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## **The FBI's Right to Threaten Torture**

**by James Bovard**

A federal appeals court has concluded that an FBI agent must go to trial on charges he coerced a false confession out of a prime suspect in the 9/11 attacks. But the FBI still insists that its agent did nothing wrong. And the feds swayed the court to suppress that portion of a recent decision detailing how the FBI agent used the threat of torture to break an innocent man.

Abdallah Higazy, a 30-year-old Egyptian student, arrived in New York City to study engineering at the Polytechnic University in Brooklyn on August 27, 2001. A U.S. foreign-aid program reserved and paid for his room at the Millennium Hilton Hotel, next to the World Trade Center. After the first plane crashed into the World Trade Center, Higazy hot-footed it out of the hotel. After the terrorist attack, the hotel was sealed.

Three months later, guests were allowed to retrieve their belongings. When Higazy went to the hotel on December 17, he was arrested and accused of possessing an aviation radio. (A hotel security guard reported finding the radio in a safe in his room.) Higazy denied owning the radio. He was arrested as a material witness and locked up in solitary confinement.

Higazy wanted to clear his name so he agreed to take a polygraph test. FBI agent Michael Templeton wired him up for the test but then proceeded to browbeat him for three hours until he finally admitted to owning the radio. Higazy said the FBI agent warned him, "If you don't cooperate with us, the FBI will ... make sure Egyptian security gives your family hell." The FBI refused to permit Higazy's attorney, Robert Dunn, to be in the room while he was given the polygraph. After the interrogation, Higazy was "trembling and sobbing uncontrollably," according to Dunn.

On January 11, 2002, Higazy was indicted for lying to a federal agent. U.S. Attorney Dan Himmelfarb declaimed that "the crime that was being investigated when the false statements [about the radio] were made is perhaps the most serious in the country's history. A radio that can be used for air-to-air and air-to-ground communication is a significant part of that investigation." The *Washington Post* noted that "federal officials paraded [Higazy] before the media as a

terrorist.” The feds never bothered checking with the U.S. foreign-aid program to find out whether Higazy’s story about why he was staying at the hotel next to the World Trade Center was true.

The prosecutorial celebration flopped three days later when an American pilot showed up at the Millennium Hilton Hotel and asked for the aviation radio he had left in his room when the hotel was evacuated on 9/11. It soon became apparent that the hotel security guard (a former cop who had been fired by the Newark Police Department) had lied about finding the radio in Higazy’s room. The case collapsed and, a few days later, Higazy was awarded \$3 for subway fare and released from jail. The FBI conducted an internal investigation and absolved Templeton of any wrongdoing.

In late 2002 Higazy sued, asserting that the FBI’s coercive interrogation violated his Fifth Amendment rights against self-incrimination. Federal judge Naomi Buchwald dismissed his case, declaring, “[Agent] Templeton’s conduct and threats as a matter of law cannot be classified as conscience-shocking or constitutionally oppressive.” Perhaps Buchwald believed that as long as Higazy’s mother and sister were not brutalized in front of him during the interrogation, the FBI had done nothing wrong.

A federal appeals court overturned this decision on October 19, declaring that Higazy’s case deserved to go to trial. The original version of the decision detailed the tactics Templeton purportedly used to get Higazy’s confession. Two hours later, the court removed that portion of the decision from the Internet. The redacted portion of the decision (captured by bloggers before it was taken down) noted that the FBI agent admitted to knowing that Egyptian “laws are different than ours, that they are probably allowed to do things in that country ... yeah, probably about torture, sure.” Thus, Templeton was aware that his threat would terrify Higazy.

The revised court decision replaced such key details with the following mundane notice: “For the purposes of the summary judgment motion, Templeton did not contest that Higazy’s statements were coerced.”

The FBI has long taught its agents that subjects of their investigation have “forfeited their right to the truth,” according to the ethics study guide at the FBI Academy. Perhaps, according to federal lawmen, it is a small step from lying to suspects to threatening to have their kinfolk tortured. The agency has done nothing in the nearly six years since this case began to indicate that the methods used in the Higazy case did not receive the full approval of FBI headquarters.

The initial Higazy arrest and release were landmarks showing how far feds would go to gin up evidence and headlines for the war on terror. The fact that the FBI approved of its agent’s methods — and the fact that a federal judge saw no problem with the interrogation — are further warning signs of constitutional decay. Keep your eyes on this case, because it could help determine how far feds can go to destroy innocent people.

James Bovard is the author of [Attention Deficit Democracy](#) [2006] as well as [The Bush Betrayal](#) [2004], [Lost Rights](#) [1994] and [Terrorism and Tyranny: Trampling Freedom, Justice and Peace to Rid the World of Evil](#) (Palgrave-Macmillan, September 2003) and serves as a policy advisor for The Future of Freedom Foundation.

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