

Jury to Be Anonymous in Trial of Ex-Student Accused of Aiding Al Qaeda

By BENJAMIN WEISER

When Syed Hashmi, a former Brooklyn College student charged with providing material support to Al Qaeda, goes on trial this week in Manhattan, the jury will be anonymous, a judge ruled on Monday.

Prosecutors had argued that keeping the jurors' names secret was necessary because of the seriousness of the charges. They have accused Mr. Hashmi, 30, of conspiring with others to provide Al Qaeda with military gear, which was to be used against American forces in Afghanistan, court papers show.

And when Mr. Hashmi was arrested in 2006 in Great Britain, he said he was happy about the deaths of American and British troops in Afghanistan and Iraq, prosecutors say. Mr. Hashmi, who could face 70 years in prison if convicted, has pleaded not guilty.

The government has successfully requested anonymous juries in past cases involving terrorism and organized crime, arguing, for example, that jurors might fear for their safety if their names were known. Defense lawyers, meanwhile, contend that such measures lead jurors to believe that a defendant must be dangerous, undermining the presumption of innocence.

The request for anonymity and other jury security measures in the Hashmi case, however, have drawn particular criticism from defense lawyers and others because of a reference to Mr. Hashmi's supporters, who are expected to fill the spectator section of the courtroom during his trial in Federal District Court.

Prosecutors said in court papers that they expected to present evidence that Mr. Hashmi, a Pakistani immigrant who became an American citizen and studied political science at Brook-

lyn College, once led protests for a radical Islamic organization when he lived in Queens several years ago.

"It is likely that the jurors will see in the gallery of the courtroom a significant number of the defendant's supporters," prosecutors wrote, "naturally leading to juror speculation that at least some of these spectators might share the defendant's violent radical Islamic leanings."

Mr. Hashmi's lawyers, in opposing an anonymous jury, called that argument troubling because the prosecution based its request for "sweeping protective measures" on the views of Mr. Hashmi and his supporters.

"It is purely speculative — and presumptuous — to suggest that a juror will see a certain face in the audience and jump to the conclusion that the spectator has 'violent radical Islamic leanings' that will result in a direct threat to the juror's personal safety," the lawyers wrote.

Bill Quigley, legal director of the Center for Constitutional Rights, which has criticized the anonymous-jury motion and other security measures in the case, said prosecutors were "playing the fear card and playing an ethnicity card."

"It's clearly because this guy has strong community support in the Arab-American community, and that they're planning to come to court," Mr. Quigley said.

Prosecutors said in legal papers that courts have allowed anonymity when there was reason to believe that a jury needed protection and precautions were taken to minimize any adverse effect on a juror's opinion of the defendant.

The judge, Loretta A. Preska, said Monday that she was confident that a thorough interviewing of prospective jurors, called voir dire, would ensure a fair-

minded panel.

Allowing prospective jurors to answer questions anonymously, she said, "will probably encourage the giving of truthful answers."

"In my view," she added, "anonymity will assist in jurors being more willing to admit to possible biases."

Neither prosecutors nor a lawyer for Mr. Hashmi would comment after the hearing.

In addition to attending pretrial proceedings, Mr. Hashmi's supporters have held vigils outside the prison in Lower Manhattan where Mr. Hashmi is being held, to focus attention on rights issues in his case, said Jeanne Theoharis, a political science professor at Brooklyn College who once taught Mr. Hashmi.

Among those attending have been family members, Muslim student groups, law students, actors, writers and members of the clergy, she said.

The prosecutors also justified the request on grounds that the trial might draw substantial news coverage. "If jurors could be located by reporters, the fairness of the trial could be compromised," prosecutors wrote.

In one recent case, prosecutors did not seek an anonymous jury in the trial of a Pakistani scientist convicted of trying to kill American Army officers in Afghanistan, prosecutors did not seek an anonymous jury. The judge later dismissed two jurors who said they felt threatened when a spectator pointed his thumb and index finger at the jury as if they were a gun.

Fears of bias are weighed against security concerns.

