John Keenan that his was a real plot that must meet a harsh sentence to deter others from being entrapped in a US scheme involving fake drug cartel members. He got the full 25 years the government sought.

> U.S. prosecutors sought the statutory maximum sentence of 25 years for Arbabsiar, saying in a court filing May 2 that the "seriousness of this offense and importance of deterrence in this context cannot be overstated."
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> Manhattan U.S. Attorney Preet Bharara in a statement called Arbabsiar "an enemy among us" and a "key conduit for, and facilitator of, a nefarious international plot" to kill the ambassador and as many innocent bystanders needed to finish the job.
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> Lawyers for Arbabsiar had sought a lower sentence of 10 years, contending he had provided assistance to U.S. authorities after his arrest and citing purported mental health issues.
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> But Keenan emphasized the need to send a message to those who might consider future crimes like Arbabsiar's "will not be tolerated" in the United States.
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> "In a case like this, deterrence is of extreme importance," Keenan said.

Once all the relevant transcripts have been docketed, I'll circle back to this issue. But for the moment, I wanted to point to three paragraphs in the government's sentencing memorandum.

> Defense counsel also argues that Arbabsiar's assistance to the Government

following his arrest demonstrates his "sincere remorse," that because he is remorseful he will not re-offend and therefore that a sentence of ten years is sufficient. (Def. Mem. at 23). To the contrary, Arbabsiar's assistance to the Government does not warrant a sentence below the 25-year statutory maximum. First, Arbabsiar's cooperation, at best, was incomplete. While Arbabsiar spent approximately ten days describing to law enforcement agents his involvement and that of his Iranian military co-conspirators in the assassination plot, and placed several recorded telephone calls to his co-conspirator Shakuri at the direction of the agents, **Arbabsiar thereafter abruptly refused to cooperate further despite the Government's request that he continue to do so**.3 Nor was Arbabsiar available to the Government as a testifying witness against his coconspirators. Therefore, Arbabsiar's assistance to the Government was ultimately of limited usefulness in connection with the prosecution of other wrongdoers.

Second, and perhaps more importantly for these purposes, Arbabsiar's limited cooperation did not represent a determination to make a clean break with his past or to dramatically change his life in a manner that reflects true remorse. Indeed, Arbabsiar not only decided to cease his proactive assistance prematurely, he never followed through thereafter by proffering with the Government or by making a full and complete admission to the Government about his criminal activities. To the contrary, **he filed a false affidavit in connection with his suppression motion in which he lied about the circumstances in which he came to provide information to the agents — the very circumstances he now casts as**

> **evidence of his sincere remorse**.
> Arbabsiar's limited cooperative efforts
> therefore do not call for a sentence
> below the 25 years of imprisonment
> called for by the Guidelines, because
> they do not reflect true remorse or
> otherwise suggest a lessened necessity
> for individual deterrence, a greater
> likelihood of rehabilitation or any
> other basis for a non-Guidelines
> sentence.
>
> 3 **Defense counsel asserts that the
> Government declined Arbabsiar's efforts
> to work in an undercover capacity** in
> part because it "no doubt realiz[ed]
> [the defendant] was mentally ill . . .
> ." (Def. Mem. at 22). This assertion is
> baseless and inaccurate and should be
> disregarded. The agents working with
> Arbabsiar following his arrest had no
> concerns about his mental health. As set
> forth in the October 2012 report of Dr.
> Gregory Saathoff, none of the agents who
> were with Arbabsiar consistently for
> nearly two weeks ever observed behavior
> suggesting that Arbabsiar suffered from
> a mental illness.

While Arbabsiar's lawyer's filing is not yet
docketed, these paragraphs suggest several
things:

- The government wanted
  Arbabsiar to continue
  cooperating, but refused his
  offer to serve in an
  undercover capacity.
- The government claims
  Arbabsiar lied in his still
  sealed affidavit describing
  why the confession he gave
  during the 12 days he had no
  legal representation should

be thrown out.

Ultimately, the 25 year sentence is largely punishment for these two presumed insults to the FBI.

Should it be?

I've raised questions about Arbabsiar's treatment here and here. Even just the substantive claims his lawyer, Sabrina Shroff made, seem somewhat substantive. And the ~~lawyer~~ psychiatrist FBI brought in to refute claims of Arbabsiar's impairment, Gregory Saathoff, is increasingly serving as the Bureau's go-to hack for such functions.

More interestingly, the plea deal happened after Shroff started raising questions about the report a High Value Detainee Group scientist made about Arbabsiar's interrogation. Boom. Plea deal, Arbabsiar's allegedly deceitful affidavit never gets unsealed, and he goes away for long enough to prevent anyone from learning his side of the story.

Then there's the question of cooperation (which hopefully will be made more clear in the future). They wanted him to keep cooperating (perhaps making calls to Iran that were not producing the desired effect), but didn't want him to serve in an undercover capacity (remember, there was a deconfliction issue that came up in Arbabsiar's naturalization application that suggests he may have done something similar in the past).

Again, we need more detail, but it suggests certain things about what the government needed Arbabsiar for — to tell a scary story — and what it didn't need Arbabsiar for — to infiltrate IRGC. Which is interesting, given that Arbabsiar's cousin isn't on this list of top Iranians involved in international terrorism.