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Witness Feels Betrayed as U.S. Plans to Divide Family

By Adam Liptak

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About a decade ago, a federal prosecutor in Texas asked Edmond Demiraj to testify against an Albanian mobster charged with human smuggling.

Mr. Demiraj had information: He had worked with the mobster, Bill Bedini, in a construction business and had sent money abroad for him. The prosecutor had leverage: Mr. Demiraj, an Albanian citizen, was in the United States illegally.

The two sides made a deal, Mr. Demiraj said. In exchange for his testimony, he and his family would be kept safe.

But Mr. Bedini was allowed to post bail and promptly fled to Albania. With their witness no longer of value to them, federal authorities deported Mr. Demiraj, also to Albania.

Mr. Bedini was waiting. He kidnapped, beat and shot Mr. Demiraj, the bullet just missing his kidneys.

Mr. Bedini also went after members of Mr. Demiraj's family, kidnapping two of his nieces and forcing them into prostitution in Italy. "This was payback to your Uncle Edmond for when I was in the United States," he said as he beat the women, who were 19 and 21.

This lurid narrative is set out in a recent federal appeals court decision and related court documents. The ruling, issued in January, contained good news: Mr. Demiraj survived the shooting, and his nieces escaped thanks to, as a dissenting judge put it, "sheer luck and a kind taxi driver."

Mr. Demiraj and his nieces are now lawfully in the United States. He owns a small painting company near Houston. But the decision in January also brought bad news for Mr. Demiraj. It ordered the deportation of his wife, Rodina, and teenage son, Reditol, who have both lived in the United States since they entered the country unlawfully in 2000. (The two youngest Demiraj children were born in the United States.)

The idea that members of his family will be forced to return to Albania terrifies Mr. Demiraj.

“Bill Bedini is a dangerous person,” Mr. Demiraj said on the phone the other day, in halting English. “For sure he’s going to kill my son. My wife, maybe he’s going to kill her and maybe he’s going to send her to prostitution.”

The government does not really dispute any of this.

“There is a possibility that Mrs. Demiraj will be persecuted,” Jennifer R. Khouri, a Justice Department lawyer, said at the appeals court argument in December. “I’m not saying she won’t risk any harm in Albania. I’m saying she hasn’t met her legal burden when it comes to asylum.”

In a divided decision, a three-judge panel of the federal appeals court in New Orleans agreed. It is true, they said, that a federal law says asylum may be granted when an alien fears persecution “on account of” family membership.

But the judges in the majority added that Mr. Demiraj’s wife and teenage son did not qualify. Their reasoning takes a minute to grasp.

“Mrs. Demiraj is at risk because Bedini seeks to hurt Mr. Demiraj by hurting her — not because he has a generalized desire to hurt the Demiraj family as such,” Judge Catharina Haynes wrote. “Mrs. Demiraj would not be any safer in Albania if she divorced Mr. Demiraj and renounced membership in the family, nor would she be any safer if she were Mr. Demiraj’s girlfriend of many years rather than his wife.”

Logical, I guess. But it does not torture the English language, either, to say that Mr. Bedini aims to harm Mrs. Demiraj and her son “on account of” their familial relationship to Edmond Demiraj. That is how other federal appeals courts have interpreted the asylum law.

The Supreme Court is likely to decide whether to hear an appeal from the appeals court’s ruling this fall. The family’s lawyers say they have more than the law on their side.

“Instead of rewarding Mr. Demiraj for risking his life to protect us from a ruthless gangster, the government delivers his family right into the gangster’s clutches,” said E. Joshua Rosenkranz, a lawyer with Orrick, Herrington and Sutcliffe, which represents the family. “It’s immoral and illegal. But it’s also reckless. If that is how we treat our friends, pretty soon we won’t have any friends left to protect us.”

The justices have received a pile of supporting briefs from human rights groups and law professors urging the court to hear the case. But the most interesting supporting brief was filed by some 40 former federal law enforcement officials, including Dick Thornburgh, who was attorney general under Presidents Ronald Reagan and the elder George Bush, and William S. Sessions, who served as director of the F.B.I. in three administrations.

The appeals court’s ruling, they said, “makes insiders who are crucial to the fight against international organized crime less likely to cooperate with law enforcement.”

Mr. Demiraj said Marina Garcia Marmolejo, an assistant United States attorney, had made a promise to keep him and his family safe.

“This lady comes into my dreams all the time because she put my life in danger,” he said, growing emotional. “She destroyed everything.”

Ms. Marmolejo, now a nominee to be a federal judge, would not comment for this column and referred me to the United States attorney’s office. A spokeswoman there declined to comment.

Mr. Demiraj assessed the situation this way. “They can squeeze you,” he said, “and throw you in the trash.”