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January 23, 2006

Alice Fisher, Assistant Attorney General
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Paul Perez, U.S. Attorney
Middle District of Florida
400 N. Tampa Street, Suite 3200
Tampa, FL 33602

Re: re-trial of Dr. Sami Al-Arian

Dear Ms. Fisher and Mr. Perez:

The ACLU of Florida urges the United States Department of Justice, and the U.S. Attorney's office for the Middle District of Florida, to decline to re-try Dr. Sami Al-Arian following his recent acquittal on the most serious charges lodged against him, to dismiss the remaining charges, and to bring this case to a close.

The jury's acquittal of Dr. Al-Arian on eight of seventeen charges, including the two most serious charges – conspiracy to murder, maim or injure persons outside the United States and conspiracy to provide material support to a “foreign terrorist organization” – sent an important message. Although the prosecution had unlimited resources, called innumerable witnesses, presented hundreds of thousands of pages of exhibits, and over 450,000 recorded phone calls, it could not convince the jury that Dr. Al-Arian had committed any of the charged criminal activities. Save for the immigration charge, the vote on the remaining counts was not even close, with ten of twelve jurors voting for complete acquittal. There is no reason to think the great majority of jurors were wrong; they heard the evidence, deliberated in good conscience, and found the government's proof wanting.

The prosecution relied heavily for its proof on the spoken and written words of Dr. Al-Arian, words that expressed strongly felt and deeply unpopular political sentiments. Criminal prosecutions so heavily reliant upon political speech inevitably raise significant First Amendment issues. Sensitive to the First Amendment implications of the prosecution, the Court rightly required the government to prove that Dr. Al-Arian had sent funds to a foreign terrorist organization for the purpose of furthering the group's illegal activities; the government could not meet that burden. On any retrial, the First Amendment will continue to present a substantial obstacle to the government's prosecution of Dr. Al-Arian.

In light of the jury's acquittal of Dr. Al-Arian on the most serious charges, and after reportedly spending millions of dollars in a trial that led to no convictions, a decision to re-try him would appear to be pointless and vindictive. The government should send a different message – it should show that we are a nation that values freedom, that we are a nation that welcomes religious and ethnic diversity, that we are a nation founded on liberty. In short, it should accept the judgment of the jury.

We therefore urge the government to dismiss all remaining charges against Dr. Sami Al-Arian.

Sincerely,

A handwritten signature in black ink that reads "Howard L. Simon". The signature is written in a cursive, flowing style with a large, prominent "H" and "S".

Howard L. Simon
Executive Director