

Virginia court okays Ascher railroad

A three-judge panel of the Virginia Court of Appeals on Aug. 13 upheld the conviction of Rochelle Ascher, an associate of 1992 Democratic presidential candidate Lyndon H. LaRouche, Jr., on concocted "securities fraud" related charges. The opinion, written by Judge Sam W. Coleman III, dodged all the major legal issues that were raised in the appeal, thereby giving a stamp of approval to Virginia Attorney General Mary Sue Terry's politically motivated railroad of Ascher and other LaRouche associates in that state.

In so doing, the state court system has opened the door to other possible "legal" witchhunts against the enemies of Mary Sue Terry and her sponsors. If the decision is allowed to stand, no citizen of the Commonwealth of Virginia has constitutional protection from being politically targeted.

Ascher's attorney, John P. Flannery II, told the press immediately after the ruling that he intends to go back before the Appeals Court for a full rehearing before the entire court, based on errors in Coleman's opinion.

Immediately after the ruling, the prosecutor on the case, John Russell, announced he is moving to revoke Ascher's bond, despite the fact that she is continuing to appeal her conviction. A hearing has been set for Aug. 29 on the bond revocation.

The 'securities fraud' frameup

Ascher was framed for so-called "securities fraud" violations for soliciting political loans from political supporters of LaRouche, and convicted after a 10-week trial in which she was denied an impartial jury, the right to confront witnesses, and was prevented from putting on crucial evidence in her defense. The jury recommended a sentence of 86 years in prison. Judge Carlton Penn III, who presided over the case in Loudoun County, Virginia, reduced the sentence to 10 years in prison with 10 years suspended. Since the conviction, Ascher has remained free on bond pending the outcome of her appeal.

Ascher was the first of LaRouche's associates to stand trial in Leesburg, Virginia. Prior to Ascher's trial, lawyers for Ascher and her co-defendants challenged the constitutionality of their indictment. They argued that it was illegal to charge them with securities fraud when the State Corporation Commission hadn't even decided whether political loans could be considered securities. In denying the ruling, Judge Penn said it was up to the jury to decide whether the loans were securities. But during the trial, Penn would not allow

Ascher to call a securities expert to testify, saying, "We don't need some expert to tell us what a security is." Then, when it came time to instruct the jury, he erroneously told them that all notes are securities. Ascher's attorneys challenged this on appeal, arguing that Penn had virtually instructed the jury to find Ascher guilty.

Her appeal also challenged her conviction on the grounds that the prosecution had so poisoned the jury pool with pre-trial publicity that her trial should have been moved out of Loudoun County, where LaRouche has made his home since 1983. All other trials of LaRouche associates were subsequently moved to another part of the state.

In the opinion, Judge Coleman recounts the facts of the case as told by the prosecution through prosecution witnesses Wayne Hintz and Chris Curtis. Then he takes each issue raised in the appeal and says that in some cases what happened to Ascher would be wrong, but in Ascher's case, the court will overlook the errors.

For example, Coleman says that even though there was massive pre-trial publicity about the case, Judge Penn did not err by refusing to move the case out of Loudoun County. "Ascher has not overcome the presumption that she received a fair trial in Loudoun County. Ms. Ascher introduced numerous news articles and editorials regarding the LaRouche organization and the prosecutions related to it. However, the existence of extensive pre-trial publicity is insufficient, standing alone, to justify a change of venue."

The railroad

The opinion goes on to say that since all the jurors said they could disregard pre-trial publicity, there was no reason to disqualify them. "The mere existence of a preconceived notion as to guilt or innocence of an accused arrived at from news articles or reports is not sufficient to establish that a juror is disqualified unless the juror cannot disregard those reports."

Revealing the politically rigged nature of the decision, Coleman says that Ascher was not entitled to a jury instruction which allowed the jury to decide whether these loans were securities.

In his opinion, Judge Coleman ignores all the attempts by Ascher to introduce evidence that the loans were political and not commercial investments. "In general terms, we agree with Ascher that the instruction given by the trial court, although a correct statement of the law, may in other circumstances have been insufficient to define when a commercial instrument is or is not a security. However, on the facts in this record, no elaborative instruction was necessary because there was no theory or basis which would have permitted the fact finder to conclude that the notes or evidences of indebtedness were not securities."

The court also ruled that it was not prejudicial hearsay to admit an inflammatory letter from a dead man or to allow incompetent witnesses to testify.