

FEDERAL COURT

## Liberty City Six terror trial is back for third time

The third -- and likely last -- trial of a Liberty City group charged with conspiring with al Qaeda to blow up Chicago's Sears Tower and FBI buildings will get under way with jury selection Tuesday.



In this courtroom artist drawing, U.S. Attorney Jacqueline Arango, center, makes her closing arguments before Judge Joan Lenard during the so-called "Liberty City Seven" trial in Miami in this Thursday, Nov. 29, 2007 file image. Arango said Narseal Batiste, center, seated in brown jacket, was the commander of a homegrown terrorism cell that sought an unholy alliance with al-Qaida to destroy the Chicago Sears Tower and bomb several FBI offices. The jury acquitted one defendant and the judge declared a mistrial on the other six after the federal jury deadlocked, Thursday Dec. 13, 2007. SHIRLEY HENDERSON / AP

### Related Content

- [Join the News and Politics forum discussion](#)

BY JAY WEAVER  
JWEAVER@MIAMIHERALD.COM

In June 2006, the arrests of a ragtag group of Miami men on charges of collaborating with al Qaeda provided the Bush administration with a powerful tale in the war on terrorism.

But the criminal justice system backfired twice on federal prosecutors: After two mistrials, they will be taking their third -- and likely last -- shot at trying the Liberty City Six. The selection of Miami-Dade jurors is set to begin Tuesday.

In the previous trials, jurors couldn't agree that the men plotted with the world's most feared terrorist organization to blow up Chicago's Sears Tower -- mainly because they saw the case as no more than an FBI sting orchestrated by an informant playing an al Qaeda operative.

Some former jurors and legal experts say the third trial may be the toughest yet for prosecutors because the once-hyped case has failed twice and the political climate has dramatically changed since the summer of 2006.

They point not only to the weakness of the "material support" conspiracy case -- no weapons of mass destruction or blueprints for a domestic

terrorist attack were found on the men -- but also to the public's skepticism about the Bush administration's handling of terrorism in general.

"There are people who were skeptical and are probably even more skeptical about what has been done in the war on terror," said Jeffrey Agron, a lawyer and Jewish school principal, who served as foreman in the first trial in 2007. "The passage of time and two mistrials will play into that."

"If the first one was hard and the second one was harder, the third one will be the hardest," he added. "I don't see the third trial turning out much different."

University of Miami law professor **Bruce Winick**, who views the Liberty City case as politically driven, said the passage of time will likely influence the jury in the third trial.

### A DIFFERENT LOOK

"This case looks different now than it did at the outset," Winick said. "Because at the outset, we were much closer in time to 9/11 and we as a society were still living in fear of domestic terrorism. The government was playing the fear card. But the government's playing that fear card is very different now."

The Liberty City group was arrested amid much fanfare by the Bush administration, which described the defendants as being as "dangerous" as al Qaeda. Top Justice Department officials declared the original indictment "yet another important victory in the war on terrorism," though an FBI deputy director also said

the group's goals were more ``aspirational than operational."

The defendants -- a struggling group of construction laborers who tried to start a Liberty City religious group in a warehouse dubbed The Embassy -- were charged with conspiring to provide material support to a foreign terrorist organization, destroy buildings and break away from the United States.

At both trials, prosecutors tried to prove the defendants' mission to spread "chaos and confusion" by blowing up Chicago's Sears Tower and FBI buildings in major cities.

The case was built on two FBI informants, phone recordings, and wiretaps and videotapes primarily featuring the group's messianic-like leader, Narseal Batiste, a Chicago transplant who was the only defendant to testify in both trials.

In the undercover probe, the FBI's main informant, a Syrian man named Elie Assad, infiltrated Batiste's group to test its commitment to carrying out the ringleader's alleged plot to destroy the Sears Tower and the informant's plan to destroy FBI buildings in Miami and other cities. He not only led Batiste's crew in an al Qaeda oath but also persuaded some to take surveillance photos of target sites in Miami.

But Batiste did almost all of the talking with the informant about the joint venture between his group and al Qaeda -- asking for \$50,000 over and over again in what Batiste later described at trial as a "con" game.

Ultimately, the only weapon the FBI found when they arrested the group was a Samurai sword. There was also martial-arts gear and a book, *The Way of the Ninja*.

At both trials, racially mixed, 12-member Miami-Dade juries could not reach a meeting of the minds. U.S. District Judge Joan Lenard, who presided over both nearly three-month trials, declared the two mistrials.

The only consensus came in the first trial when jurors quickly agreed that a longtime Miami resident, Lyglenson Lemorin, was not guilty. The Haitian national still faces deportation.

Standing trial again will be Batiste, Patrick Abraham, Stanley Grant Phanor, Rotschild Augustine, Burston Augustin and Naudimar Herrera. The first two defendants are being held at the Federal Detention Center. The latter four were released on bond after the second mistrial. The jury foreman in the second trial predicted another mistrial.

## **JURORS' CHALLENGE**

"The jurors are going to struggle with the evidence as presented," said Jose Talavera, a tech-support worker. ``They will want to see more, but it's not enough.

"We never saw any intentions by this group to do anything," he said. ``If you want to prove conspiracy, you have to prove they were *all* in it, not just the leader."

The Liberty City case has been compared to the prosecution of a group of men charged with conspiring to kill soldiers at Fort Dix in New Jersey. But UM's Winick and others said it doesn't measure up. The five defendants in the Fort Dix case trained for their attack, watched al Qaeda-inspired videos and, most importantly, bought several machine guns before the FBI arrested them. They were convicted last month.

"I think the government's case was stronger in Fort Dix," Winick said. ``Here in Liberty City, the government stopped the clock too early. They jumped on the case before it became clear it was a real plot or a silly discussion."

That's because the FBI's investigation into Batiste and his followers had run out of options. By the time agents arrested the seven men, the group had broken up over an internal dispute between Batiste and a former Chicago mentor over the mentor's discovery that an FBI informant had infiltrated the Liberty City organization.

That turn of events, Winick said, undermined the FBI's case in the end.