

HATE GROUPS CAN BE HIT IN POCKETBOOK - CIVIL LAWSUITS WIELDED TO CRIPPLE SOME EFFORTS

Chicago Tribune - July 12, 1999

Author: Janan Hanna, Tribune Staff Writer. Tribune staff writer Lolly Bowean contributed to this report.

Only a few years ago, the white supremacist group now run by Matthew Hale was hit with a pair of legal setbacks: A member was convicted of killing an African-American man, and a separate civil jury awarded the victim's family \$1 million in assets belonging to the organization.

The judgment appeared to hamper the Church of the Creator, civil rights experts said, although the church resurfaced under a slightly different name--the World Church of the Creator, now headquartered in Hale's East Peoria home.

Although criminal prosecutions remain the most potent weapon against individuals who practice violence, experts on hate groups say civil lawsuits may be even more effective for attacking the organizations themselves.

The civil suit strategy clearly is not foolproof, but proponents say it is valuable. For although it remains difficult to prove a link between a hate organization and the actions of a member, that task is easier in civil court than in criminal court.

And even if a group has little or no money, some lawyers say, winning a large judgment can sometimes hamper efforts to restart the organization because any assets it accumulates would go toward paying off the judgment.

"If you can't put them in jail, you take their money," said attorney Randolph Scott-McLaughlin, who brought one of the first civil lawsuits against a hate group. "I don't care if they only have \$5. It won't be theirs anymore."

At the very least, lawyers acknowledge privately, civil lawsuits act as an important harassment tool because fighting them requires time and money that could be used for other purposes.

Now the tactic is emerging as a weapon again, after the three-day shooting spree this month that police have tied to Benjamin Smith. Smith, a former member of the World Church, killed two and injured nine before shooting himself, authorities said.

On Friday, as federal investigators were considering whether the government could go after Hale or his organization, two Chicago victims filed a civil lawsuit in connection with the shooting spree, naming among the defendants Hale and the World Church.

Civil plaintiffs only have to show it was more likely than not that the defendant incited the violence. In criminal cases, the standard is proof beyond a reasonable doubt.

Since the 1980s, victims have won several multi-million dollar judgments against hate groups whose members have committed violence:

- Scott-McLaughlin and a team of lawyers from the Center for Constitutional Rights brought a 1982 suit against a Ku Klux Klan group in Chattanooga, Tenn. They won a \$500,000 verdict for the families of five African-American women who were murdered by Klan members.

- In 1987, the Southern Poverty Law Center in Alabama won a \$7 million verdict against the United Klans of America after two Klan members from Mobile, Ala., lynched Michael Donald, a 19-year-old black man.

- In 1990, white supremacist Tom Metzger of Fallbrook, Calif., was ordered to pay \$5 million to the family of a black man murdered by two skinheads. His organization, White Aryan Resistance, was ordered to pay \$3 million.

- The Center for Constitutional Rights won a \$21.5 million judgment against two Ku Klux Klan groups and five Klan members in South Carolina for conspiring in June 1995 to burn a black church. The jury originally awarded \$37.5 million, but a judge reduced the amount.

Although collecting those judgments can be difficult--the Church of the Creator had hidden its assets, according to a report by the Anti-Defamation League--the suits still can be valuable complements to criminal prosecutions, experts say.

In fact, many of the theories under which civil and criminal suits are brought are the same.

Plaintiffs have to prove an organization or leader incited the violence of its members either by directly aiding and abetting, conspiring or authorizing the action. Another avenue would be to show that the leader of an organization knew of the member's violent plan but did nothing to stop it.

In Hale's case, according to Richard Cohen of the Southern Poverty Law Center, investigators and plaintiffs' lawyers will have to comb through his writings to see whether he advocated violence.

"In hate crime cases, we have been able to show that the hate groups intended to encourage their members to commit those violent acts," said Cohen, legal director of the center. "They're going to look at anything (Hale) ever published, anything he ever distributed looking for expressions for calls to violence."

Hale, who could not be reached Sunday, has denied that his organization advocates violence or that he knew of Smith's intentions. He has not been charged with any wrongdoing.

Broad expressions of hate by a supremacist leader would not subject him or her to liability, legal experts say. But under a 1969 U.S. Supreme Court opinion, specific language advocating a specific act of violence is not shielded under the 1st Amendment.

In most cases, a leader would have to explicitly direct members or agents to commit violence, although sometimes subtle implied instructions--the kinds given with a wink and a nod--would qualify as inciting or advocating violence. Sometimes, such cases turn on subtle distinctions having to do with the relationship of the leader and member.

"Urging a lynch mob to go after a guy is not constitutionally protected," said Albert Alschuler, a professor of criminal law at the University of Chicago. "But saying 'I believe that blacks are inferior and we should find a way to send them back to Africa' is protected speech."

In the criminal arena, if a group's leader knew a member was planning violence but took no action to notify authorities, he or she could be charged with a rare crime

known as "misprision of a felony," or failing to prevent a crime or failing to notify police.

Meanwhile Sunday, an official close to the investigation of three arsons at synagogues in Sacramento confirmed that World Church literature was among white supremacist writings found on property owned by two men considered to be suspects. A church official in the area denied that the men were members.

Also over the weekend, Linda and Al Weiss, whose daughter Christy Weiss said in a Tribune story on Sunday that she supported Hale's church and racist beliefs, issued a statement saying: "We disagree totally with any beliefs Christy has currently involving the World Church of the Creator and Matt Hale. She was never taught these principles at home. In fact it is totally opposite of our beliefs. However, we do love our daughter and will continue to try to change her mind. Our heartfelt sympathies go out to all of the families who have been hurt by the violence of Ben Smith and to Ben's parents."

On Monday, U.S. Atty. Gen. Janet Reno will attend a memorial service in Bloomington, Ind., for the student killed there during Smith's rampage.

Edition: CHICAGO SPORTS FINAL

Section: NEWS

Page: 1

Correction: Additional material published July 16, 1999: Corrections and clarifications. An article Monday about civil lawsuits against hate groups incorrectly reported that the Center for Constitutional Rights had won a \$21.5 million judgment against two Ku Klux Klan groups and five Klan members in North Carolina for the burning of a black church. In fact, it was the Southern Poverty Law Center in Alabama that won that judgment. The Tribune regrets the error.

Index Terms: FEDERAL ; LAW ; CRIME ; GROUP ; ETHNIC ; VIOLENCE ; VICTIM ; INJURY ; LAWSUIT ISSUE ; CHICAGO ; ILLINOIS ; INDIANA ; PROBE ; RELIGION ; CULT

Record Number: CTR9907160108

Copyright 1999, Chicago Tribune