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Congress of the United States
House of Representatives

October 21, 2010

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DEAN, NEW JERSEY DELEGATION

The Honorable Eric H. Holder, Jr.
Attorney General of the United States
950 Pennsylvania Ave., NW
Suite 5111
Washington, D.C. 20530

PER FAX: 202-514-4482

Dear Mr. Attorney General:

I would like to bring to your attention my constituents' concern that the actions of a U.S. Attorney have called into question the fairness of our federal judicial system in matters touching on their Jewish faith. They and I strongly believe that it should be the policy of the U.S. government that U.S. Attorneys never treat Jewish Americans, solely or substantially because of their Jewish identity, as a "flight risk" so as to deny them bail.

My constituents brought this issue to my attention in connection with reports about the U.S. Attorney's actions in the case of *U.S. v. Rubashkin*, pending in the federal court system. In 2008 the U.S. Attorney for the Northern District of Iowa, based on evidence gained in connection with a raid on a kosher meatpacking plant, indicted Sholom Rubashkin on a number of counts relating to financial transactions between the plant and a local bank. The U.S. Attorney sought to deny bail on grounds which prominently included that Mr. Rubashkin, as a Jew, posed a flight risk to Israel. The magistrate judge did in fact deny Mr. Rubashkin bail, though after Mr. Rubashkin spent over seventy days in jail, the district judge reversed this decision.

While I am not writing to request relief for Mr. Rubashkin, since his case is still pending, I urge you to take decisive action, consistent with your authority as Attorney General, to ensure that U.S. Attorneys do not treat Jewish Americans, solely or substantially because of their Jewish identity, as a "flight risk" so as to deny them their right to bail or any other right. As you know, the 8th amendment to the Constitution has long been understood to imply that criminal defendants have a right to bail, at least in the absence of extraordinary circumstances – and the very notion that one's religion could be such an extraordinary circumstance is profoundly repugnant to our country's traditions and to fundamental justice. I also urge you to take all proper actions,

consistent with U.S. law and regulations, to ensure that U.S. Attorneys handle all matters presented to courts, including sentencing and ex parte contacts, in a fair, even-handed, open, and uniform manner, completely free of religious bias. The fairness of our federal justice system depends not only on the decisions of judges but also on the actions of U.S. prosecuting attorneys.

I appreciate your attention to this matter.

Sincerely,



CHRISTOPHER H. SMITH
Member of Congress