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Radio host's slayers lose appeal
Court affirms convictions, 150-year sentences

Associated Press

DENVER — A federal appeals court on Friday upheld the civil rights convictions of white supremacists David Lane and Bruce Pierce in the murder of Denver radio talk show host Alan Berg.

The 10th U.S. Circuit Court of Appeals rejected the defendants' arguments that they participated in Berg's murder because they hated him and not because he was a Jew. The two had contended their federal civil rights convictions and 150-year prison sentences should be overturned for that reason.

"The reversible error has been demonstrated..." the appeals court said in its decision.

The court also rejected other arguments by the defendants. The two had claimed there was insufficient evidence to convict them and that their civil rights trial amounted to double jeopardy because their earlier racketeering trial included testimony about the Berg murder.

Lane and Pierce belonged to a group of white supremacists called The Order. They were convicted by a Denver U.S. District Court jury in November 1987 of violating the civil rights of Berg, 58, a KGB radio talk show entertainer who was gunned down in front of his Denver townhouse in June 1984.

They were indicted on the civil rights count of interfering with a federally protected right resulting in death because there is no federal murder charge. State prosecutors also had decided there was insufficient evidence to try the two on a state murder charge.

Lane and Pierce claimed in their appeal that the federal civil rights statute under which they were convicted should not apply to them because it attempts to regulate their purely private conduct — their hate for Berg.

The appeals court, however, disagreed.

"If in an effort to rid interstate commerce of the burdens imposed on it by racial discrimination Congress may prohibit a person from denying another person equal employment opportunities by refusing to hire him or by firing him solely because of his race, then Congress may also prohibit a person from denying another person equal employment opportunities because of his race by violently injuring or killing him," the opinion said.

The two, along with several others, had been convicted of federal racketeering charges, which included allegations of the Berg killing, in Seattle in 1985. Their 150-year sentences for the Denver convictions are to follow their racketeering sentences.

In their appeal, the two argued they were tried twice for the same offense.

Pierce was sentenced to 100 years and Lane to 49 years for the racketeering convictions, which were based on their roles in Berg's death, bank robberies and counterfeiting.

But the appeals court said there were "clearly separate offenses in that the racketeering prosecution required proof of a pattern of racketeering activity and the homicide, while here the racial motivation and employment element had to be proven, in addition to the homicide." The court also said their was sufficient evidence to convict the two.

Two other members of The Order, Richard Dietari and Dean Craig, also were indicted on the same civil rights charges in the Berg murder, but they were acquitted by the jury. The court said this proved that Pierce and Lane did not need separate trials, as they had requested.

Judithias said Pierce was the triggerman in Berg's death. Lane drove a getaway car. Dietari was a lookout and Craig trailed Berg before the shooting to make note of his routes.

In announcing the sentences in December 1987, U.S. District Judge Richard P. Matsch said Lane, now about 50, and Pierce, now about 51, would have to serve at least 50 years of the terms before they are eligible for parole, because "a life sentence would not be sufficient in this case."

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