

# LaRouche motion for freedom denied

Without so much as a hearing or oral argument on volumes of new evidence, the Fourth Circuit Court of Appeals in Richmond, Virginia on Sept. 13 denied Lyndon LaRouche's *habeas corpus* motion for freedom. Completely ignoring detailed new evidence of a massive government-private hate group "concert of action" against LaRouche, the Appeals Court said it had already dealt with the matter of government wrongdoing when it denied LaRouche's trial appeal in 1990. The panel also endorsed the notoriously biased trial judge, Albert V. Bryan, Jr., and said there was no basis for Bryan's recusal.

From his prison cell in Rochester, Minnesota, where he has served almost 5 years of a 15-year sentence, LaRouche called the Fourth Circuit decision "a complete fraud. There were ample legal grounds and massive evidence before the panel which should have led them to overturn the earlier decision on the case. The Appeals Court is covering up for what is proven conclusively to be a false case on the basis of lying, illegal investigations, perjured testimony, and hiding of exculpatory evidence. Without even a hearing on the new evidence, the panel has treated a very serious matter of international concern without consideration, respect, or due process."

## A mass of evidence

LaRouche's *habeas* motion, filed on April 19, presented six volumes of new evidence proving his innocence. Much of it was drawn from the secretly taped conversations of former U.S. Deputy Marshal Donald Moore, monitored by the FBI during the course of an investigation of the attempted kidnapping of LaRouche associate Lewis du Pont Smith and his wife, Andrea. Moore was a key member of the state and federal teams prosecuting LaRouche. The new evidence presented in LaRouche's motion emphasized the politically motivated collusion of government officials with the Anti-Defamation League of B'nai B'rith (ADL), in an illegal "Get LaRouche" task force. The evidence covered the following areas, among others:

- 1) Moore's admissions that the ADL was an integral part of the LaRouche prosecution team. Moore's statements take on new significance in the context of the breaking ADL spy investigation in California.
- 2) Moore's admissions that the FBI maintained its illegal Cointelpro operations against the LaRouche movement at least through 1982.
- 3) Moore's acknowledgement that while he was a part of the anti-LaRouche investigation team, he was involved in

orchestrating an anti-LaRouche media campaign which followed the March 18, 1986 Illinois primary victory of two LaRouche Democrats.

4) Moore's admission that he illegally obtained LaRouche's Social Security number for use in a federal tax investigation.

5) The admission by Moore's associate Galen Kelly, the convicted kidnapper and "deprogrammer," that his activities would create "defectors" who would "immediately come over to the law enforcement community and tell all and cooperate."

## The Fourth Circuit's ruling

Ignoring all the evidence, the Fourth Circuit's opinion stated, in part:

"... [W]e perceive no abuse of discretion in Judge Bryan's adverse rulings in this and other proceedings were clearly not enough in and of themselves to warrant recusal. . . . The challenged comments at sentencing were made in direct response to the Defendants' repeated assertions that their prosecution was politically motivated, and therefore were not reflective of extrajudicial bias.

"... Stated generally, the Defendants assert that the bankruptcy petition filed by the government was filed in bad faith for the sole purpose of furthering their criminal prosecution by making it impossible to repay loans, as evidenced by testimony in subsequent proceedings and by the bankruptcy court's decision, and that they have compelling new evidence, most of which was previously suppressed by the prosecution, of a conspiracy between the government and private parties to destroy the ability of the Defendants' companies to repay loans, and to generally impair the finances of the NCLC. They assert that the trial court's decision on the government's motion *in limine* would have been different had this information been available at trial. We disagree.

"These matters were essentially considered on direct appeal and decided adversely to the Defendants. . . .

"We also note that the Defendants have greatly distorted the character of much of the evidence presented in support of their claims. They assert, for example that the bankruptcy court found that the bankruptcy petition was filed in bad faith when in fact the bankruptcy court expressly rejected the contention that the petition was improperly motivated. . . . Much of the other evidence presented in support of these claims is equally lacking.

"The facts which the Defendants want this court to notice are not adjudicative facts within the meaning of the rule. Most of the facts they seek to have noticed were gleaned from the recent trial of Donald Moore and his co-conspirators in *U.S. v. Smith* on charges of attempting to kidnap two persons connected with the NCLC [Footnote: All of the defendants in the Smith case were acquitted after a jury trial]. . . . The facts are not appropriate for judicial notice, particularly at the appellate level, because their relevance has not been established."