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Rutherford County appeals Murfreesboro mosque ruling

By: MARIE KEMPH, mkemph@murfreesboropost.com

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County attorneys are appealing a Rutherford County Chancery Court judge's ruling that voided approval for construction of the Islamic Center of Murfreesboro.

"The county has filed its notice of appeal and a motion for stay asking the court to maintain the status quo while the matter is reviewed by the Tennessee Court of Appeals," County Attorney Josh McCreary said, adding a hearing before Chancellor Robert Corlew III on the latter filing is scheduled for 9 a.m. Monday, July 2, in the Rutherford County Judicial Building.



Officials with the U.S. Department of Justice discusses an indictment against Javier A. Correa on June 21, 2012, outside of the Islamic Center of Murfreesboro in Tennessee. (Photo by M. Kempf)

Only a few hours after county attorneys filed the appeal, Jerry E. Martin, an attorney with U.S. Department of Justice, confirmed federal officials are keeping a close eye on the civil lawsuit.

"We will continue to monitor the progress of construction and legal proceedings at the local level to insure these citizens are able to enjoy all basic liberties guaranteed by the U.S. Constitution," Martin said, during a press conference on the indictment of a 24-year-old man accused of threatening to blow up the Islamic Center.

Javier Alan Correa of Corpus Christi, Texas, was indicted Thursday by a Nashville grand jury and is accused of violating the civil rights of members of the Islamic Center.

Correa has been charged in the Middle District of Tennessee with one count of intentionally obstructing by threat of force the free exercise of religious beliefs, as well as using an instrument of interstate commerce to communicate a threat to destroy a building by means of an explosive device.

If convicted of all the charges, Correa faces up to 30 years in prison and \$500,000 in fines.

"Today's indictment should send a message loud and clear that the Justice Department will not tolerate violence or threat of any violence against the Muslim community in Murfreesboro," Martin said.

In a somewhat stern manner, Martin said the controversy surrounding construction of the Islamic Center "has impeded the ability of people to exercise that most basic right."

For more than two years, opponents of the Islamic Center have fought to stop construction of the new mosque, located on Veals Road off Bradyville Pike.

In May, Corlew ruled the Rutherford County Planning Commission failed to provide adequate public notice prior to approving a site plan proposal to build the Islamic Center, which subsequently led to opponents filing an injunction request to stop construction.

Although he stopped short of halting construction during a June 13 hearing, Corlew said an occupancy certificate could not be issued based on his previous decision regarding the issue of adequate public notice.

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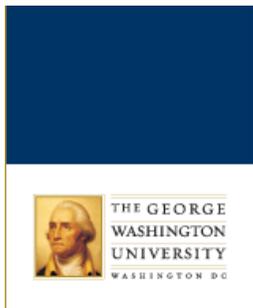
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"Nothing in the previous ruling prevents the Planning Commission from properly giving notice and holding another meeting to reconsider the site plan approval – but that still has not occurred," Corlew said. "There has to be an approved site plan before an occupancy certificate can be issued to the Islamic Center."

A day later, the Rutherford County Commission voted to appeal the ruling, which Joe Brandon Jr., who represents opponents of the Islamic Center, has characterized as inconsiderate to taxpayers.

"The fact they are appealing and wasting more tax dollars is not a surprise," Brandon said. "It would be too simple and make too much common sense for them to go through the proceedings in a correct manner."

In the appeal, county attorneys questioned whether requiring the Planning Commission to treat the Islamic Center differently than other religious organizations violates the U.S. Constitution and Tennessee Constitution.

Rutherford County officials are also concerned about the possibility the Planning Commission could face further litigation under federal and state laws in the Religious Freedom Restoration Acts.

"A failure to grant a stay also risks actions being taken that are later deemed improper, depending on the Court of Appeals," County Attorney Jim Cope said in the motion filed Thursday in Chancery Court.

Given the situation, Martin said the Civil Rights Division, an arm of the Justice Department, is now considering its options.

"We intend to protect the rights afforded under the Constitution to all individuals, including the most basic right to exercise freedom of religious beliefs," he said.

Martin said the Justice Department would take "whatever steps are necessary" to protect the Muslim community.

"We will not sit idly by and allow the fundamental rights of these citizens to be violated," he said, as Islamic Center opponents and members of the Muslim community stood next to the media throughout the press conference.

"What about our rights? Our rights are being violated because construction continues without a permit," said Millie Evans, who was among the opponents in attendance.

Although she opposes the Islamic Center, Evans said she does not approve of any violence or threats against the Muslim community.

Islamic Center opponent Elizabeth Coker agreed, saying Murfreesboro is a peaceful community.

"This is not a community that is known for hate speech or violence," Coker said. "The people who oppose the mosque have done so through a legal process, the courts, and that is what we will continue to do."

Meanwhile, members of the Islamic Center said they were pleased to learn about the indictment, in addition to the fact that the Justice Department is monitoring the on-going legal battle.

"I am very proud to see Muslims' civil rights are being defended," said Drost Kokoye, a senior at Middle Tennessee State University, who is a community organizer with the Tennessee Immigrant and Refugee Rights Coalition.

"This indictment proves the Justice Department remains committed to standing up for what is right – our right to freedom of religion," she said.

Even so, Kokoye said she still worries about the safety of the Muslim community because no one has been arrested or charged in connection with the August 2010 arson at the construction site.

"It is unfair that the Muslim community in Murfreesboro has faced so many problems," Kokoye said, "especially given the fact that the Islamic Center has been here for decades without any opposition until recently."

Martin said a \$20,000 reward is still being offered for information leading to the arrest of those involved in the arson. He added the investigation into vandalisms at the construction site also remains unsolved.

Local law enforcement officials and federal authorities are committed to solving the cases, as well as protecting the Muslim community from further harm, he said.

Rutherford County Sheriff Robert Arnold said his department would continue to assist investigators with the Federal Bureau of Investigation and reiterated Martin's comments.

"My job is to defend everyone's rights," Arnold said, "and that is what we are going to do."



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By: [vdanr](#) on 6/26/12

This is all so ridiculous and clearly shows double standards. Why do others seem to have more rights than Americans?? If we moved to another country, would we get the same treatment by that country's government? I will answer that for you, NO!!!! That's because other country's do not stand by and let others impose their beliefs and values on them!!

By: [Venerable](#) on 6/26/12

That's because we have higher standards of religious freedom in this country than in many other nations. Are you really advocating undermining the Constitution by denying religious freedom to Muslims?

By: [citizen1](#) on 6/26/12

The article is not about denying religious freedom. It is about the Rutherford County Planning Commission failing to provide adequate public notice prior to approving a site plan proposal to build the Islamic Center. The Rutherford County Commissioners stated in a court of law under oath, that just before voting on the site plan for the new mega mosque, they were instructed that they had to vote "yes" as any other vote would undoubtedly cause the county to be sued. This came straight from the Mayor. And some of the Mayor's millions (he owns a large stake in a chain of nursing homes) come straight from Dr. Essam Fathy (who approves the eligibility of patients for these nursing homes) who had submitted the site plan for approval. But I'm not saying there is a connection. Just because the Mayor denied knowing Dr. Fathy in court, under oath, until it was proven that the two men had known each other for decades, doesn't mean there was necessarily any foul play. Maybe it was a simple matter of political correctness, and knowing that if they turned the Muslims down, the County could get embroiled in a highly publicized civil rights conflict, and made to look like a bunch of Southern racists. We may never know.

And thus the rush to bypass the usual systems, put in place for an ambitious project of this size, were bypassed, and the mosque was rushed into construction. So, the idea that the Islamic Center of Murfreesboro is being held to a higher standard because they are Muslims just is not supported by the facts.

By: [vdanr](#) on 6/27/12

I'm not advocating undermining the Constitution, however, I don't think we should bow down to idol Gods either. You should stand for something or you will fall for anything. The fact that the due process of providing adequate public notice should be a sign that something is severely wrong with this!

By: [piamerica](#) on 6/27/12

I agree with you vdanr. Why didn't they provide public notice? Because they knew they uproar it was going to cause in this communitiy. Why do they need a 50,000 square foot to supposedly only support 45 muslims families???? And supposedly these 45 families are who funded the Mosque. REALLY? You expect me to believe this garbage? Where did they get the millions to fund this huge project??? And where is the NEWS on the letter sent by the head of the Mosques to the Ruth County School Board on the changes they would like made to support the 200-300 muslim children in Rutherford county? We are suppose to bend over backwards for that too, when there are over 40,000 students attending school in R County?

By: [HooHooGobbler](#) on 6/27/12

This is all about fear of Islam. Get over it. The mosque will be built, and a growing number of Americans in Murfreesboro will worship Allah as God. So what? Geez... move on with life.

By: [thinkingman](#) on 6/28/12

To all the whiners saying "other countries don't allow freedom of religion, so why should we." Because America is about a better idea! We are supposed to be a beacon of freedom, and what I'm hearing from the narrow-minded bigots is they want us to stand for white Christians only. Shameful.

Second: If this ruling is overturned, can we all agree that Chancellor Corlew has outlived his usefulness on the bench? The man cost the county tons of money and energy on the Bible Park case, and now he muddies the waters on this case. The only winners in this judge's decisions are attorneys!

By: [Venerable](#) on 6/28/12

The planning commission used the same public notice mechanism for several years, but it only became an issue with the Islamic Center. Don't pretend this isn't about Islamophobia.

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