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## Prosecutors Rest Case in Terrorism Trial

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Federal prosecutors rested their terrorism case Tuesday against a Lodi father and son by showing satellite images of a compound in remote, northeast Pakistan that closely resembled a training camp described by the son in an FBI interrogation.

Based on the satellite photographs and the videotaped questioning, Department of Defense image analyst Eric Benn concluded that the site was a "probable militant training camp." Earlier in the trial, a former Pakistani police chief testified that a militant writer — whose books were found in a search of the Lodi man's home — runs a training camp in that area.

It was the strongest evidence produced by government lawyers who have had problems with the credibility of their undercover FBI informant and the legitimacy of a purported confession obtained after hours of interrogation.

But the case against Lodi ice cream truck driver Umer Hayat, 48, and his junior high school dropout son Hamid Hayat, 23, has so far not lived up to its advance billing as a breakthrough in the war on terror.

When the Hayats were arrested last June, federal investigators claimed they had shattered a trained Al Qaeda sleeper cell in California's agricultural heartland. And, in her opening remarks, Assistant U.S. Atty. Laura Ferris said Hamid Hayat was "awaiting orders" to commit a terrorist attack in the United States.

But no evidence has been presented that he or his father had any direct links to Al Qaeda or had specific plans to launch a terrorist attack.

During his interrogation by the FBI, Hamid Hayat, who speaks halting English, vaguely described a camp that he attended, though he never clearly indicated that he participated in any training.

Former Los Angeles federal prosecutor Jan Handzlik, now a private attorney, said the difference between the government's sensational claims and the relatively mundane drama unfolding on the 13th floor of the Sacramento federal courthouse stems from

the “amorphous” charges against the two men. The younger Hayat is charged with attending a training camp in 2003; both men are charged with lying to the FBI.

“While the government asserts a vast conspiracy to harm U.S. interests,” Handzlik said, “the charges against the Hayats are in fact very narrow. At issue is the truth or falsity of specific, limited statements made during lengthy FBI interrogations. Jurors sometimes sense this gap between perception and reality, and wonder why the government’s proof has failed to live up to its advance billing.”

The links to Al Qaeda are tenuous at best, traced by prosecutors through an array of fundamentalist Pakistan political parties that also are involved in the Pakistan-India conflict over Kashmir. A juror who heard all of the evidence before she was excused from the case last week said she was unconvinced by the videotaped confession, saying the younger Hayat appeared to have been “badgered” into saying what he thought agents wanted to hear.

Pedro Tenoch Aguilar, who had been an FBI agent less than a year when he was asked to lead the Lodi terrorism investigation, testified that the government had gathered no on-the-ground evidence from Pakistan that Hayat attended the camp, though undercover informant Naseem Khan told investigators that Hayat intended to go.

“The government,” said retired FBI agent James J. Wedick Jr., who serves as chief investigator for the defense, “has failed to develop any evidence suggesting Hamid Hayat attended a terrorist training camp, despite the fact the FBI has an office in Islamabad, Pakistan, and had access to the resources of the CIA and the super-secret National Security Agency. And, they knew his name, address and phone number in Pakistan where he went to help his mother and get married.”

The prosecution is fighting a defense motion to have Wedick, a decorated, 35-year FBI veteran, testify as an expert witness on proper techniques of effective investigation. Today, the trial switches to the defense side; the trial is expected to last at least two more weeks.

Even the alleged confessions of the father and son, obtained in separate interrogations, conflict on important facts. The younger Hayat told interrogators he attended a camp near Balakot, described in Tuesday’s satellite testimony. His father claims the camp his son attended was only a few miles from a family home in Rawalpindi.

No evidence was produced about what training Hamid Hayat received. He said he spent his time in the kitchen, peeling vegetables.

The government also faces a serious credibility problem with Khan, the paid informant who shocked the courtroom when he testified that he saw Al Qaeda's No. 2 leader, Ayman Zawahiri, casually attending the Lodi mosque in 1999.

That surprising claim by the 32-year-old former Bend, Ore., convenience store clerk has been universally discounted by terrorism experts and government officials who say it is very unlikely that Zawahiri traveled in this country after 1995, and probably not after 1993.

The FBI provided Khan with a car and paid him nearly \$230,000 in salary and expenses to infiltrate the Lodi Muslim community.

Some legal experts say the Lodi case fits a national pattern in which federal officials, eager to show progress in the Bush administration's "war on terror," exaggerate their anti-terror accomplishments only to get bogged down when it comes to proving them in court.

"The Hayat case is like a number of other cases in which the government has somewhat overstated the case going in but, when put to the proof, it has not always been so compelling," said Carl Tobias, a University of Richmond law professor who tracks terrorism prosecutions.

Last week, excused juror Andrea Clabaugh, a Sacramento engineering firm account executive, told reporters that, in her opinion, the government had failed so far to prove its charges against Hamid Hayat.

"It felt to me like he was being badgered and it felt to me, in some respects, he was giving the information because they refused to believe that he didn't know anything. He had to say something."

Even with difficulties facing the government, the two juries in the Hayat case – one for each defendant – may ultimately convict.

The jury pool for the Eastern District of California, where the trial is taking place, draws from some of the state's most conservative areas, including the northern Sacramento River valley and Sierra foothills, which are overwhelmingly supportive of the Bush administration and its policies.

But as Clabaugh's reactions suggest, that is far from certain.