

A Shameful Prosecution

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An immigration court judge's dismissal of 20-year-old deportation proceedings against two Palestinian men — and his criticism of the government's abusive conduct in the case — ought to prick the conscience of the homeland security secretary, Michael Chertoff. Rather than reflexively pursuing an appeal, Mr. Chertoff, a former federal judge, should see the wisdom of finally declaring an end to this sorry legal tale, which has become a big source of distrust in the Arab and Muslim community.

The two legal American residents at the center of the controversy, Khader Musa Hamide and Michel Ibrahim Shehadeh, are the sole remaining defendants in a Reagan-era cause célèbre known as the L.A. 8 case. They were arrested in Los Angeles and marked for deportation along with six others because of allegations that they supported the Popular Front for the Liberation of Palestine, which is classified as a terrorist group.

The charges against the two have shifted repeatedly. Originally, they were charged under the 1952 McCarran-Walter Act, a cold war relic that allowed the deportation of noncitizens linked to any group advocating “world communism.” A federal court declared those provisions unconstitutional and Congress repealed them, but the government's obsession only seemed to grow. At least twice, government lawyers pressed Congress for statutory changes, then tried to apply them retroactively.

What makes this pursuit so bizarre is that the government long ago conceded it had no evidence that the two men had ever been involved in any terrorist act, or any criminal act. Had they been United States citizens, they could not have been arrested. The key allegation — that two decades ago the men distributed a magazine published by the Popular Front and raised money for lawful charitable institutions somehow connected to the group — suggests that the government's real motive all along has been to punish the exercise of free speech.

In dismissing the case, an immigration judge, Bruce Einhorn, cited the government's "gross failure" to comply with his instructions to produce potentially exculpatory and other relevant information. He fittingly denounced the 20-year pursuit as "an embarrassment to the rule of law."

Mr. Chertoff has until Feb. 28 to file an appeal. The only decent thing to do is to drop the case.