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By David J. Lynch, USA TODAY

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HUNTSVILLE, Ala. — As Alex Latifi walks through his empty factory, the only sounds are his footsteps and the dull hum of the wavering fluorescent light overhead. The lathes and drill presses that once churned out a steady stream of critical parts for the U.S. military are still.

The ghostly silence at Axion is the result of a four-year government probe that targeted Latifi for allegedly violating U.S. export law by sending to China classified drawings of an Army Black Hawk helicopter part and falsifying related tests.

Armed federal agents raided Latifi's home and business in 2004 and 2006, seizing computers, cellphones and cardboard boxes full of records. Prosecutors froze \$2.5 million of his assets in 2006, dealing what may prove a fatal blow to his 24-year-old business. Finally, in March 2007, U.S. Attorney Alice Martin unveiled a multiple-count criminal indictment in Birmingham, Ala., placing the Iranian-American immigrant at the intersection of two of the country's most emotionally charged national security worries: Iran and China.

"Keeping sensitive U.S. military technology from falling into the wrong hands is a top priority for the Justice Department," Kenneth Wainstein, assistant attorney general for national security, said at the time. "This indictment and other recent illegal export prosecutions should serve as a warning to companies seeking to enhance their profits at the expense of America's national security."

But rather than deterring renegade exporters, the Latifi case now appears as a cautionary tale of what critics call an overzealous prosecution. It is also a reminder that the innocent can pay an enormous price while the gears of justice grind. "The government's case itself it seems to me was sloppily prepared. ... Their prosecutorial zeal caused them to overlook some deficiencies in their case," says Clif Burns, an export law attorney at Powell Goldstein in Washington, D.C., who was not involved in the case.

During a seven-day trial last fall, the government's case swiftly unraveled. The informant who tipped Army investigators to Latifi's alleged misdeeds turned out to be an Axion employee who was simultaneously embezzling company funds. Prosecutors also conceded that the government had failed to mark the sensitive technical drawing that Latifi, 60, was accused of illegally exporting with the warning language Defense Department regulations require.

In her Florence, Ala., courtroom, U.S. District Court Judge Inge Johnson called the government's case "sloppy" before swiftly dismissing all charges. The judge also ordered the government to pay Latifi nearly \$364,000 for his attorney's fees, a move the local U.S. attorney called "unprecedented."

For the government, the defeat was a rare loss in the export-control arena. For Latifi, the ordeal — he faced up to 40 years in prison if convicted on all counts — struck at the ideals that defined his life as an engineer and as an immigrant. "I paid with four or five years of my life. I lost my company. ... This is like the Gestapo. This is not the United States," Latifi said in a joint interview with his wife, Beth, in which they recounted their experiences with federal law enforcement officials.

The drama may not be over. Latifi's attorneys have filed a formal complaint with the Justice Department's office of professional responsibility (OPR) accusing Martin and her deputies, David Estes and Angela Debro, of "prosecutorial misconduct" for allegedly stating in conversations with the defense attorneys that their goal was to put Latifi out of business whether or not they won the case. Latifi is seeking access to the government's case files, which his attorneys say will prove that prosecutors failed to disclose evidence suggesting his innocence.

Martin's 6½-year tenure already has been marked by high-profile trials and controversy. The Republican appointee's handling of prosecutions of former Alabama governor Don Siegelman, a Democrat, and HealthSouth CEO Richard Scrushy has been criticized as politically motivated, most recently in an April 17 report by the Democratic staff of the House Judiciary Committee.

Mark White, incoming president of the state bar association, says the Alabama legal community is concerned with "the attitudes and positions taken by the U.S. attorney's office. ... They are seen as being political."

A ruling on Latifi's attempt to see prosecutors' records may be months away, but Johnson already has indicated deep concern about the government's conduct. "Evidence was received during the defendant's trial that at least raises the possibility that the government continued to investigate and prosecute (Latifi) even after uncovering evidence demonstrating that the defendants were not guilty of the alleged crimes," the judge wrote.

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An unlikely target

At 8 a.m. on Tuesday, April 13, 2004, Beth Latifi heard an insistent knock at the door of their two-story brick home in one of Huntsville's gated communities. Still holding the shirt she'd been ironing for her husband, she opened the door to armed federal agents. One of the lawmen thrust a search warrant at her with a curt, "Read it," she says, as his colleagues swarmed the home.

"What the hell?" the startled woman exclaimed.

About 15 miles away, a similar scene was playing out at Axion's headquarters. The raids were the outgrowth of a five-month probe by the Army's Criminal Investigations Division's procurement fraud unit. At issue was Axion's work on two Army contracts: one for a part that dampens vibrations on the UH-60 Black Hawk helicopter rotor, and a second for a shock absorber on two Army vehicles.

Latifi was an unlikely object of official suspicion. A veteran engineer, he had a reputation as a perfectionist. He was also a naturalized citizen with an unabashed faith in his adopted land. "I came to the United States because I honestly believe in the Bill of Rights," he said in the interview. "This is the only country on Earth ... you have all the rights God has given you and can pursue your life the best you know how. No (other) country gives you that."

A native of Ahwaz in southwestern Iran, Latifi immigrated to the USA in 1971 and became a U.S. citizen 11 years later. Intensely proud, he hails from a prominent Arab-Persian family. During World War II, Latifi's father, an Arab sheik, hunted wild pigs and rabbits with the head of the U.S. gendarme mission, Gen. H. Norman Schwarzkopf, father of the Operation Desert Storm commander.

After earning an engineering degree, Latifi married a college classmate and launched his own small business. From the start, Latifi focused on high-priced parts that were important but too small to warrant a major company's attention. With an engineer's eye, he looked for ways to redesign unsung components to make them for less, thus profiting both the government and Axion.

In a single-story industrial building, he built a business that employed 60 workers and was eventually valued at \$50 million. Axion made parts for Army Hawk missiles, Navy tractors that ferried missiles to carrier-based airplanes and cockpit wiring harnesses for Air Force fighters. By the time the government began investigating, Axion's annual revenue was more than \$4 million and Latifi, his wife and their four children lived in a lavishly appointed home assessed at more than \$1.4 million.

On that April morning, as the federal agents pored through his belongings, Latifi had an epiphany: "I told my wife, 'Uh-oh. That's the secretary.' "

Elizabeth Lemay had joined Axion as a secretary in early 2002 after relocating from Nashville, where she had been asked to resign from at least two jobs in recent years. Her struggles as a single mother drew the sympathy of Beth Latifi, who began giving her small gifts of cash and furniture, including an antique bed for her daughter. On Aug. 30, 2003, the Latifis even arranged for Lemay and her children to join them on a weekend trip to Atlanta. But Lemay never appeared. She explained her absence by telling the Latifis that she had been carjacked, a story she later acknowledged in court was a lie.

By early September 2003, Lemay had begun signing Alex Latifi's name to company checks she made out to herself, according to the trial transcript. Over several months, she forged at least 15 checks worth a total of \$12,730.

That fall, she also began funneling information to Army investigators. Initially, based on misunderstood fragments of conversation, Lemay suspected Latifi was violating the "Buy American Act" by hiring a Chinese company to produce the Black Hawk rotor part — called a bifilar weight assembly — under a contract Axion had been awarded in August.

She was wrong about that. Axion actually hoped to tap the Chinese as a low-cost supplier of tungsten, the raw material used to make the part. But Army investigator Mark Mills, so new in his job that he hadn't yet received his badge and official credentials from headquarters, didn't realize that.

Through the fall, Latifi searched for a low-cost tungsten supplier to help realize his goal of making the helicopter part more efficiently. The traditional method involved machining a 185-pound block of recycled tungsten into a 22-pound part. By re-thinking the design, Latifi thought he could use less than half as much virgin tungsten, which would perform better and cost substantially less.

Latifi sought out Ming Hwang, owner of a year-old San Jose trading company called EcoTungsten. At first, the engineers in China that Hwang used as subcontractors had trouble understanding what the part entailed. So Latifi asked one of his employees, mechanical engineer James Hopkins, to produce a simplified engineering drawing for the Chinese.

Axion had received the original document on an Army compact disk, labeled "For Official Government Business Only" and "Distribution Statement C." Normally, government documents that cannot be released to foreigners carry explicit warnings to that effect. But on the Black Hawk part drawing, the space where the export-control warning customarily appears was blank.

Just to be safe, Hopkins called an engineer at Sikorsky, the Black Hawk's maker. The Sikorsky official told Hopkins the helicopter part had been in use for years and carried no export restrictions. "We went through the process of making sure that there were no restrictions," Hopkins testified.

Estes said Latifi had advanced Chinese manufacturing by sending the drawing. And even though the government failed to put any export warning on the original document, Latifi should have known he couldn't ship it abroad, the prosecutor said.

Get out of jail free

On Jan. 13, 2004, Axion submitted to the government two reports containing test results meant to verify its production processes for the Black Hawk part and the unrelated shock absorber. According to prosecutors, both reports were fraudulent. In the test report on the Black Hawk part, for example, Axion listed a Madison, Ala., company called Tungsten Products as its raw material supplier. The government argued that the supplier's sales records showed Tungsten Products wasn't the source.

Much of what the government knew came from Lemay, who wove a tale of a rogue contractor illegally employing foreign suppliers on a sensitive contract and faking the required tests.

On Jan. 15, 2004, Army investigator Mills wrote in a summary of an informant conversation that the Black Hawk part had been made in China "in violation of the Buy American Act," which mandates preference for U.S.-made goods in government procurements. Lemay later passed word that "the assembly was manufactured by a Chinese company" and that Latifi "might be paying" the government's inspector to overlook that fact.

By early April, Mills was ready to move. On April 9, he filed an affidavit seeking a warrant to search Latifi's home and business, based in part on Lemay's information. The affidavit didn't mention that Lemay had been fired almost two months earlier, just before being arrested on fraud charges.

Told she was under arrest, Lemay had replied smugly: "Before you do that, you better call the FBI." (She later pleaded guilty in state court to forgery, was given a suspended sentence of three years in jail and ordered to serve four years' probation.)

One of Latifi's attorneys, Henry Frohsin, argued that Lemay was wrong and that she had deliberately set up his client in hopes that her role in instigating, and then cooperating with, the government's probe would be her "get out of jail free card" if her forgeries were detected.

In court, Mills testified that the magistrate was aware that Lemay was an accused forger when he issued the search warrant — although the agent had not included that fact in the affidavit nor in any of his investigative summaries of his conversations with her. "So we don't have any proof of that other than your testimony, do we?" asked Judge Johnson.

"That's correct," Mills said.

A gamble pays off

For much of 2004 and 2005, as the investigation dragged on, the government continued accepting Axion-made parts. But finally, after receiving almost 250 of the Black Hawk parts, the Army in December 2005 terminated Axion's contract when its deliveries lagged. In June 2006, agents raided Latifi's home and business for a second time and froze \$2.5 million in assets.

For nine months, Axion slowly strangled while the investigation continued. Then on March 30, 2007, the uncertainty was broken. Latifi's son, Alex Jr., 16, got a text message from a friend: "Is everything OK with your family?" The local U.S. attorney had issued the indictment, publicly declaring that Latifi had "knowingly and willfully" exported defense items without a required license.

Amid near daily reports of an imminent U.S. showdown with Iran over its nuclear ambitions, Latifi's lawyers — fearing that an Alabama jury would be quick to convict an Iranian-American — opted to have the trial decided by a judge instead.

The gamble quickly paid off as the trial got underway on Oct. 22. Johnson, appointed to the federal bench in 1998 by President Clinton, was often exasperated by the prosecution and betrayed open annoyance with Mills for failing to verify that Latifi's signature on one of the Jan. 13, 2004, test reports was genuine and not another Lemay forgery.

Questioned by the judge, Mills testified there was no reason to ask Latifi for a handwriting sample because there was no indication the report had been forged. "Does it ever dawn on federal agents, you in particular, that if somebody is forging somebody's name on checks, they might be forging them somewhere else?" the judge said.

On Oct. 30, Johnson dismissed all the charges against Latifi with blunt words for the prosecution and the Army investigators. Two

months later — and only after the judge had ordered the government to act — the Justice Department issued a two-sentence statement announcing the acquittal and indicating that Axion had been reinstated as a government contractor "in good standing."

Vindication may have come too late. Along with Latifi, dozens of workers have suffered financial hardship. Wayne Smartt, 51, an \$18,000-a-year factory crew leader, has struggled to make ends meet since losing his Axion job about 18 months ago as government orders dried up. Without a full-time salary, the father of five came close to losing his home. "I had to go pick up cans along the side of the road ... paint homes and stuff, just do whatever I could do," Smartt said.

The protracted legal ordeal effectively "ruined Axion's business," the judge wrote in a May 29 ruling ordering the government to pay Latifi's legal fees. Martin, the local U.S. attorney, said she would seek permission to appeal the decision.

Karen Naramore, a spokeswoman for the U.S. attorney, said Martin would not comment on the case while that process continued. Mills also declined comment. Attempts to reach Lemay through her attorney were unsuccessful.

Today, Latifi is seeking additional legal fees and access to the government's files through a legal channel called the Hyde Amendment, which provides for compensating exonerated defendants if "the position of the United States was vexatious, frivolous, or in bad faith." Prosecutors are fighting back. This spring, while Johnson was visiting her native Denmark, Martin sought to have another judge overturn Johnson's order requiring prosecutors to appear in court with their files.

That further irritated Johnson. The "court can only surmise from the government's vigorous resistance to the possibility that it might have to disclose something about the prosecution of the defendants and its unusual actions while Judge Johnson was outside the country that 'something is rotten in the state of Denmark,' " she wrote.

Meanwhile, the Army no longer buys the Black Hawk parts from Axion for \$2,680 apiece. Instead, it paid other companies \$4,000 to \$5,800, Latifi says. "They were trying to put me in jail for ... the rest of my life — for making better parts!" he says. The Army declined to say how much it pays.

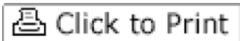
Latifi has yet to shake off the memory of his ordeal. Axion has submitted bids on "30 or 40" procurements this year, he says, but has nothing to show for it. On a couple of occasions, as he's returned from trips abroad, he says he's been taken aside at customs for prolonged questioning. Beth, an Alabama native, is openly bitter about her husband's treatment. Daughter Alexis, 22, was so affected by her father's experience that she abandoned medical school in favor of studying constitutional law.

His plans to leave a profitable company to his son are in ruins, and he remains haunted by the shame of having lived for years under a cloud. "A lot of people didn't know how to act," he says. "I assume because I am a Persian, they would say, 'Ah, that's how he makes money. He cheats.' "

But now that a judge has thrown out the charges, he hopes they think something else, something like: "This guy wasn't guilty. He was abused."

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