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Law Report

A publication of the Southern Poverty Law Center and its Klanwatch Project

July 1988

OFFICERS FOUND NOT GUILTY; JUDGE'S FAIRNESS QUESTIONED

HEMPHILL, Tex., July 15 — A Sabine County jury, composed of eleven whites and one black, acquitted three law enforcement officers charged in the beating death of Loyal Garner Jr. He was beaten in the Sabine County jail on December 25, 1987, and died two days later in a

civil rights of 34-year-old Garner of Florien, Louisiana, by beating him and denying him medical attention. The Southern Poverty Law Center represents the Garner family in a federal civil rights suit against the three officers and the City of Hemphill.

The prosecutor presented several jail inmates who testified they saw one of the officers hit Garner in the head three times while he was pleading to use the telephone to call his wife. Garner was a respected employee of the Florien, Louisiana, parish government and had a spotless record. He was arrested with three companions on Christmas day as they drove the short distance from Florien over into Hemphill, Tex., to help a friend with a disabled vehicle.

The three officers claimed that

'I have never seen a trial conducted more unfairly...'

— *Prosecutor John Hannah*

Tyler, Tex., hospital of massive brain injuries.

The three, a local police chief and two sheriff's deputies, were tried on state charges that they violated the



Police Chief
Thomas Ladner



Sheriff's Deputy
James "Bo" Hyden



Sheriff's Deputy
Bill Horton

These three Texas lawmen were found innocent of a state charge of violating the civil rights of Loyal Garner, Jr., a black man who was beaten to death in the Hemphill, Texas, jail. On Aug. 18, another state court in Tyler, Tex., will try them for murder.

Loyal was drunk and that he attacked them when they let him out to make his call. The medical evidence indicated that he was not legally intoxi-

cated, and that his death was not caused by hitting his head on a file cabinet as the defense claimed.

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Appeals Court Removes Judge from Decatur Klan Case



Nine years have passed since the Klan attacked black marchers in Decatur, Ala., but the legal cases against the Klansmen have yet to be resolved.

Judge William M. Acker Jr. to step aside in a case involving the 1979 Ku Klux Klan attack on a group of peaceful civil rights marchers in Decatur, Ala. The Appeals Court had already found once before that Judge Acker had made incorrect rulings in the case. In its latest opinion, written by Judge

Frank Johnson of Montgomery, the court stated that Judge Acker "has evidenced a commitment that clearly

reflects that he is no longer able to view these cases impartially....The district judge's errors in these cases were numerous."

Law Center's Work against Klan Object of Judge's Ire

Although the Justice Department investigated the Klan's 1979 attack on the black Decatur marchers, at first they could not find sufficient evidence to prosecute them. But the Southern Poverty Law Center, which began the Klanwatch Project in response to the Klan's Decatur attack, filed a civil lawsuit against 50 of the Klansmen involved. Klanwatch investigators

began to search for evidence of a conspiracy. Center attorneys took depositions and then later turned them over to federal authorities, which reopened the case in 1984. Indictments were returned against nine Klansmen.

But Judge Acker held that the depositions which the Center had given to the Justice Department were inadmissible, involuntary statements. Acker's 1984 ruling disallowing the depositions referred to the Klan as "a vigilante group which undoubtedly, from time to time, violates the constitutional rights of citizens." He went on to chastise the Center by saying, "one vigilante group does not justify the creation and operation of [a] counter-vigilante group in violation of the con-

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ATLANTA — In an unusual move, the 11th U.S. Circuit Court of Appeals has ordered U.S. District

Texas jury finds officers not guilty

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Racial Tensions Evident at Trial

During the trial racial tensions ran high. A white juror's daughter who was watching the trial claimed that Garner's brother breathed on her neck as he leaned forward in his bench. He was arrested and removed from the courtroom, but later released. Prosecutor John Hannah charged that many of the trial judge's rulings unfairly favored the defendants, including the court's refusal to remove prospective jurors who had given money to the three officer's legal defense fund. Hannah said, "I have never seen a trial conducted more unfairly to produce the results that were produced."

Although blacks in Hemphill were angry about the verdict, most were not surprised by it. Vollie Grace, head of the local chapter of the NAACP, said, "Had the jury found them guilty, the people on the jury could not have stayed in Sabine County." Will Smith Sr., another

black citizen of Hemphill, stated, "It's a case of hometown boys and a hometown jury."

The *New York Times* reported that white people they talked to in Hemphill denied there were any racial problems in the town, but that their speech was "liberally sprinkled with racial slurs." One white man, who refused to give his name, said, "I've heard the nigger [Loyal Garner Jr.] was one of the meanest son-of-a-guns who has ever been in this part of the country." Last January, the *Times* reported that Loyal Garner Jr. was one of the most respected men in his hometown of Florien, Louisiana.

Sole Black Juror Repudiates Verdict

After the trial, the sole black member of the jury that acquitted the three lawmen said she was convinced that one of them, former Hemphill Police Chief Thomas Ladner, was guilty. "I was just one black against all those people" on the jury,

she said. "What could I do with those people against me? It should have been six whites and six blacks. I knew I wasn't going to win."

The three officers now face murder charges in Tyler, Tex., for the death of Garner. Defense attorney Haas Jeff made a motion to dismiss the murder charges, but his motion was denied by a state district judge. The murder trial is scheduled to begin on August 8. Tyler is over 150 miles from Hemphill and it is unlikely that any of the prospective jurors will have family or business ties with the three officers. Center Executive Director Morris Dees said that he hopes the Tyler trial will be conducted in a more racially calm atmosphere.

Should another Texas state jury fail to convict the three officers, a federal grand jury could indict them for violating Garner's civil rights. Convictions under federal law carry a maximum sentence of life. Center legal Director Richard Cohen has established a legal and investigative team to closely monitor the case.

Klanwatch Publishes New Edition of Educational Magazine



Klanwatch has just published the third edition of its 60-page history of the white supremacist movement in America, *Special Report: The Ku Klux Klan: A History of Racism and Violence*. Since 1981, when it was first published, over 400,000 copies of this educational publication have been distributed to schools, civic organizations, religious groups and individuals across the country.

This completely revised edition contains articles on Skinheads, the Identity movement and the Order, as well as profiles of key leaders in the movement. Also included are historical articles chronicling the first hundred years of the Klan, an in-depth look at one Klan victim's plight, and the testimony of a former Klansman.

Schools, organizations or individuals who wish to order the educational magazine should write to:

Special Report

Southern Poverty Law Center
P.O. Box 548

Montgomery, AL 36195-5101

Single copies of the magazine are \$1.50 each; the price is \$1.25 each for orders of 2 to 25 copies; and for orders of 26 copies or more, the magazine is 95¢ per copy.

acted in self-defense when the trooper and the policeman attacked him and his wife and child. Center attorneys found evidence the trooper had been in trouble before because of heavy drinking and he had a strong hatred of blacks. But Roy's trial was held in an atmosphere of racial tension. He was sentenced to two life terms.

Visiting the Center, Roy says he "could not have made it" without the help of the Center and its loyal members.

Roy Patterson Released from Prison After 13-Year Struggle

MONTGOMERY, Ala. — For 13 years, Roy Patterson was locked in a Georgia prison cell, illegally convicted of capital murder for the deaths of a Georgia State Trooper



Roy Patterson, left, with Center Executive Director Morris Dees, recently came to Montgomery to meet the Center's staff.

and a policeman. This May, he was released, thanks to the efforts of his Center lawyers and supporters.

Roy has always maintained he

Supporters write the Center and its Klanwatch Project

less death of an innocent man. I especially feel for Garner's wife and children. Thank you for being a voice of justice and rightness in America. Let's see an end to this kind of hatred and bigotry."

— Arnold Katz
Massachusetts

"After reading your news release about the case of Roy Patterson, ...[my wife and I] were both impressed by the fact that the Center provided some help to the family over so many years. We thought your activities were confined to the legal aspects of each case, activities which are very humanitarian in themselves. But to go beyond that is giving aid to the family deserves an adjective that I do not have at my command — it is certainly more than humanitarian."

— Roger Bardsley
California

"I am very proud to be associated with the Center. All the efforts taken on behalf of Mr. Roy Patterson and the ultimate triumph of justice increase this pride. Please use this small gift to increase your fight for justice in our country."

— Joyce Yaffe
California



SPLC Mailbox

"I received your letter and was appalled at the racial violence and lack of justice in East Texas. I sympathize with the feelings of those who are outraged by the sense-

Law Report

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a publication of the Southern Poverty Law Center

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Klanwatch Director Testifies Before Senate Committee

Klanwatch Project Director Pat Clark recently testified before the United States Senate Subcommittee on the Constitution. She spoke in favor of hate crimes statistics legislation, and portions of her recent testimony are reprinted below.

On behalf of the Southern Poverty Law Center's Klanwatch Project, I would like to thank you for the opportunity to testify before the Subcommittee on the Constitution in support of a hate crimes statistics act.

One of our major purposes at Klanwatch is to monitor hate violence around the country; and to provide law enforcement agencies with a bi-monthly report on the activities of organized white supremacists as well as the prevalence of hate crime in general....we have noticed what appears to be a significant increase in crimes motivated by racial, ethnic, religious, or sexual orientation bias. We can only say this appears to be the case because there is no systematic data collection on these crimes. Until there is such a system in place, we will never be able to accurately gauge the prevalence or analyze the causes of these crimes....

There are several reasons we believe a hate crimes statistics act is needed:

- It would bring more consistent law enforcement attention to the problem of hate crimes, by providing a clear definition of crimes of prejudice and by requiring routine reporting....
- It would facilitate information-sharing among law enforcement agencies about the nature of hate crimes, and sensitize them to the needs of victims.
- It would provide the tools for tracking victimization rates for the purpose of developing more effective police and community responses to the problem.
- It would allow us to improve public education on the problem of bigoted violence, by providing monitoring groups with reliable data on these crimes.

Legislation that requires keeping accurate statistics of hate crimes has already passed the House of Representatives. If you favor such legislation, please write your U.S. Senators to express your support.

Judge removed from Decatur case

(continued from page 1)

stitutional rights of the first group." **Judge Acker's Actions Called "clearly incorrect"**

Although the 11th Circuit Court of Appeals ruled that Judge Acker was incorrect when he suppressed the government's use of the depositions which had been taken by the Center, Acker persisted in attempting to suppress the depositions. In addition to labeling this action "clearly incorrect," the 11th Circuit's recent ruling removing Acker from the case also held that he was wrong to dismiss one indictment against the Klansmen, and wrong to acquit a Klansman after a jury found him guilty.

In reaction to his removal from the case, Judge Acker ruled that he will consider requests that he be permanently removed from all cases involving the federal government.

Acker wrote, "This court is neither seeking praise nor condemnation, but feels it necessary that it create a forum for frank and serious discussion of a very serious subject, namely: 'Should a judge whose position is hardened against the government sit on the Government's cases?'"

The Center's civil suit against the Klansmen in the Decatur case—the first lawsuit ever filed by the Klanwatch Project—will go to trial when the government's case against them is at long last resolved. Hopefully, now that a new judge has been assigned to the case, the day will come sooner when justice is won for the Decatur marchers.

Center Executive Director Honored by Common Cause

WASHINGTON, DC — Morris Dees, Center Executive Director and co-founder, has received the Common Cause Public Service Achievement Award on May 7. The award is given to individuals "who by force of imagination, initiative and perseverance have made an outstanding contribution to the public interest in the areas of government performance and integrity."

The award was presented to Dees by Common Cause Chairman Archibald Cox "...for extraordinary leadership, persistence and courage as a civil rights attorney, using innovative methods to advance and protect civil rights."

Dees' court battles against the Klan were also recognized, along with the death threats which he and his family have had to face. Center

THE ATLANTA CONSTITUTION

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PAGE 10A, MONDAY, JUNE 13, 1988

Finally: Justice for Klan cases

The 11th U.S. Circuit Court of Appeals did not just overrule U.S. District Judge William M. Acker of Birmingham last week. In a rare action, the court declared that the judge is no longer able to view impartially a series of Ku Klux Klan cases before him, and ordered the cases assigned to another judge. The decision means that, at long last, a group of Alabama Klansmen may be tried on charges of criminal conspiracy.

This is no ordinary gang of Kluxers. The group includes a grand dragon, two titans, a grand chaplain, two exalted cyclopes, a klegle and two klavern members. It may be difficult to keep a straight face reading such juvenile titles, but don't be misled. The men face charges stemming from a bloody brawl nine years ago in Decatur, Ala., when 125 Klansmen armed with guns and ax handles confronted 100 civil-rights marchers.

Nor is this an ordinary case. The indictments were brought five years after the Decatur violence, based on evidence amassed not by federal agents but by two tenacious investigators for the Southern Poverty Law Center. Instead of praise, though, their work drew the enmity of Judge Acker.

In one ruling, the judge revealed his hostility in no uncertain terms. "The basic distinction in this case between the Klan and the center," he wrote, "is that the Klan members were and are unsophisticated, impecunious and ignorant of legal procedures, whereas the lawyers and

investigators at the center are quite sophisticated, socially acceptable and well financed...."

The judge suppressed evidence against the defendants, dismissed one indictment, and granted one defendant a judgment of acquittal after a jury had found him guilty. He was wrong on every one of those points, said the appellate court. Moreover, the judge complicated the prosecution's job by granting separate trials for the defendants. At one point, he ordered the criminal cases put on hold until a related civil case could be closed, which might have taken years.

The 11th Circuit apparently decided to end the frustrating mess once and for all.

"Reassignment," said the appeals judges, "will preserve the appearance of justice and, hopefully, it will promote a speedier resolution of these cases." Alas, there is one matter the court can't remedy. It has now been nine years since the fight in Decatur. It has been four years since the indictments were returned. Government agents have changed jobs. Witnesses have moved away. And workers at the Southern Poverty Law Center are scattered to the four winds. Prosecution won't be easy, but the government must press on vigorously.

As the appellate judges noted, it is of fundamental importance that justice not only be done but that its presence be seen — manifest and undoubted.

ATLANTA CONSTITUTION editorial singles out Klanwatch Project investigators for their outstanding work in uncovering evidence of a conspiracy in the Klan's 1979 attack of peaceful black marchers in Decatur, Ala.

President Joseph J. Levin Jr. said, "No one puts himself on the line more for what is right. He physically lays his life on the line...every day."



Center Executive Director and co-founder Morris Dees, right, is presented the Common Cause Public Service Achievement Award by Common Cause Chairman Archibald Cox.

Docket Update

Ruling in Kentucky Coal Case Wins Millions of Tax Dollars for Poor Areas of State

by Phillip J. Shepherd,
Southern Poverty Law Center Associate Attorney

FRANKFORT, Ky. — Kentucky has been ordered by Circuit Judge William Graham to collect higher taxes on unmined coal for 1986 and 1987. The state is appealing an earlier ruling by Judge Graham that ordered additional taxes to be collected on coal reserves for 1988. If the rulings are upheld Kentucky's poorest counties and schools will receive millions of dollars in desperately needed additional tax dollars.

Kentuckians for the Commonwealth, a citizen's group that is

being aided by the Southern Poverty Law Center, has been struggling five years to win higher taxes on unmined coal. Until a recent favorable ruling, the tax rate on unmined coal is so low that it was not even collected in most cases.

An editorial in Louisville's Courier-Journal stated, "A significant amount of new revenue will come from out-of-state owners of Kentucky coal whose wealth now contributes little to the well-being of local people...it will make a big difference in Eastern Kentucky."

Alabama State Troopers Promote First Blacks to Rank of Lieutenant



Lieutenant James Jackson, Director of Public Safety Colonel Tom Wells, Lieutenant Oscar Kyles, Lieutenant Robert Byers, and Southern Poverty Law Center Legal Director J. Richard Cohen.

MONTGOMERY, Ala. — At a promotion ceremony in June, the first three blacks in the history of the Alabama State Troopers were promoted to the rank of lieutenant. In a

speech given at the ceremony, Colonel Tom Wells, the Director of Public Safety, acknowledged that these promotions occurred because of the legal work of the Southern Poverty Law Center and its Legal Director, J. Richard Cohen, who was invited to attend

the ceremony. Attorney Cohen was instrumental in working out a settlement last February which has led to fairer promotion practices by the State Troopers.

Aryan Nations World Congress Attracts Most Fanatical White Supremacists in America

HAYDEN LAKE, Id. — In July, approximately 250 of the nation's most resolute white supremacists attended the Aryan Nations World Congress. The three-day congress is sponsored annually by Richard Butler's Aryan Nations, the fanatical group of white supremacists which spawned the Order in 1983. Many members of the Order, an underground movement of violent racists, are now serving prison sentences for racketeering.

Earlier this year, Aryan Nations leader Butler, along with the movement's spiritual leader Robert Miles and its chief tactician, Louis Beam, were tried and acquitted of seditious conspiracy for their alleged involvement in the Order's crimes. Evidence presented at their trial showed that the Order's criminal plot began at the 1983 Aryan Nations World Congress.

As in previous years, this year's gathering was held at the Aryan Nations compound in Hayden Lake, Id. It attracted Skinheads, Klan members, neo-Nazis, and followers of the Identity Movement, a racist religious aberration which asserts that members of the white race are the God's chosen people while Jews are the children of the devil.

Aryan Nations Recruits 100 New Members

More than 20 speakers, including Butler and Miles, addressed the en-

thusiastic audience with 16 hours of savage racist and anti-Semitic rhetoric. By the end of the conference, about 100 of those attending pledged their loyalty to the Aryan Nations.

Although the total membership of the Aryan Nations remains rela-



Richard Butler, left, head of the Aryan Nations, is pictured at the July Aryan Nations World Congress with Stanley McCollum, head of the Alabama-based Knights of the Ku Klux Klan.

tively small, the criminal conduct of groups like the Order shows that even small numbers of dedicated, armed racists have the potential to be an extreme threat to all who do not support their twisted goals.

Resurgence of White Supremacist Paramilitary Activity

Encouraged by the acquittal of their leaders on sedition charges,

some white supremacists are working zealously to build a revolutionary force. They have stepped up their public recruitment efforts, and their numbers have been increased by a surge of converts among violent racist youth. There are also ex-

tremely disturbing signs that the most fanatical of the white supremacists have begun to engage in paramilitary training and have also begun to develop an underground movement of hard-core followers.

The recent arrest of Aryan Nations supporter James Wickstrom support these concerns. Wickstrom was to speak at this year's

World Congress, but he spent the weekend in jail after the Secret Service caught him trying to obtain counterfeit money and silencers in order to start a white supremacist paramilitary army in Pennsylvania.

Since the sedition acquittals, other white supremacist leaders have talked about paramilitary training, and Skinheads associated with Tom Metzger's White Aryan Resistance in California have reportedly received combat training.

White Supremacists Heeding Message of Violent Bigotry

The full extent of secret activities by organized white supremacists is unknown, but it is clear that their public message of violent bigotry is being heard around the country. During the first six months of 1988, Klanwatch documented 20 assaults, 4 arsons, 3 murders, 30 vandalisms and 12 cross burnings: all committed out of extreme racial or religious bias. Half of the assaults and two of the murders were officially attributed to neo-Nazi Skinheads — teenage street gang members who shave their heads and follow white supremacist doctrine. The crimes of 1988 have occurred in 28 states, from Vermont to California. Many more incidents were unconfirmed or unreported because there is no official method for collecting data on hate crimes. (See story on page 3).