



Written by [Selwyn Duke](#) on February 26, 2012

Pa. Court: Judge Uses Sharia Law to Free Muslim Assailant

The assault victim was the head of the Pennsylvania chapter of American Atheists, Ernest Perce V, who was marching in a Halloween parade as “Zombie Mohammed” next to a fellow atheist dressed as “Zombie Pope.” The former depiction didn’t sit well with Muslim onlooker Talag Elbayomy, who then attacked Mr. Perce. And with an admission of guilt by the assailant and [video of the incident](#), it should have been an open-and-shut case.



But that’s not how it turned out.

As Andrew McCarthy at *National Review* [reports](#):

Magistrate Judge Mark Martin, a veteran of the war in Iraq, ruled that Talag Elbayomy's sharia defense — what he claimed was his obligation to strike out against any insult against the prophet Mohammed — trumped the First Amendment free speech rights of the victim.

Yes, you read that correctly.

Al Stefanelli of American Atheists provides some more information, [writing](#):

The defendant is an immigrant and claims he did not know his actions were illegal, or that it was legal in this country to represent Muhammad in any form. To add insult to injury, he also testified that his 9 year old son was present, and the man said he felt he needed to show his young son that he was willing to fight for his Prophet....

The Judge not only ruled in favor of the defendant, but called Mr. Perce a name and told him that if he were in a Muslim country, he'd be put to death.

I wonder, if Elbayomy had put Perce “to death” not knowing that such an action in response to an insult to Mohammed was illegal in America, would Judge Martin have thrown out the murder charge?

Stefanelli also reports, “Judge Martin's comments included, ‘Having had the benefit of having spent over 2 and a half years in predominantly Muslim countries I think I know a little bit about the faith of Islam.’ ”

I’m sure. But it appears Judge Martin knows only a little bit — at most — about American law. Perhaps he should consider the benefit of spending time in a Muslim country permanently.

The judge continued, writes Stefanelli (note that this is quoted verbatim, grammatical errors included):

In fact I have a copy of the Koran here and I challenge you sir to show me where it says in the Koran that Mohammad arose and walked among the dead. I think you misinterpreted things. Before you start mocking someone else's religion you may want to find out a little bit more about it it makes you look like a dufus and Mr. (Defendant) is correct. In many Arabic speaking countries something like this is definitely against the law there. In their society in fact it can be punishable by death and it frequently is in their society.



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The judge may want to reconsider who has misinterpreted things and then ponder that a “dufus” is defined as a stupid, incompetent person.

Back to Stefanelli:

Judge Martin then offered a lesson in Islam, stating,

"Islam is not just a religion, it's their culture, their culture. It's their very essence their very being. They pray five times a day towards Mecca to be a good Muslim, before you die you have to make a pilgrimage to Mecca unless you are otherwise told you can not because you are too ill too elderly, whatever but you must make the attempt. Their greetings wa-laikum as-Salâm (is answered by voice) may god be with you. Whenever, it's very common when speaking to each other it's very common for them to say uh this will happen it's it they are so immersed in it."

And this is the problem. Any true believer's religion is part of his very essence, his very being; however, it's clear to me that the essence of Islam is incompatible with the essence of American law.

Stefanelli again:

Judge Martin further complicates the issue by not only abrogating the First Amendment, but completely misunderstanding it when he said,

"Then what you have done is you have completely trashed their essence, their being. They find it very very very offensive. I'm a Muslim, I find it offensive. But you have that right, but you're way outside your boundaries or first amendment rights. This is what, and I said I spent about 7 and a half years living in other countries. when we go to other countries it's not uncommon for people to refer to us as ugly Americans this is why we are referred to as ugly Americans, because we are so concerned about our own rights we don't care about other people's rights as long as we get our say but we don't care about the other people's say."

But wait, it gets worse. The Judge refused to allow the video into evidence, and then said,

"All that aside I've got here basically. I don't want to say he said she said but I've got two sides of the story that are in conflict with each other."

And,

"The preponderance of, excuse me, the burden of proof..."

And,

"... he has not proven to me beyond a reasonable doubt that this defendant is guilty of harassment, therefore I am going to dismiss the charge."

Aside from the clear illegality of Judge Martin's ruling, this case brings to mind some other issues as well. First, there is an irony here: Judicial activism — a practice atheists have long used to denude the American landscape of its foundational faith — is now being used in deference to a foreign faith to deny an atheist his rights. This is why I and others have long been warning about the unconstitutional precedents we set.

Second, speaking of precedents, Judge Martin's ruling also reflects something else now common: the mentality that has spawned hate-speech laws in most of the Western world. The idea is that “hate



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speech” (determined by the powers-that-be, of course) is an entirely separate species of expression and thus not protected under any free-speech principle. American atheists, who generally support European socialist-style politicians, may want to consider that in many European nations Mr. Perce would be the one in the dock right now — on charges of ethnic or religious intimidation.

Next, Judge Martin’s presence on the bench is a testimonial to our descent into an idiocracy. Not only does he exhibit degraded reasoning capacity, but is it fitting for a judge to use terms such as “dufus” and “piss off” (which he also uttered) on the bench? Someone ought to tell this black-robed rug rat that he isn’t tweeting teen followers.

And then there again is the main point. When John Adams said that our Constitution was only adequate to the government of a “moral and religious people,” he wasn’t referring to a people informed by a religion that is wholly incompatible with the Constitution. If we continue to allow Islam to make inroads into the United States, we should expect only more Sharia creep into American law.

Hat tip: [Thomas Lifson](#) at American Thinker

(Note: The cited sources originally reported that Judge Martin was a convert to Islam. It appears, however, that this is not the case. As Andrew McCarthy at *National Review* explains at the end of [his article](#): "This post has been corrected because, after further review, it appears Judge Martin’s reported statement on the audio of the court proceeding, 'I’m a Muslim, I find it offensive', is actually, “F’Im a Muslim, I’d find it offensive.” For further details, see this [post](#).”)

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