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THE WALL STREET JOURNAL

WSJ.com

SEPTEMBER 28, 2009

Big Case for Small-Time Attorney

Folsom, Representing Terror Suspect Zazi, by Accident Is at Center of a Legal Storm

By [STEPHANIE SIMON](#)

DENVER -- It was quite by accident that the biggest terrorism case in recent years landed on the doorstep of small-time defense lawyer Art Folsom, who has made a living on drug-possession and drunk-driving cases, along with the odd divorce.

Mr. Folsom represents Najibullah Zazi, accused by the U.S. government of plotting to build and detonate a lethal explosive as part of an active al Qaeda cell. Mr. Folsom, 37 years old and a graduate of the University of Denver College of Law, is up against scores of FBI agents and federal prosecutors who have worked feverishly for weeks to build the case.

Veteran criminal defense attorneys have been unusually blunt in assessing Mr. Folsom's qualifications. "Mr. Folsom is just in over his head," said prominent Denver defense lawyer Daniel Recht, citing Mr. Folsom's performance so far and minimal experience in federal court.

With a shrug and a drag on his cigarette, Mr. Folsom begs to differ. "I've been practicing criminal defense for 10 years," he says. "This is an enormous case, but when you get down to the core principles, it's about criminal defense."

Two weeks ago Tuesday, a lanky man with a wiry black beard walked into Mr. Folsom's law office with a referral for a different lawyer who wasn't there. Mr. Folsom asked him to sit.

Mr. Zazi was concerned because federal agents had searched the apartment of some New York friends after he had visited them. He was worried they might come after him next. That sounded unlikely to Mr. Folsom, but he gave Mr. Zazi his card and told him to call if something came up. Telling the story, Mr. Folsom grins. "Something came up," he said.

The case against Mr. Zazi has unfolded slowly, culminating last week in a charge of conspiracy to use weapons of mass destruction. Prosecutors say wiretaps, email, surveillance video and chemical tests show Mr. Zazi was assembling a bomb and may have intended to use explosives in New York on Sept. 11. Mr. Zazi is in custody in New York and will be arraigned on Tuesday.

Mr. Folsom has forcefully declared his client's innocence. He has brought in a Denver co-counsel, J. Michael Dowling, who has 25 years of experience in drug trials and other federal cases.

But Mr. Folsom remains lead counsel. TV crews stake out his office, in a building that also houses a massage therapist and a jewelry shop. After hearings, he is the one who faces the cameras.

Amid the hubbub, Mr. Folsom has his own legal problems. He was charged this summer with possession of less than an ounce of marijuana, a petty offense that carries a small fine. He says the pot belonged to a friend. A pretrial conference is set for mid-October.

Mr. Folsom expects the Zazi case to take up much of his time, though his client has no money to pay him. That's a bit tough, he says: "I'd like to be able to keep making my car payments."

But Mr. Folsom says he won't abandon his client. He went into criminal law to protect the rights of the accused, he says, and when he takes a case, he likes to think he is defending the very ideals that make America great. "This is a big one," he acknowledges, and says he is ready.

Several lawyers expressed dismay that Mr. Folsom let Mr. Zazi talk to the FBI for what turned out to be a 28-hour interrogation over three days, with Mr. Folsom by his side. Prosecutors ended up using the interrogation as a basis for arresting Mr. Zazi, charging him with lying to investigators. They have since dropped that count to pursue the more serious terrorism charge.

But legal analysts say Mr. Zazi is now locked into whatever he may have said during that 28-hour interrogation, before he had a good sense of the evidence against him or a chance to consult at length with counsel.

Mr. Folsom said his client has nothing to hide and was right to speak to the FBI. "If you're asking if I regret having done that," he said, "the answer is no."

Longtime Denver prosecutor Craig Silverman questions Mr. Folsom's credentials but has watched all three of his court appearances and says they haven't been "disastrous." While Mr. Folsom failed to get Mr. Zazi out on bail, "I don't think even Clarence Darrow could have gotten Zazi out." Mr. Silverman said.

Mr. Folsom's spokeswoman, Wendy Aiello, points out that few lawyers in the country have experience with cases of this magnitude and said Mr. Folsom is up to the task.

Mr. Folsom appears to have the full confidence of his client. In court, Mr. Zazi sits close to Mr. Folsom, leaning in for whispered consultations, pointing with shackled hands at documents.

The judge has asked at least twice if he wants a public defender. Mr. Zazi has declined.

"I believe he trusts me," Mr. Folsom said. "I hope he does."

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Printed in The Wall Street Journal, page A5

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