

Judge in New York vacates 'LaRouche case' convictions

In a ruling dated Feb. 16, New York Supreme Court Judge Stephen Crane, who has presided over the New York State "LaRouche case" since its inception in 1987, vacated the convictions of the three defendants—Robert Primack, Lynne Speed, and Marielle Kronberg—on the grounds that the prosecutors illegally withheld evidence; that is to say, prosecutorial misconduct.

In his 14-page ruling, Crane came to the conclusion that "[a]ll of the foregoing circumstances suggest a studied and calculated effort to use against the defendants enormous amounts of information that the Virginia prosecutor made available to the New York Attorney General without the onus of revealing any of the exculpatory or other pertinent information that a New York prosecutor has an obligation to locate and produce for defendants. *These circumstances raise an inference of a conspiracy to lay low these defendants at any cost both here and in Virginia*" (emphasis added).

The three defendants were convicted after a trial lasting almost six months during the spring and summer of 1989. A fourth defendant, George Canning, was acquitted in that trial. Crane has ordered a new trial.

Originally, in February 1987, some 16 associates of American statesman Lyndon LaRouche were indicted on fraud charges in New York. But by 1989, charges had been dropped against all but Canning, Kronberg, Primack, and Speed.

First time a conviction vacated

This is the first time any defendant in a LaRouche-related case has had a conviction vacated, but it is not the first time a judge has found that prosecutors violated the law in order to railroad LaRouche and his associates.

In 1989, U.S. Bankruptcy Court Judge Martin V.B. Bostetter found that federal officials had acted in "objective bad faith" and by a "constructive fraud on the court" when they illegally put three publishing companies into involuntary bankruptcy as part of the political prosecution of LaRouche and his associates.

In 1988, U.S. District Judge Robert Keeton of Boston found "institutional and systemic prosecutorial misconduct" during the trial of LaRouche and others in Boston. That case ended in a mistrial.

Former U.S. Attorney General Ramsey Clark, speaking to an independent panel of legal experts investigating the

LaRouche case in September 1994, said the LaRouche case "represented a broader range of deliberate cunning and systematic misconduct over a longer period of time utilizing the power of the federal government than any other prosecution by the U.S. government in my time or to my knowledge."

Judge Crane's ruling came after lengthy post-trial hearings concerning the failure of the New York prosecutors to turn over information to the defense, and concerning the alleged illegal use against Kronberg of her own immunized testimony.

During these hearings, a number of witnesses—federal prosecutors, FBI agents, Commonwealth of Virginia officials, and New York prosecutors—were asked about the inner workings of the multi-jurisdictional "Get LaRouche" task force, but they vigorously evaded telling the whole truth. Among those called to testify were Assistant U.S. Attorney Kent Robinson, who prosecuted LaRouche and six others in Alexandria, Virginia, and Virginia Assistant Attorney General John Russell, who prosecuted LaRouche associates in Virginia.

One of the subjects at the hearings was the access of New York prosecutors to reports written by FBI agents known as 302s. These reports contained statements from political supporters of U.S. presidential candidate Lyndon H. LaRouche, Jr. who were interviewed by FBI agents during the federal investigation. The reports contradict evidence presented by prosecutors in both the New York and federal trials. Under New York law, prosecutors have a legal obligation to turn these reports over to defendants. Knowing this, the New York and federal authorities conspired to allow the New Yorkers to have access to the information in the reports without turning them over as they were legally obligated to do.

'Not sustained his burden'

Judge Crane rejected the prosecutors' arguments that they didn't have control over the reports and were therefore unable to turn them over, especially because authorities in California were able to obtain copies of the reports.

"The New York Attorney General has not sustained his burden of explaining this quixotic disparity between the treatment accorded New York and California. The circumstances give rise to two inferences: (1) the Californians cheated; (2) the New Yorkers wanted the benefits but none of the burdens of the documents at the Virginia warehouse. This court rejects the first and embraces the second inferences."

Crane called New York prosecutor Dawn Card's efforts to obtain the 302s "questionable," and said she "concealed evidence."

Crane also rejected the sworn statement of FBI agent Tim Klund, saying that Klund's "testimonial speculation was intended to protect the secrecy" of evidence. He also found "the New Yorkers wanted the benefits but none of the burdens of the documents at the Virginia warehouse."