

**CLASSROOM LAW PROJECT** proudly sponsors the **21<sup>st</sup> Annual Statewide**

**2006-07 OREGON HIGH SCHOOL  
MOCK TRIAL COMPETITION**

**Martha Johnson**

**V.**

**T. Brewster, Michael Miller,  
and White Aryan Separatist  
Party (WASP)**

**A wrongful death action against not only the convicted wrongdoer,  
but the person and organization inciting hate**

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Classroom Law Project gratefully acknowledges the Center for Civic Values, Albuquerque, New Mexico, and its collaborators for their work in creating the original mock trial case materials from which this case has been adapted.

### **Heartfelt appreciation to**

all teacher and attorney coaches, regional coordinators, county courthouse personnel, attorneys, and other volunteers whose dedication and hard work make the regional and state competitions successful. Without the efforts of volunteers like these, this event would not be possible.



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November 2006

Dear Coach, Parent, Friend, Supporter:

Thank you. You are working hard to assure that young people have the experience of a lifetime. Mock trial is unlike any other high school competition. Academics, knowledge of the judicial system, quick-wittedness and teamwork are at the core of this program where young men and women are on equal footing. You are instrumental in bringing this experience to them. It means a great deal to them to have your support. Thank you for making a difference.

If you haven't already seen positive changes in the students as they prepare for the competition, I know you will. While the high school mock trial is designed to clarify the workings of our legal institutions for students, a great deal more than that goes on.

The mock trial experience provides students with the opportunity for interaction with positive adult role models – teachers, lawyers, and others. As students study our hypothetical case under their guidance, they acquire a working knowledge of our judicial system. You will notice an increased proficiency in basic reading and speaking skills; also critical thinking skills such as analyzing and reasoning; and interpersonal skills such as listening and cooperating. This hands-on experience outside the classroom is one where students learn about law, society, and themselves.

We ask for your help in continuing this successful program. Classroom Law Project, an Oregon non-profit organization, is the sponsor of the annual high school mock trial. Putting on the mock trial costs almost \$30,000. Less than half of that comes from teams' registration fees. I know that you have been asked many times to give and I understand that your ability to do so may be limited. But to the extent that you can, please consider how valuable this program is to the young people in your life and write a check accordingly. Any amount you can give is very appreciated; just send it to the address below. Your donation is tax deductible. Classroom Law Project is also affiliated with the Oregon Cultural trust – another way to leverage your giving. Thank you.

Sincerely,

Marilyn R. Cover  
Executive Director

**CLASSROOM LAW PROJECT**  
**2006-07 Oregon High School Mock Trial Competition**  
***Johnson v. Brewster***

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## **I. 2006-07 MOCK TRIAL COMPETITION**

This packet contains the official materials that student teams will need to prepare for the twenty-first annual Oregon High School Mock Trial Competition.

Each participating team will compete in a regional competition. Winning teams from each regional will be invited to compete in the state finals to be held in Portland on March 16 and 17, 2007. The winning team from the state competition will represent Oregon at the National High School Mock Trial Competition in Dallas, Texas, May 10-12, 2007.

The mock trial is designed to clarify the workings of our legal institutions for young people. In the mock trial, students portray each of the principals in the cast of courtroom characters. As the student teams study a hypothetical case, consider legal principles and receive guidance from volunteer attorneys in courtroom procedure and trial preparation, they acquire a working knowledge of our judicial system. Students participate as counsel, witnesses, court clerks, and bailiffs.

Since teams are unaware of which side of the case they will present until shortly before the competition begins, they must prepare for both the prosecution/plaintiff and defense. All teams must present both sides at least once.

The phrase, "beauty is in the eye of the beholder," points out the differences that exist in human perceptions. That same subjective quality is present in the scoring of the mock trial. Even with rules and evaluation criteria for guidance, as in real life, not all scorers evaluate a performance identically. While we do everything possible to ensure consistency in scoring, the competition reflects this quality that is a part of all human institutions, including legal proceedings.

## **II. PROGRAM OBJECTIVES**

For the **students**, the mock trial competition will:

1. Increase proficiency in basic skills such as reading, speaking, critical thinking skills such as analyzing and reasoning, and interpersonal skills such as listening and cooperating.
2. Provide the opportunity for interaction with positive adult role models in the legal community.
3. Provide a hands-on experience outside the classroom from which students can learn about law, society, and themselves.

For the **school**, the competition will:

1. Promote cooperation and healthy academic competition among students of various abilities and interests.
2. Demonstrate the achievements of high school students to the community.
3. Provide a challenging and rewarding experience for participating teachers.

### III. CODE OF ETHICAL CONDUCT

At the first meeting of the Mock Trial Team, this code should be read and discussed by students and their coach(es). **The Code of Ethical Conduct governs participants, observers, guests and parents** at all mock trial events.

All participants in the Mock Trial Competition must adhere to the same high standards of scholarship that are expected of students in their academic performance. Plagiarism of any kind is unacceptable. Students' written and oral work must be their own.

Coaches, non-performing team members, observers, guests, and parents **shall not talk to, signal, or communicate with** any member of the currently performing side of their team during trial. **(NEW THIS YEAR:)** Likewise, these individuals shall not contact the judges with concerns about a round; concerns by these individuals should be taken to the competition Coordinator. These rules remain in force throughout the entire competition. Currently performing team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Non-team members, teachers and coaches must remain outside the bar in the spectator section of the courtroom.

**Team members, coaches, and any other persons directly associated with the Mock Trial team's preparation are not allowed to view other teams in competition so long as they remain in the competition themselves.**

**Students** promise to compete with the highest standards of deportment, showing respect for their fellow students, opponents, judges, coaches, and competition Coordinator and volunteers. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the rules. Students will not willfully violate the rules of the competition **in spirit or in practice.**

**Teacher coaches** agree to focus attention on the educational value of the mock trial competition. **Attorney coaches** agree to uphold the highest standards of the legal profession and zealously encourage fair play. All coaches shall discourage willful violations of the rules. Coaches will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition's rules and this Code of Ethical Conduct. Coaches are reminded that they are in a position of authority and thus serve as positive role models for the students. Teacher and attorney coaches should ensure that students understand and agree to comply with this Code. Violations of this Code may result in disqualification from competition.

**Charges of ethical violations** involving persons other than the student team members must be made promptly to the competition Coordinator who will ask the complaining party to complete a dispute form. The form will be taken to the competition's communication's center, where a panel of mock trial host sponsors will rule on any action to be taken regarding the charge, including notification of the judging panel. Violation occurring during a trial involving students competing in a round will be subject to the dispute process described in the Rules of the Competition.

All participants are bound by all sections of this Code of Ethical Conduct and agree to abide by its provisions.

## ABOUT THE CASE

*At its most fundamental level, hate violence is an aggressive expression of prejudice against another person or group of people simply because of who and what they are. . . . Hate crimes are unique because they have a special emotional and physical impact that extends beyond the original victim. They intimidate others in the victim's community, causing them to feel isolated, vulnerable, and unprotected by the law. By making members of a specific group fearful, angry and suspicious, these crimes polarize cities and damage the very fabric of our society.*

-- Partners Against Hate

1100 Connecticut Avenue, NW, Suite #1020  
Washington, DC 20036

The 2006-07 Oregon High School Mock Trial case is an adaptation of a case that was written for the New Mexico high school mock trial program. The case is a difficult one – legally, politically and emotionally – because it demands that participants confront the highly controversial and potentially divisive issues of hate, hate crimes and violence. Participants will face the constraints imposed on the search for remedies balanced against the commitment to the importance of freedom of speech.

It is based upon an actual lawsuit -- the 1990 case of *Berhanu vs. Metzger, et al.* in Portland, Oregon – brought by the Southern Poverty Law Center, of Montgomery, Alabama, under the leadership of Chief Trial Counsel Morris Dees. Dees won a nearly \$5.5 million judgment against Tom Metzger's White Aryan Resistance (WAR) for the unprovoked racist attack against Ethiopian immigrant student Mulugeta Seraw by Skinheads WAR was recruiting. The judgment bankrupted WAR, but the organization still exists and continues to promote its racist agenda. (This was not the first such attempt to hold a hate group liable for the violent acts of its members. In 1987, Dees won a \$7 million judgment against the United Klans of America for the lynching of a young Black man, Michael Donald, in Mobile, Alabama. Michael's mother was awarded the keys to the once-powerful Klan group's headquarters.)

When the case was originally written, the impetus was the bombing of the Murrah Federal Building in Oklahoma City. The shock of that event made for more awareness than ever of the epidemic of hate and hate violence in this country. Since then, the brutal dragging death of James Byrd by White supremacists in Jasper, Texas, and the 1988 beating and leaving for dead of Matthew Shepard, a gay student from the University of Wyoming, have occurred. After the 9/11 attacks on the World Trade Center in 2001, hate crimes against those of Middle Eastern descent have seen a sharp increase.

The materials in the *Background Information* document that hate crimes are taking place in America on a regular basis. Included are descriptions, terminology and symbols of hate groups, as well as resources for learning more about the subject of hate crimes. The materials may be useful to teachers and students alike as they grapple with the issues presented by this case.

Mock trial has long been one of the most effective strategies of law-related education. LRE has always been intended to provide a way for teachers to deal with society's most controversial issues in a classroom setting, and this year's case is no exception. It will require students to take and defend extremely difficult positions and to role play unsavory and distasteful characters.

Nevertheless, Classroom Law Project firmly believes that despite its difficulty, the subject matter is one that should not be avoided in the high school curriculum. It is CLP's belief that it is far better that young people are exposed to these excruciating problems in a structured format, working in small groups with the guidance of professional educators, than to develop their attitudes haphazardly, in isolation or under the intense pressures of peer influence.

This case is dedicated to the memories of Mulugeta Seraw, James Byrd, Matthew Shepard and all those who have suffered from hate and hate crimes in America and throughout the world.

~~~

## **STATEMENT OF FACTS**

Rye, Oregon, is a city of approximately half a million people. The city has experienced serious economic problems ever since a big computer chip manufacturer that employed thousands relocated to California in 2003. Since then, the city has experienced an increase in unemployment, business failures, crime and racial tension.

On November 13, 2004, Leon Johnson, an African American, his white girlfriend, Marilyn Overton, and one of their friends, all residents of the City of Rye, drove to Johnson's house from a party they had all attended. Frankie Sherwood, the driver of the vehicle, stopped the car in front of Johnson's home. Johnson and Overton exited the vehicle but remained near the car, chatting with Sherwood.

Earlier that same evening, T. Brewster, president of East Side White Pride (ESWP), a local Skinhead group, and some members of ESWP drove to a Skinhead club in downtown Rye to distribute White supremacy literature provided by Andy Barrett, a member of the White Aryan Separatist Party (WASP), who was visiting from Colorado. Both ESWP and WASP are dedicated to the supremacy of the White race, and membership is limited to White persons of non-Jewish ancestry.

As Brewster, Barrett and the other members of ESWP left the club, they headed back to their own neighborhood on the east side of the river. After stopping at a mini-mart to pick up some beer, they headed down Belmont Street to drop Barrett at the motel where s/he was staying. After they let her/him out of the car, they continued cruising on Belmont, and after turning onto on a side street, came upon Johnson, Overton and Sherwood. Harsh words were exchanged and an altercation ensued. As a result of the incident, Johnson died; Overton remains in a coma and is unable to testify. Brewster pled guilty to second-degree murder and received a sentence of 15 years in prison. The other persons in the car with Brewster that night have fled the jurisdiction and are not available to testify.

Martha Johnson, Leon's mother and the personal representative of his estate, has brought this wrongful death civil action seeking compensatory and punitive damages against Brewster, WASP and its president, Michael Miller. The matter has been bifurcated for trial; only issues of liability will be tried in this first phase.

**TWENTIETH JUDICIAL DISTRICT COURT  
COUNTY OF RYE  
STATE OF OREGON**

**MARTHA JOHNSON, Personal** )  
**Representative of the Estate** )  
**of LEON JOHNSON, Deceased,** )

**Plaintiff,** )

**vs.** )

**No. OR-MT-2006.07**

**T. BREWSTER, MICHAEL MILLER,** )  
**individually, and as President of White** )  
**Aryan Separatist Party, and WHITE** )  
**ARYAN SEPARATIST PARTY, an** )  
**unincorporated association,** )

**Defendants.** )

**COMPLAINT FOR WRONGFUL DEATH**

**COMES NOW** the Plaintiff, Martha Johnson, and hereby complains of the Defendants, T. Brewster, Michael Miller and White Aryan Separatist Party as follows.

**INTRODUCTION**

1. At all times hereinafter mentioned, the Plaintiff Martha Johnson was a resident of the State of Oregon, residing in the City of Rye, County of Rye.
2. At all times hereinafter mentioned, the Plaintiff Martha Johnson was the natural mother of the decedent, Leon Johnson, and has been duly appointed as the personal representative of the estate of Leon Johnson.
3. The Defendant T. Brewster was at all times relevant to this lawsuit a resident of the City of Rye, in Rye County, Oregon.
4. At all times hereinafter mentioned, the Defendant Miller was the leader and/or director of an organization known as White Aryan Separatist Party and, as part of her/his responsibilities with that organization, disseminated literature stressing violence towards minorities and minority religions and the subordination of those groups.
5. At all times hereinafter mentioned, the Defendant White Aryan Separatist Party (hereinafter WASP), was an organization created for the sole purpose of espousing the elimination of minority races and religions and urging its membership to act violently towards those groups.
6. At all times hereinafter mentioned, the decedent, Leon Johnson, was an African

American living in the City of Rye, in Rye County, Oregon.

**FIRST CAUSE OF ACTION**  
**WRONGFUL DEATH**

7. Plaintiff reasserts and realleges each and every allegation set forth above as if provided herein, in full.
8. On November 13, 2004, the decedent, Leon Johnson, and his white girlfriend, Marilyn Overton, were attacked by Defendant Brewster and others.
9. This violent attack was unsolicited and without provocation. During the course of this attack, the decedent, Leon Johnson, was killed and Overton was beaten into a coma.
10. Defendant Brewster was induced to kill Johnson after reading the literature, materials and statements disseminated by Miller through her/his organization, the Defendant WASP.
11. Defendant Miller intended that her/his literature and materials would cause members of WASP and others who believe in the elimination of minority races and religions to act violently towards those minorities.
12. The conduct of Defendant Brewster was intentional in that s/he intended to cause great bodily harm, grievous injury and possibly the death of Johnson and Overton so as to entitle Plaintiff to punitive damages.
13. The conduct of Defendants Miller and WASP was intentional, willful, malicious, reckless and wanton in that it was intended to induce others to act violently towards minorities, such conduct entitling Plaintiff to punitive damages against Defendants Miller and WASP.
14. Defendant WASP was created for the illegal purpose of causing people to act violently against minorities.
15. Defendant Miller controlled and dominated WASP so as to make her/him personally liable for its actions.
16. Defendant WASP through Defendant Miller ratified the actions of the Defendant Brewster.
17. As a result of the conduct of the Defendants, the Plaintiff, Martha Johnson, as personal representative of the estate of Leon Johnson, the decedent, suffered great damages, including reasonable and necessary medical, hospital, funeral and burial expenses and, further, has sustained pecuniary loss. The decedent's estate is entitled to damages in an amount to be determined by the trial court.
18. Since the Defendants' actions were maliciously intentional, reckless and in wanton disregard of the decedent's rights, Plaintiff also is entitled to punitive damages in an amount to punish the Defendants and to deter others from acting in such a fashion.

**WHEREFORE**, Plaintiff demands judgment against the Defendants for compensatory damages, punitive damages, costs of suit, interest from the date of the incident and such other relief as the Court deems appropriate.

[Signatures omitted]



**TWENTIETH JUDICIAL DISTRICT COURT  
COUNTY OF RYE  
STATE OF OREGON**

**MARTHA JOHNSON, Personal** )  
**Representative of the Estate** )  
**of LEON JOHNSON, Deceased,** )  
 )  
**Plaintiff,** )  
 )  
**vs.** )  
 )  
**T. BREWSTER, MICHAEL MILLER,** )  
**individually, and as President of White** )  
**Aryan Separatist Party, and WHITE** )  
**ARYAN SEPARATIST PARTY, an** )  
**unincorporated association,** )  
 )  
**Defendants.** )

**No. OR-MT-2006.07**

**ANSWER TO COMPLAINT FOR WRONGFUL DEATH**

**COME NOW** the Defendants T. Brewster, Miller and White Aryan Separatist Party and for their answer to the Complaint filed herein state as follows.

1. In response to paragraph 1 of the Complaint, Defendants admit.
2. In response to paragraph 2, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations therein, and therefore Defendants deny the same.
3. In response to paragraph 3, Defendants admit.
4. In response to paragraph 4, Defendants admit that Defendant Miller was the leader and/or director of the WASP organization, but deny that the literature disseminated stressed violence. By way of further answer, Defendants assert that the literature disseminated stressed the difference in the cultures and races of individuals, and espoused the supremacy of the White race. In addition, by way of further answer, Defendants assert that the WASP organization also disseminates literature concerning many other issues unrelated to race.
5. In response to paragraph 5, Defendants deny.
6. In response to paragraph 6, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore Defendants deny.

**FIRST CAUSE OF ACTION**  
**WRONGFUL DEATH**

7. In response to paragraph 7, Defendants incorporate herein their answers to the preceding allegations, as set forth in paragraphs 1-6 of the Complaint and their answers thereto.
8. In response to the allegations contained in paragraph 8, Defendants admit that an altercation occurred on November 13, 2004, involving Leon Johnson, Marilyn Overton, Defendant Brewster and others, but deny that Defendant Brewster and others attacked Johnson or Overton.
9. In response to paragraph 9, Defendants admit that in the altercation Johnson was killed and Overton was injured and is in a coma, but deny the remainder of the allegations.
10. In response to paragraph 10, Defendants deny. By way of further answer, Defendants assert that the actions of Defendant Brewster were not the result of any literature provided by either Defendants Miller or WASP, because that literature never espoused violence.
11. In response to paragraph 11, Defendants deny.
12. In response to paragraph 12, Defendants deny.
13. In response to paragraph 13, Defendants deny.
14. In response to paragraph 14, Defendants deny. By way of further answer, Defendants assert that the literature, materials and other speech of Defendants Miller and WASP are protected by the First Amendment of the Constitution of the United States.
15. In response to paragraph 15, 16, 17 and 18, Defendants deny.

**WHEREFORE**, Defendants pray that the Complaint be dismissed, that Defendants be awarded their costs of suit, and for such other and further relief as this Court deems just and proper.

[Signatures omitted]

**TWENTIETH JUDICIAL DISTRICT COURT  
COUNTY OF RYE  
STATE OF OREGON**

**MARTHA JOHNSON, Personal** )  
**Representative of the Estate** )  
**of LEON JOHNSON, Deceased,** )

**Plaintiff,** )

**vs.** )

**No. OR-MT-2006.07**

**T. BREWSTER, MICHAEL MILLER,** )  
**individually, and as President of White** )  
**Aryan Separatist Party, and WHITE** )  
**ARYAN SEPARATIST PARTY, an** )  
**unincorporated association,** )

**Defendants.** )

**STIPULATIONS**

1. All exhibits included in the problem are authentic and accurate in all respects; no objections to the authenticity of the exhibits will be entertained.
2. The signatures on the Witness Statements and other documents are authentic.
3. The arrest and disposition record is that of the person whose name appears thereon and is a record of regularly-conducted business activity made at or near the time the matters recorded occurred, by someone with personal knowledge, or from information submitted by someone with such knowledge, of the matters recorded.
4. Under Oregon law, assault in the 4<sup>th</sup> degree is a misdemeanor, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> degree assaults are felonies; and the offense of second-degree murder is a felony. Non-capital felonies are punishable by imprisonment in excess of one year. Misdemeanors are punishable by imprisonment for less than one year.

## WITNESSES AND EXHIBITS

| The following witnesses shall be called by the parties.                                                                         |                                                               |
|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| For the Plaintiff                                                                                                               | For the Defendant                                             |
| Frankie Sherwood                                                                                                                | T. Brewster                                                   |
| Andy Barrett                                                                                                                    | Michael Miller                                                |
| Kim Gonzales, Ph.D.                                                                                                             | Chris Wallace, M.D.                                           |
| The following exhibits may be used by teams in competition. They are pre-marked and are to be referred to by number as follows: |                                                               |
| <u>Exhibit Number</u>                                                                                                           | <u>Exhibit Description</u>                                    |
| 1                                                                                                                               | WASP membership flyer                                         |
| 2                                                                                                                               | Reprint from WASP newsletter                                  |
| 3                                                                                                                               | Andy Barrett letter                                           |
| 4                                                                                                                               | Partial transcript of Renald Gerardo show                     |
| 5                                                                                                                               | Foreword, <i>Hate is not a Crime</i> ,<br>by J.T. McCallister |
| 6                                                                                                                               | Michael Miller letter to East Side White Pride                |
| 7                                                                                                                               | T. Brewster's arrest record                                   |
| 8                                                                                                                               | Preface, <i>The Puppet Master</i> ,<br>by Chris Wallace, M.D. |

## For the plaintiff

### Statement of FRANKIE SHERWOOD

1 My name is Frankie Sherwood. Leon Johnson and Marilyn Overton were two of my best friends.  
2 We all grew up together. We went to the same elementary, middle and high schools, and we  
3 hung out with the same people. We did everything together. Marilyn and I were on the tennis  
4 team together, and Leon and I were on the swimming team. We went to basketball and football  
5 games together, we partied together, we saw movies together, and we went dancing together. I  
6 especially liked the partying, because neither of them was ever afraid to have a good time.

7 By the fall of 2004, we were in our second year of college, and Leon and Marilyn had been  
8 dating for about a year. Some backward people didn't approve, because he was black and she is  
9 white. Occasionally when we were together, if they were holding hands or he had his arm around  
10 her or something, people would give them dirty looks or make racist comments. In Rye, we have  
11 our share of people who believe that whites have biological, genetic, intellectual, or some other  
12 inherent superiority over other population groups. What a load of B.S. that is.

13 Those ignorant, bigoted attitudes really ticked me off, but usually the only times we got those  
14 looks were when we were in the southeast "whites" part of town near Belmont. Unfortunately,  
15 that area is very close to where Leon and a lot of Skinheads lived. I hated to even drive through  
16 there, because you never knew when some moron Skinhead was going to start trouble, or throw a  
17 rock through the windshield of your car or do something even worse.

18 On November 13, 2004, Leon, Marilyn and I went to a party at a friend's apartment. There was  
19 hard liquor and beer, so a lot of people were drinking, including the three of us. Leon had a few  
20 beers, but I don't remember exactly how many. I know Marilyn didn't have a drop of alcohol,  
21 because she doesn't drink ever. I know I had a couple shots of vodka, or maybe it was gin. I also  
22 probably had a few beers. But, Leon and I were definitely not drunk, because we just didn't have  
23 enough for that to be the case. Even without being drunk though, we had a great time at that  
24 party. Everyone was singing and dancing, and I guess it got kind of loud, because somebody  
25 must have called the cops. All I know is that they appeared and told us to break it up and go  
26 home.

27 I drove Leon and Marilyn to his house. He lived in a little rental place just a few blocks from  
28 Belmont. It was kind of rundown, but the people who lived right around him were mostly okay.  
29 When we got there, I stopped out front. They got out of the car, but they didn't go into his house  
30 right away, because we were going to make plans for the next night. I rolled down the window,  
31 and we started talking and laughing about what a great time we'd had at the party and trying to  
32 decide what to do the next evening. We definitely weren't being loud. It was late, and we didn't  
33 want to disturb Leon's neighbors. We were really just minding our own business, talking quietly.

34 We had been there for only a few minutes when some Skinheads drove up. Let's see - how did I  
35 know they were Skinheads? How about the fact that every one of them had a shaved head. Or

1 maybe it was that big "88" painted on the driver's door. That's neo-Nazi shorthand for the eighth  
2 letter of the alphabet, twice, like HH, which is their shorthand for Heil Hitler.

3 They slowed down to a crawl and they all stared hard at us, which I know was meant to  
4 intimidate us. It worked. I got very paranoid because everybody knows they are violent,  
5 minority-hating racists, who carry baseball bats and other weapons. They have a reputation in  
6 Rye for cruising around looking for trouble and then kicking the hell out of innocent people with  
7 those monster black boots they wear.

8 Leon told me to be cool, and he sort of waved at them. I'm sure he was hoping, and I know I  
9 was, that they'd just drive on by. As they got closer, I heard the driver yell something about a  
10 monkey and white bread and "let's get 'em." I know now the driver was T. Brewster, and believe  
11 me her/his crew thought s/he was so funny. They were all laughing at us.

12 When they started laughing, I blurted out something -- I can't remember exactly what, but it was  
13 something like, "Kiss off, morons!" Of course I wish now I'd never opened my mouth, because  
14 when I did Brewster slammed on the brakes, and s/he and two other people jumped out. I don't  
15 remember how many there were in the car altogether, but it seemed like there were several. What  
16 I do remember is that when Brewster got out, I was terrified. S/He looked like s/he wanted to kill  
17 us. I didn't get it - we didn't even know any of them.

18 Leon tried to explain to Brewster that we were just talking and that we didn't want any trouble.  
19 Brewster just glared at Leon and said, "Why don't you get back to the jungle where you belong!"  
20 One of the others yelled, "And take your white trash bro ho with you!" I couldn't believe he  
21 called Marilyn a bro ho. That's a derogative term that bigots use to describe a white woman who  
22 dates a black man. Leon had barely said a word to these morons, but they were talking trash and  
23 were obviously trying to provoke us.

24 Leon walked up to Brewster's car and gently leaned against it. I remember when he put his hand  
25 on the hood of the car, Brewster started walking toward him, swinging a baseball bat back and  
26 forth in front of her/him. I know s/he was trying to get Leon to make some kind of a move, so  
27 Brewster would have an excuse to use that bat.

28 I could see they definitely wanted a fight, so I started to get out of my car to try and break it up. I  
29 never made it though. Another one of the Skins started swinging a baseball bat and smashed out  
30 my windows and lights. I was terrified. I knew there was going to be big, big trouble.

31 Leon didn't act scared, though. Instead, he was getting really hot, mad as hell. After they broke  
32 out my windows, Leon told them in no uncertain terms -- well, at least in words I don't want to  
33 repeat here -- that if they didn't move it right then, they were going to be sorry. The next thing I  
34 knew, at least three of them jumped Leon and Marilyn.

35 It all happened so fast, I couldn't tell you exactly who made the first move. And I really can't tell  
36 you everything that happened, because I couldn't see it all -- I was still in the car, and I was  
37 ducked down trying to find my cell phone to call for help. I did see those Skinheads beating  
38 Leon and Marilyn with what looked like brass knuckles and kicking them with their boots. I've  
39 always hated those big, ugly Doc Martens.

1 I know Brewster hit Leon with a bat, too. I know the sound a bat makes when it comes into  
2 contact with a person's body. I knew Brewster was the one hitting Leon with the bat because  
3 right before I heard each thud, I heard Brewster say, "Take that, nigger." I'm sure Leon got off  
4 some good hits to at least one of them. There's no way he wouldn't have put up a fight to defend  
5 himself and Marilyn.

6 When I finally found my cell phone, the battery was totally dead. I jumped out of the car and ran  
7 to a nearby house. I shouted and pounded on the door, but didn't get any answer. I tried three  
8 different homes before anyone would open up. Apparently someone had already called for help  
9 because I heard sirens approaching, so I went back to my car. As the paramedics lifted Leon and  
10 Marilyn into the ambulances, I could see they were so bloody and beaten I hardly recognized  
11 them. I was so upset, I got sick and vomited. I admit that even though it doesn't sound very  
12 good, I'm glad I wasn't hurt like that.

13 We didn't start that fight. Like I already said, we were just minding our own business. Those  
14 Skinheads attacked us without any provocation. Leon wasn't the fighting type. And there is no  
15 way he would have started something with Marilyn there. He loved her. It's true there have been  
16 other times when he was involved in violent confrontations, but those were only when he was  
17 defending himself. And that one time when he took the first swing after some guy made a  
18 disgusting comment about Marilyn.

#### **WITNESS ADDENDUM**

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

**Frankie Sherwood**

FRANKIE SHERWOOD

SIGNED AND SWORN to before me at 8:00 AM on the day of this round of the Oregon Mock Trial Competition.

Signed ***Ruth Fish***

Ruth M. Fish, Notary Public  
State of Oregon

My Commission Expires: November 29, 2008

## For the plaintiff

### Statement of ANDY BARRETT

1 I was born in Colorado Springs in 1985. When I was about five or so, my dad left my mom and  
2 me. He didn't really help mom support us, and she only earned minimum wage as a waitress. I  
3 guess she did the best she could, but it was hard. After several years, she married a Jew she met  
4 at the restaurant where she worked. We had to move in with him and his two kids, and I was  
5 really bummed. I got involved in heavy metal music and spent most of my evenings hanging out  
6 downtown. I didn't have very many friends, so I felt lonely a lot of the time. I got busted for  
7 shoplifting, and I was suspended from school for smoking dope. My mom said I was ruining  
8 everything, and she sent me to live with my grandparents. I couldn't believe she picked a Jew  
9 and his kids over her own flesh and blood.

10 It seemed like I was always in trouble. When I got expelled for passing out pills I stole from my  
11 grandma's bathroom that was it. They sent me back to live with my mom. I started at a new  
12 school, but I didn't like it. The only thing that interested me at all was a history class where I  
13 learned about Hitler's rise to power. He was an amazing individual, you know. I rented some  
14 World War II movies and did a lot of reading about the Nazis. When I went looking for more  
15 information on the internet, I found hundreds of sites that played white power music and  
16 promoted white supremacy. Before that, I didn't even know there was such a movement.

17 One day, I heard a radio program that featured Michael Miller, who was the president of a group  
18 called the White Aryan Separatist Party. As I listened, everything s/he said really made sense to  
19 me. I totally related to her/his ideas. Minorities were taking over everything. Jews did control the  
20 media. The government did care more about those people than about Whites. They let hordes of  
21 immigrants into the country, who turned around and took our jobs. Then the government offers  
22 all these special programs to help them. What's up with that? Where were the special programs  
23 to help my mom and me when my dad left us? I called the show and requested information about  
24 WASP. When it came, I read every bit of it and sent in my membership form immediately.  
25 WASP seemed like just what I needed. I was sure it would be a place where I would fit in, which  
26 I didn't at home, and where I could be with other people like me.

27 When I got my first issue of the WASP newsletter, it had an ad for a weekend-long concert of  
28 white power music. I couldn't believe all the bands that were scheduled to play: Max Resist,  
29 Extreme Hatred, Aggravated Assault, Hate Crime, Youngland, American Standard and on and  
30 on. I got my ticket right away. When I arrived, it was amazing. Everyone there was just like me.  
31 They were all white people who were sick to death of being treated like intruders in our own  
32 country. It wasn't just music, though. There were guest speakers from The National Alliance and  
33 Aryan Nation, as well as some people from other wings of the Christian Identity Movement.

34 Even though you could tell each group has its own niche, there was one common thread running  
35 through all the music and all the speeches. We white people have a responsibility and a duty to  
36 take back our country now. The music and the speeches really inspired me, and I started passing  
37 out as much WASP literature as I could print from the web site. I worked on recruiting new



1 members, and I visited dozens of separatist web sites, trying to learn as much as I could about the  
2 separatist movement.

3 In 2002, I decided to become a Skinhead and to drop out of school. The Skinheads are powerful,  
4 both in the US and around the world. It was about that time that I finally met Michael Miller,  
5 when we were both on a local radio show. Somehow my mom's Jew husband heard the show  
6 and was very ticked off about the things Michael and I said. When I got home, I found all of my  
7 stuff packed up out in the front yard. He and my mom said they didn't want me in their house  
8 anymore. Once again, my mom had picked a Jew over her own flesh and blood.

9 I stayed with different Skins and others in the movement for a while, and in 2003, I moved to  
10 Lakewood, outside of Denver. It was near Michael's house, and I spent a lot of time at her/his  
11 place. I shipped out merchandise that was ordered on the WASP web site. I helped with the  
12 mailing of the WASP newsletter. At the same time I was helping to promote WASP, I was  
13 learning from Michael. S/He talked all the time about the importance of cleansing our nation of  
14 third world life forms. Michael said Skins were warriors for the white race. S/He told me,  
15 though, that we should always try to provoke others into initiating violence, so that we could  
16 then do as much damage as we wanted and still claim self-defense.

17 I will admit I sometimes took part in some fairly violent racial confrontations -- "clash and bash"  
18 we called it. We didn't always go looking for trouble, but when opportunities came along, we'd  
19 take advantage of them. I'd always go straight to Michael to report in, and s/he'd congratulate  
20 me, and warn me, too. S/He used to tell us to be careful we didn't get caught because we  
21 wouldn't do anyone any good if we were in jail, which I found out for myself one day in early  
22 2004.

23 I learned that Morris Dees was going to address a rally. A bunch of us Skins got into my van to  
24 go to the rally. As always, we were prepared for anything. We always traveled with at least  
25 baseball bats and chains. It's not like we were carrying illegal weapons or anything. Our plan  
26 was to disrupt the rally and hopefully get some mud person to start trouble; then we'd clash and  
27 bash and make some news. But the cops pulled us over just because of the way we looked, and I  
28 was arrested. When I got to jail, I called Michael who came immediately to bail me out. When  
29 that happened, I realized that Michael was more like a parent to me than my own mom -- for  
30 sure, s/he cared more about me. Back then, I had total respect for Michael, and I would have  
31 done anything for her/him. I would have even been willing to die for her/him.

32 As a reward for all the organizing work I was doing for WASP, Michael invited me to appear on  
33 a TV program with her/him. After the show, Michael said I was being such a good soldier that  
34 s/he was naming me vice president of WASP. After that, I met dozens of people from other  
35 organizations like the Order, Stormfront, the Covenant, the Sword and the Arm of the Lord. I  
36 couldn't believe how many of us there were. I really grew as a separatist. I began to understand a  
37 lot about how our country got as screwed up as it is.

38 Take the destruction of our cities. Whites were escaping from cities to avoid interaction with the  
39 third-world races. The Civil Rights Acts made it impossible to secure decent housing, schools

1 and employment in small, but segregated areas, as was done in the past. As third-world invaders  
2 created larger incompatible environments in urban areas, Whites had to flee.

3 Or, think about all the problems we have with immigration. The reason these illegals sneak in is  
4 to find employment. They're illiterate, so they'll work practically for free which costs Americans  
5 jobs. This destroys the economy, political stability and the overall quality of life for whites.  
6 These are not good things for our country.

7 Michael taught me her/his theory about what s/he called the "leaderless resistance." S/He said  
8 that it emphasized the formation of small units of racials that can avoid detection and  
9 penetration by authorities. They strike quickly and disperse. This protects the political leadership  
10 of the White supremacist movement, s/he said.

11 Michael also instructed me about how centralized decision-making structures are replaced with  
12 educating as many people as possible and by making bomb-making manuals and assassination  
13 handbooks available anonymously over the internet. Racialists are encouraged to form their own  
14 small units and choose their own targets without formal direction from recognized leaders in the  
15 movement, Michael said.

16 So, in the fall when Michael sent me to Rye to organize a Skinhead group that was growing but  
17 that lacked leadership, I knew exactly what s/he wanted me to do. S/He said I was the one who  
18 could get the job done. "Get down there to Rye and kick ass," Michael told me. Now I know in  
19 that letter I wrote to a friend of mine in Lakewood, I said "I" decided to go to Rye, but I was just  
20 blowing smoke. I didn't "decide" to do anything. Michael ordered me to go, and s/he had taught  
21 me what to do once I got there.

22 Anyway, I got to Rye in October with my van full of the WASP materials Michael had given me,  
23 plus some self-defense devices. The literature was all pretty much the same as the WASP  
24 membership flyer and newsletter you have. The message was the same in all of them. They didn't  
25 come right out and say, "Kill all the mud people," but that's what they meant. We weren't stupid,  
26 and we knew what Michael wanted us to do.

27 I went straight to the Dome, a Skinhead hangout, so I could meet the crew of Skins Michael sent  
28 me to organize, called East Side White Pride. I met T. Brewster, the local leader, the first night I  
29 went there. I wanted her/him to understand who I represented, so I called Michael and put  
30 Brewster on the phone to say hello. That really established my credibility. S/He was very  
31 impressed and was ready to get to work.

32 I met everyday with Brewster and other ESWP members. We passed out WASP literature and  
33 other materials. At first we concentrated our efforts in the areas around the Dome, but then we  
34 spread out and were able to talk with lots of people who felt the same way we did about the  
35 survival of our race. At these gatherings, people would get jazzed up talking about how the  
36 country was being ruined by race mixing, how we needed to restore America to the white nation  
37 it once had been, how the government did more to protect lazy minorities than white people, and  
38 many other racist topics.

39 Sometimes after our meetings, we'd go cruising. I shared with T. and her/his friends everything I  
40 had learned from Michael about clash and bash: how to not get caught, how to make it look like

1 self-defense if you did get caught, how to keep your mouth shut and so on. I don't want to  
2 incriminate myself any further, so I'm not going to go into a lot of detail. Let's just say we didn't  
3 do this once or twice. I was in Rye for only about a month before Johnson was killed, and there  
4 was a lot of black blood spilled in that short time. I felt I was doing a great job of following  
5 Michael's orders and sharing the WASP training with ESWP.

6 On November 14, 2004, Brewster and some ESWPs showed up at the Dome, bragging about  
7 their clash and bash with Johnson. Brewster kept showing me her/his Aryan Wear 10-eye panzer  
8 boots, with steel toes and red laces, saying what great weapons they had been. I freaked out and  
9 called Michael to tell her/him about it. Michael said I had done good work. But, s/he warned me  
10 to remember the "5 words," when talking to the cops: "I have nothing to say."

11 The cops, of course taking sides against the whites, immediately focused their investigation on  
12 racist groups in Rye. It didn't take long before I was called in for questioning. I could see right  
13 away by the questions they were asking that it was just a matter of time before they nailed  
14 Brewster and the others, and I knew I had to do something to protect Michael. So I talked. I told  
15 them all about Brewster and ESWP and how they had bragged to me about Johnson's death, but I  
16 denied that I had anything at all to do with it, because I didn't. I told the cops I was in Rye just  
17 for a visit. I didn't say a word about Michael's involvement, or why s/he sent me to Rye, or  
18 anything.

19 The cops arrested Brewster and the others, but they let me go, and I went back to Colorado.  
20 When I went to report to Michael, though, s/he wouldn't see me or even talk to me. At first, I  
21 thought it was because it was dangerous for her/him to be seen with me so soon after the Johnson  
22 thing. But, nobody in WASP would have anything to do with me. They said I was a race traitor  
23 and that Michael was saying I'd better watch my back. A friend of Michael's came after me, and  
24 beat me up pretty bad. I decided I'd better go into hiding. I was scared, and I was ticked. I  
25 couldn't believe it. I did everything Michael told me, and then s/he turned on me.

26 I decided to quit WASP and Skinheads and all the rest. I got in touch with the Anti-Defamation  
27 League and agreed to be debriefed. In 2005, I moved in order to make a fresh start, but trouble  
28 seemed to follow me. In March I was arrested for assault, robbery and unlawful possession of a  
29 weapon, but the charges were dropped because the person who accused me had a change of heart  
30 and left town.

31 A couple months later, I saw two people getting into it. I just tried to break it up, but I got  
32 charged with assault. I made bail and was released. While I was in jail, the police questioned me  
33 about a Neo-Nazi group in El Prado because they thought I might be involved with them. I  
34 definitely wasn't. I told the cops about my ADL debriefing and that I had put the Skinhead life  
35 behind me.

36 In August, I was arrested after a jump in -- that's when a bunch of Skinheads attack one person --  
37 and was charged with assault again. The Skins are saying that I got involved after their victim  
38 was beaten to the ground. That's not true. I told the others to "back off." In fact, I was the one  
39 who took him to the hospital.

40 They're saying that I kicked the guy for several minutes after he'd fallen on the ground. That just

1 isn't true. I'm being framed by them as payback for what I told the cops in Rye. Anyway, the bail  
2 from the assault charge was revoked because of this frame-up, and the judge has set my bail now  
3 at \$100,000. I can't make that bail, and I have to stay in jail until the trial. This is a very  
4 dangerous situation for me.

**WITNESS ADDENDUM**

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

*Andy Barrett*  
ANDY BARRETT

SIGNED AND SWORN to before me at 8:00 AM on the day of this round of the Oregon Mock Trial Competition.

Signed *Ruth Fish*  
Ruth M. Fish, Notary Public  
State of Oregon

My Commission Expires: November 29, 2008

## **For the plaintiff**

### **Statement of KIM GONZALES, Ph.D.**

1 My name is Kim Gonzales. I am a licensed psychologist in the State of Oregon and have been  
2 since 1978. I obtained a Bachelors of Arts at the University of Idaho in 1971. I worked in the  
3 Peace Corp in Ecuador until 1973, when I decided to pursue a PhD in clinical psychology. I  
4 attended the University of Oregon graduate program and received my doctorate in 1978. My  
5 specialty is in group interactions and the manner in which organizations evolve. I have a sub-  
6 specialty in the actions of gangs and hate groups. I have been asked to testify on behalf of the  
7 plaintiff in this lawsuit filed by the family of Leon Johnson.

8 In order to understand hate groups, one first must have a basic idea of their history. This not only  
9 enables you to see how these organizations have evolved over the years but also reveals a great  
10 deal about how such groups and their leaders manipulate and control their members.

11 FBI statistics, as well as monitoring by such organizations as the Southern Poverty Law Center  
12 (SPLC) and the Anti-Defamation League (ADL), support that in the United States, there are  
13 some 800 active, organized hate groups, whose total membership could be as high as 250,000.  
14 The overwhelming majority of these groups are predicated upon the necessity of preserving, or  
15 in their view, reestablishing the supremacy of the white race. For one race to be supreme  
16 necessarily means that others – people of color, surely, but also gays, lesbians and others who  
17 may be ethnically White but whose differences are perceived either as weaknesses or as threats  
18 to the purity or strength of the white race – must be suppressed. Almost without exception, these  
19 groups fervently believe that if suppression requires violence, then violence is justified by the  
20 importance, the life-or-death stakes as they see it, of their struggle. To make this clear, let me  
21 give you some examples. I note Michael Miller has either been a member or a vocal proponent of  
22 the views and actions of the groups I am about to discuss.

23 Obviously, the Ku Klux Klan, with its mystique and its long history of violence, is the most  
24 infamous and oldest of the American hate groups. Although blacks have typically been the  
25 Klan's primary target, it also has attacked Jews, immigrants, gays and lesbians, and, until very  
26 recently, Catholics. Over the years since it was formed in December 1865, the Klan has typically  
27 seen itself as a Christian organization, although in modern times Klan groups are motivated by a  
28 variety of theological and political ideologies.

29 Started during Reconstruction at the end of the Civil War, the Klan quickly mobilized as a  
30 vigilante group to intimidate southern blacks – and any whites who would help them – and to  
31 prevent them from enjoying basic civil rights. Outlandish titles like Imperial Wizard and Exalted  
32 Cyclops, hooded costumes, violent "night rides" and the notion that the group comprised an  
33 invisible empire lent a mystique that only added to the Klan's popularity. Lynchings, tar-and-  
34 featherings, rape and other violent attacks on those challenging white supremacy became a  
35 hallmark of the Klan.

36 After a short but violent period, the first era Klan disbanded after Jim Crow laws ensured the

1 domination of southern whites. But the Klan enjoyed a huge revival in the 1920s when it  
2 opposed mainly Catholic and Jewish immigration. By 1925, when its followers staged a huge  
3 Washington, DC, march, the Klan had as many as 5 million members and, in some states,  
4 considerable political power. But a series of sex scandals, internal battles over power and  
5 newspaper exposés quickly reduced its influence.

6 The Klan arose a third time during the 1960s to oppose the civil rights movement and to preserve  
7 segregation in the face of unfavorable court rulings. The Klan's bombings, murders and other  
8 attacks took a great many lives including, among others, four young girls killed while preparing  
9 for services at the 16th Street Baptist Church in Birmingham, Alabama.

10 Since the 1970s the Klan has been greatly weakened by internal conflicts, court cases, and an  
11 endless series of splits and government infiltration. While some factions have preserved an  
12 openly racist and militant approach, others have tried to enter the mainstream, cloaking their  
13 racism as civil rights for whites. Today, the SPLC estimates that there are a total of 5,500 to  
14 6,000 Klan members, split among scores of different and often warring organizations that use the  
15 Klan name. The total number of groups tracked by SPLC in 2002 was 133.

16 As the standard of living of America's working class stagnated and even declined in the last 20  
17 years, a new breed of hate groups – Skinheads – has proliferated. Skinhead hatred is directed at a  
18 changing America. Currently in the US, we are seeing the first generation of White Americans  
19 who have less than a 50% chance of having a better life than their parents. In addition, if present  
20 trends continue, White Americans will constitute a minority of the country's population by the  
21 year 2050.

22 Skinheads are even more dangerous than the Klan, glorifying Hitler and Nazi Germany, and  
23 talking openly about white revolution and ethnic cleansing. The classic Skinhead look is a  
24 shaved head, black Doc Martens boots, jeans with suspenders and an array of racist tattoos.

25 Racist Skinheads form a particularly violent element of the white supremacist movement and  
26 have often been referred to as the shock troops of the hoped-for revolution. With increasingly  
27 strident rhetoric, we've seen a corresponding increase in violence against minorities, Jews, and  
28 gays and lesbians. It has not taken long for the movement to spread literally throughout the  
29 United States, until many cities of any size now have to contend with dedicated hate groups.

30 My research shows the movement tends to attract young people who feel alienated from both  
31 their families and society. They often have prior history with drugs – although once in the  
32 movement drugs are frowned upon – and other crime. As a result, they are easy targets for  
33 recruitment into the radical right. They feel economic frustration and resentment about  
34 affirmative action. Many are white suburban youth from single-parent homes who find role  
35 models or a sense of family in hate groups.

36 The Skinhead phenomenon began in the industrial cities of 1960s Britain as a working class  
37 movement strongly marked by contempt for hippies and middle-class youth. Though drugs and  
38 violence were always part of the Skinhead scene, Skinheads originally embraced Afro-Caribbean  
39 music and were of different races. But British fascists were able to precipitate a split in the  
40 movement between racist and antiracist elements. You see, not all Skinheads profess violence

1 and racial hatred. Some, for example, called themselves SHARPS, or Skinheads Against Racial  
2 Prejudice, but they were minor players and are now essentially defunct. In any case, the split  
3 endured to the present day, both in Britain and in the United States, where Skins arrived in the  
4 early 1980s.

5 Although the racist Skinheads developed independently of the existing white supremacist  
6 movements and had no formal organization, they were extremely racist and violent, holding  
7 white-power rallies, disrupting rock concerts, defacing synagogues and attacking, sometimes  
8 even murdering, African Americans, Jews, Asians and gays.

9 Encouraged by the inflammatory rhetoric and active recruitment efforts of White supremacists  
10 like Michael Miller, the loosely-knit Skinhead gangs began to organize. With organization came  
11 heightened violence. Racist Skinheads in the US, like those in other countries, often operate in  
12 small crews that move from city to city with some regularity. The largest and most dangerous  
13 Skinhead group today is Hammerskin Nation, with thousands of members and an extremely  
14 violent track record in both North America and Europe.

15 By the early 90s Michael Miller became America's foremost proponent of the White revolution.  
16 S/He is today and was then a charismatic hate monger who targets disaffected youth and recruits  
17 them into the White supremacy movement. My research has persuaded me that the rhetoric of  
18 hatred can, and does, incite violence. For instance, a White supremacist named William Pierce  
19 using the pseudonym Andrew McDonald wrote a novel entitled, *The Turner Diaries*. It described  
20 an Aryan revolution against the United States government, which the revolutionaries called the  
21 "Zion Occupied Government," or ZOG, to denote its Jewish domination. The uprising was  
22 characterized by bombings, assassinations and lynchings of Blacks, Jews, race traitors and liberal  
23 judges. When the Murrah Federal Building in Oklahoma City was bombed in 1995, the crime  
24 paralleled in detail the event described by Pierce. It is not surprising in the least that Timothy  
25 McVeigh, who was executed for his part in the bombing, had read the book and considered it a  
26 bible of sorts.

27 Even more disturbing than publications like *The Turner Diaries* is the proliferation of White  
28 power music, which has become a focal point for many racist Skinheads seeking a common  
29 culture. They attend concerts where White power bands belt out songs that attack and  
30 dehumanize Blacks, Jews and other minorities. The names of these bands -- Extreme Hatred,  
31 Angry Aryans, and Aggravated Assault -- reveal the hostile ideology that drives them. The bands  
32 create their own logos and proudly display them on CDs that glorify violence against minorities.  
33 This music, which is prominently promoted on Miller's web site, has resulted in thousands of  
34 people worldwide embracing the ideology of the White supremacy movement. As a result they  
35 are willing participants in whatever actions they believe are necessary to advance their cause.

36 In other words, there is a clear link between WASP's, and organizations like it, racist propaganda  
37 and white supremacy followers putting those words into action. Miller may call her/himself a  
38 racialist, rather than a racist. S/He may claim to be an advocate of white separatism, rather than  
39 white supremacy. But such vocabulary games are nothing more than transparent attempts to cast  
40 an air of respectability over what is in reality despicable, manipulative behavior.

41 While I have not interviewed Brewster or Miller, it nevertheless is my opinion that the kind of

1 inflammatory rhetoric represented by the WASP literature and web site very likely led directly to  
2 the murder of Leon Johnson. What Miller preached in the WASP materials and what s/he  
3 promoted on the web site was more than sufficient to incite her/his followers to act as they did in  
4 the Johnson attack when he was beaten to death.

**WITNESS ADDENDUM**

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

*Kim Gonzales*  
KIM GONZALES

SIGNED AND SWORN to before me at 8:00 AM on the day of this round of the Oregon Mock Trial Competition.

Signed *Ruth Fish*  
Ruth M. Fish, Notary Public  
State of Oregon

My Commission Expires November 29, 2008



## For the defense

### Statement of T. BREWSTER

1 I was born near Salt Lake City in 1980. My mom abandoned me when I was about two years old  
2 and after that I was in and out of foster care until I was 16. When I left my last foster home, I  
3 dropped out of school and supported myself by doing odd jobs. I've been taking care of myself  
4 for years.

5 When I was 18, I met a girl from Rye, Oregon, and she invited me to go there. S/He helped get  
6 me a job at the fast food place where she worked and let me stay at her place until I could save a  
7 little money. I stayed with her for a couple of months and then I moved in with some other  
8 people I met through work. They were into drugs, and I started playing around with coke and  
9 speed. In 1999, I got busted for attempted possession of cocaine. I pled guilty, so all I got on my  
10 record was a misdemeanor and six months probation, but I did lose my job.

11 I had a few different jobs over the next several months, but they were crappy and didn't pay  
12 anything. A couple of times I was fired and other times I quit, because I got sick of watching all  
13 the non-whites get the breaks. I tried to get unemployment, but they told me I had never worked  
14 at any one job long enough to qualify. I'm sure there were plenty of third-world immigrants who  
15 were probably collecting a check every week, but of course I couldn't get one.

16 In 2000, I got arrested and convicted for stealing some meat and money from a deli. I had to eat,  
17 didn't I? For that, I think I got a 90-day sentence in the county jail. Then a year or so later, I was  
18 arrested for burglary and ended up going to prison. That was probably the best thing that ever  
19 happened to me.

20 It was during that time when I first read *Jubilee Newspaper*, a bi-monthly Christian Identity  
21 Movement newsletter. It was sent to me by the Jubilee Prison Ministry, which sends reading  
22 material to imprisoned subscribers. There are also other racist publications written by and for  
23 prisoners. I used to read *Thule* which calls itself a journal of philosophical, spiritual, historical  
24 and political folkish-tribalism, dedicated to the enlightenment of prisoners.

25 As I read the articles, which talked about the ideas of Nazis and the Identity Church movement, I  
26 began to realize why this country was in such a mess: whites had lost control. More importantly,  
27 though, I learned we had to get it back. *Thule* published the addresses of other organizations and  
28 publications, including Aryan Nations, World Church of the Creator and the *NSV Report*, all of  
29 which I found very interesting. I learned that I should never abuse my body with drugs because  
30 they will weaken me, and I must be strong and healthy at all times. I learned that I needed to read  
31 extensively, to improve my vocabulary, to expand my knowledge base and always, always,  
32 always, to work for the preservation of my race.

33 The internet was a valuable tool for me. There are hundreds of separatist web and white power  
34 music sites. I came to believe then and still believe today that our culture and the survival of our  
35 race are in jeopardy. I was amazed at the numbers of prisoners who also felt exactly the same

1 way, and I spent my time with those who held the same opinions I did. Rahowa, we would say to  
2 each other - that stands for racial holy war.

3 I learned and recited dozens of times each day the phrase that is known in the white supremacy  
4 movement as The 14 Words: "We must secure the existence of our people and a future for white  
5 children." Just so you know, in the prison community it isn't just the whites who believe that  
6 separatism is the way to go. There were blacks, Mexicans and others who thought we should all  
7 just live and work with our own kind.

8 When I got out, I moved back to Rye and learned that several of my former friends had formed a  
9 Skinhead gang. They called their crew East Side White Pride. A few of them had been to an  
10 Aryan Reich 'N Roll festival where they had met Michael Miller, the founder of the White Aryan  
11 Separatist Party. Miller was a famous leader and a hero in the movement, so I was pretty  
12 impressed to learn that some of my friends had actually met her/him. We debated Miller's  
13 positions and those of other Aryans. I had learned so much in prison from my reading and  
14 research that I fit right in with ESWP. I showed a lot of knowledge, and I had good leadership  
15 skills, so in a short time I was selected to be the president of ESWP.

16 On our own and at our meetings, we spent a lot of time listening to music on the Resistance  
17 Records web site. We learned about Resistance from the WASP site, which said that Resistance  
18 was a white power music company that was trying to stop the multi-billion dollar hip hop and  
19 rap industries from forcing race-mixing, drugs, perversion, guilt and self-loathing into the minds  
20 of white children. WASP also said that Resistance is the best music site out there for helping  
21 young whites to understand that ours is a culture and a race worth preserving and fighting for. I  
22 have heard some uninformed people call the music hatecore, because they say it preaches hatred,  
23 violence and white supremacy, but it doesn't really. It's just a pro-white alternative to that skanky  
24 music that non-Aryans are caught up in.

25 My life was really coming together when this monkey, you know, a Black, security guard  
26 claimed I stabbed him. I'm sure he accused me because I was a Skin. I didn't hide my views  
27 from him, when I saw him in front of the office building next to the Dome, which is a Skinhead  
28 club in Rye. I was arrested, but since he couldn't pick me out of a lineup, the cops let me go.

29 In October of 2004, I met Andy Barrett when s/he came to Rye. S/He said s/he was the vice  
30 president of the White Aryan Separatist Party. I do remember saying "hi" to Michael Miller by  
31 telephone when Barrett called her/him after arriving in Rye. I had never met Michael, but as I  
32 mentioned earlier, s/he was famous and was a hero to all of us. I took an immediate dislike to  
33 Barrett, though. S/He was self-important and acted as if those of us in ESWP were stupid.

34 S/He kept saying that Michael sent her/him to Rye as an official representative of WASP to  
35 organize ESWP. Barrett's a liar. First of all, I never believed Michael sent her/him to Rye –  
36 Barrett was just saying that to try to impress us. Second, we didn't need anyone to organize us.  
37 We were doing fine on our own. I know some of my crew bought into that vice president story of  
38 hers/his; what a crock. But, I decided s/he could make any claims s/he wanted. It had nothing to  
39 with me. All that mattered were the awesome WASP materials s/he brought. I had read some  
40 print literature, but I'd never seen a lot of the stickers, buttons, pins and posters s/he brought.

41 During the next couple of weeks, we spent our time distributing WASP materials at the Dome

1 and in the areas around it. We talked again and again about what we could do to get the Rahowa  
2 going. Barrett said that now was the time for action, and that we needed to show the mud people  
3 who the real Americans were. We already knew that and totally agreed. We forced a few fights  
4 and did a little clashing and bashing, but we were always careful to make sure that the other  
5 people started it. We would just call them a few choice names and when they reacted, we'd  
6 defend ourselves.

7 On the night of November 13, Barrett, some of my crew and I went back to the Dome to deliver  
8 more materials. We were recruiting new members everyday, and we wanted to keep that  
9 momentum going. When we finished, we headed back to the east side of the river.

10 On the way, we stopped at a mini-mart to pick up some beer for Barrett, and then we drove down  
11 Belmont Street to drop her/him off at the motel where s/he was staying. When s/he got out, we  
12 kept driving down Belmont. I turned on a side street, and we saw some people hanging on the  
13 corner, talking to someone in a car. As we drove by, this big nig – uh – black guy flipped us off.  
14 I know now he was Leon Johnson.

15 I don't appreciate being flipped off, and especially not by a subhuman, so I stopped. The next  
16 thing I knew, the driver of the car started mouthing off. I don't remember exactly what s/he said,  
17 but I do know I wondered who those race mixers thought they were. Johnson sort of staggered  
18 over to my car. He was drunk -- I could smell the alcohol on him -- and he was acting like he  
19 was tough. I don't remember exactly what we said to each other, but I know we exchanged  
20 insults, and we were both really ticked off. I warned him to stay back, but he just kept coming.

21 When he started pounding on the hood of my car, I got out and ordered him to stop. I took my  
22 baseball bat with me because everyone knows they all carry knives. It was a good thing I did too,  
23 or I might be dead right now. Johnson lunged at me, so I had to defend myself. What choice did I  
24 have? His two friends were yelling, so two of my crew jumped out of the car, too. Yeah, they  
25 might have had brass knuckles or chains. I really don't know. Skins go into rough  
26 neighborhoods, so I wouldn't be surprised if they were carrying. I didn't really see what was  
27 going on between them and Johnson's friends because I was too busy trying to defend myself  
28 from that monkey.

29 Sure I used my bat and my boots, but Johnson started the whole thing. I know I talked earlier  
30 about clashing and bashing and about forcing fights and then claiming self-defense, but, I swear  
31 this was different. Even though we might have called him some racial names, we didn't fight  
32 because of his race. I think one of my friends might have called the girl names, too. But what's  
33 wrong with that? Any white girl who was hanging around with him was just a bro ho anyway.  
34 Besides, what happened would have happened the same way even if he had been white. He was  
35 just drunk and looking for trouble.

36 Thanks to that race traitor Barrett, I got busted. It's true I pled guilty to second-degree murder,  
37 but I didn't murder Johnson. It was a simple matter of self-defense. I only pled because my  
38 lawyer told me if I did, I wouldn't be prosecuted by the feds. And, she was right; they haven't  
39 prosecuted me. No matter what happened, though, none of it was Michael Miller's fault. I only  
40 talked to her/him that one time. And Barrett -- well, you're crazy if you think I ever listened to  
41 her/him ever.

1 I don't remember seeing the National Alliance article that was printed in the WASP newsletter,  
2 but I could have. It doesn't matter, though. I know if it came from WASP, I agree with it.

3 I don't know why Barrett claims Michael wrote a letter of introduction for her/him. I never saw  
4 it. As I've said, I didn't know Michael Miller, and s/he didn't influence me or my actions. It's  
5 true that I called her/him collect from prison a few times, but that was after my conviction. S/He  
6 really stood by me through all of this. Do you know s/he even came to visit me once? It was very  
7 cool because the next issue of the WASP newsletter had a photo of the two of us together, and  
8 Michael even posted it on the web site, saying that all Aryans should offer their support to me  
9 because I was a prisoner of war.

**WITNESS ADDENDUM**

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

***T. Brewster***

T. BREWSTER

SIGNED AND SWORN to before me at 8:00 AM on the day of this round of the Oregon Mock Trial Competition.

Signed ***Ruth Fish***

Ruth M. Fish, Notary Public

State of Oregon

My Commission Expires: November 29, 2008

## For the defense

### Statement of MICHAEL MILLER

1 My name is Michael Miller. For years, I operated a computer repair service from my home. It  
2 gave me enough to live modestly and to devote the rest of my resources to building my  
3 organization. In the past few years, I've established a significant presence on the internet through  
4 a membership and shopping service on my web site. Now, that's my main source of income. Our  
5 online store carries Aryan Wear clothing, and white separatist music, posters, flyers, pins, and  
6 buttons.

7 Like most of the people in the white separatist movement, I've had it with the government:  
8 affirmative action, gay and lesbian rights, welfare to work, job training, hate crimes legislation,  
9 ESL and ebonics, and on and on it goes. Everything is about giving a break to queers, Jews,  
10 blacks and those Mexicans who keep sneaking over the border to steal jobs.

11 I'm not alone in the way I feel. There were enough people in California who felt the same way I  
12 did, that a few years ago I won the Democratic nomination for Congress although I didn't win  
13 the election. Shortly after that I also ran for the US Senate and got 90,000 votes. It wasn't nearly  
14 enough to win, but it proves the White separatist movement is strong and that there are plenty of  
15 honest, hard-working White Americans who realize we have some serious problems in this  
16 country.

17 In my view, this equality and politically correct B.S. has gone way too far, but I've always  
18 known it would come to this. Years ago, I joined the Klan. They teach that blacks are the beasts  
19 of the field described in the Old Testament of the Bible. I don't have a problem with that. What I  
20 didn't get was all that sneaking around in white sheets and wizard suits. I thought that was a bit  
21 silly. I'm proud of my beliefs, I don't make apologies to anyone, and I don't care who knows it.

22 I investigated several other Aryan and white separatist groups and even went to some of their  
23 events. I agreed with nearly everything they believed and said, but I didn't find exactly what I  
24 was looking for. I was involved in the Christian Identity Movement for several years, and I think  
25 I'm still a member. It's the largest racist church. In 2000, the FBI estimated the membership at  
26 50,000 and ranked it in the number one spot on their list of most dangerous hate groups.

27 The Identity Movement teaches that white Aryans are the true descendents of the ancient  
28 Israelites. The members observe the Hebraic calendar, and they don't eat shellfish or pork. If you  
29 grow up in the Identity Movement, you are taught that your race is your nation, the nation is  
30 Israel and Israel is the white race. All that's fine, but Identity followers have been linked to  
31 murder, robbery and kidnapping. For instance, Buford Furrow, Jr. killed a postal worker and  
32 wounded five other people when he opened fire on a Jew daycare center in LA. And two  
33 brothers, Ben and James Williams, were accused of killing a couple of queers in Happy Valley,  
34 California. I don't advocate violence, ever. I do believe we have a right to defend ourselves, but I  
35 don't advocate violence.

1 I came to see that the Klan focused most of its attention on blacks, and the Identity Movement  
2 was fixated on Jews. I was looking at a much bigger picture. I was looking at the race-mixing,  
3 the social programs, immigration, all of it. At the time, no organized group was doing what I  
4 envisioned. I decided to found my own organization, which I called the White Aryan Separatist  
5 Party or WASP. Our position statement is simple: this country is being ruined by non-Aryans,  
6 and we must do something to put a stop to that.

7 I began producing and hosting a weekly cable radio program called "Race and Reason." It  
8 reached white people around the world via shortwave radio, and dozens of AM broadcasting  
9 stations in the US carried the program to local or area audiences. My listeners were thousands of  
10 people each week who knew that something was seriously wrong with the way their world was  
11 being run, but who needed my assistance to understand the details and the overall picture. I  
12 provided critical information and resources to help them work for a whiter future.

13 I also published a newsletter and other printed materials like single-issue stickers and flyers,  
14 comic books aimed at teenagers and pamphlets for more serious readers. Readers could distribute  
15 the materials in their communities to raise public consciousness of important issues, to provide  
16 essential information that they couldn't get other places, and to give people a way to contact  
17 WASP.

18 All of these activities help me to build WASP quickly. In addition, I asked members to make  
19 telephone calls to radio talk shows or to write letters to the editors of newspapers as a way of  
20 getting the WASP message out. I suggested they have one-on-one recruiting of selected  
21 individuals whose training, skills, or talents would make it possible for them to increase WASP's  
22 capabilities. For instance, when we had university faculty who were members, they would look  
23 for other faculty or for students who might be receptive to our message. Other members invited  
24 people they knew to listening parties. They'd tune in to Race and Reason, or they'd play  
25 recordings of earlier broadcasts to introduce their guests to the WASP message and mission.

26 In no time, I got to be very well-known. I was invited to speak or appear at dozens of national  
27 events for White separatists. I am proud to say that by 1992 I had become one of the leaders of  
28 the White separatist movement in the United States. After I moved from Fallbrook, California, to  
29 Denver, I met Andy Barrett when we both appeared on a Colorado Springs radio talk show. I  
30 liked Andy's ideas and the way s/he presented her/himself on the air.

31 A short time later, Andy moved to Lakewood, which is not far from my home. S/He was around  
32 my place, which was also WASP headquarters, on a fairly regular basis. S/He was a hard worker  
33 and was committed to our cause. To reward her/his efforts, I invited her to appear with me on a  
34 local TV talk show. I know s/he claims I made her/him vice president of WASP after that  
35 appearance, but that is just plain false.

36 During those years, I tried to teach Andy to be a worthy and committed member of the separatist  
37 movement. But to say that I trained Andy to kill or to teach others to do so is just plain silly. I  
38 never sent her/him or anyone else to Rye to organize ESWP. I am perfectly capable of making  
39 my own connections. I travel the country as a guest speaker and presenter, and every day I meet  
40 people who want to join the Aryan cause. And, even if I didn't travel, now that we have the

1 internet, recruiting people has never been easier. Between web sites like mine and White power  
2 music sites like Resistance Records, we have more followers than ever before.

3 My recollection is that Andy came to me and said s/he wanted to go to Rye to check out a group  
4 called East Side White Pride. I had met some Skinheads from Rye, Oregon, at the Aryan Reich  
5 'N Roll festival, and they could have been ESWP, I guess. I did provide her/him with WASP  
6 materials, but so what? When I gave them to her/him, I know that I reminded Andy about the  
7 protocols we use for distribution. We never circulate to minorities or to anyone who is likely to  
8 be offended. We don't distribute in a way that trespasses on private property, that harasses  
9 anyone or that violates any law. ESWP or anyone else could easily have obtained those whether  
10 Andy had gone to Rye or not. The literature is free to anyone who requests it; we will mail it to  
11 you or you can download 24-7 on my web site. And, anyone with a credit card can purchase our  
12 Aryan merchandise on the site, as well.

13 I don't remember agreeing to write Andy a letter of introduction to give to ESWP when s/he got  
14 to Rye. I definitely didn't give Andy any weapons or tell her/him to incite or engage in any  
15 violence. I am a proponent of the notion of leaderless resistance. As such, I believe individuals or  
16 small groups working alone can be very effective on their own, without interference from others.  
17 Of course I told Andy to "kick ass in Rye," or words to that effect. But I was just speaking  
18 figuratively as if wishing her/him "good luck" on the trip. S/He knows our policy: if there's ever  
19 any trouble, we act only in self-defense. We do not instigate.

20 Anyone can see that this whole thing is based on a bunch of pretty shaky circumstantial  
21 evidence. It's true that in January of 2004, I bailed Andy out of jail. I always try to lend my  
22 support to people in the movement, when I can. And, it's also true that after Leon Johnson was  
23 killed, I posted a congratulatory cartoon on my web site about the incident, but I had a  
24 Constitutionally guaranteed right to do that. In my opinion, having one less mud person in this  
25 country is as good as having one less cockroach scurrying around. So what? All that shows is  
26 that I believe in the White separatist movement. That doesn't make Andy my agent, it doesn't  
27 prove that I sent her/him to Rye and it doesn't prove that I'm in any way responsible for  
28 Johnson's death. We are each responsible for our own actions, not for those of other people.

29 Remember, before Andy went to Rye, I'd never heard of T. Brewster. My only connection with  
30 her/him was Andy. When s/he arrived in Rye, s/he called me and put Brewster on the phone. I  
31 think s/he was probably just showing off. As I mentioned, I am a very important person in the  
32 separatist movement. Brewster and I said hello to each other, but I never talked to her/him again  
33 while Andy was in Rye. After Johnson's death, I did accept a couple of collect calls from  
34 Brewster. As I also said earlier, I lend my support to people in the separatist movement. We have  
35 to stick together, you know.

36 I did visit Brewster in jail, so I could get some photos of us together for the WASP newsletter  
37 and web site. I see her/him as a prisoner of war -- in this case the Rahowa. I believe I have a  
38 civic duty to inform my fellow Aryans that Brewster is being held captive by the Oregon  
39 government, when s/he should really have received a commendation for ridding Rye of a  
40 trouble-making, alcohol-guzzling invader.

41 As for Andy, the only other time I talked to her/him was when s/he called me after the incident.

1 You better believe I told her/him to keep her/his mouth shut. That's the same thing I'd tell  
2 anybody who had to talk with the cops, and it's completely consistent with one of the codes of  
3 conduct I developed for WASP. That is, when questioned by law enforcement, I recommend  
4 people respond with what I like to call the "5 Words." They are, "I have nothing to say." But I  
5 never said "good work" about Johnson's death. That's a lie.

6 It's also a lie for Andy to claim I ordered someone to assault her/him. I'm telling you, once the  
7 word got out about her/him being a race traitor, there was a line of people a mile long who  
8 wanted knock the you-know-what out of Andy. But, I had nothing to do with it. After s/he ratted  
9 out Brewster, I was finished with Andy Barrett. S/He betrayed me, WASP and the entire Aryan  
10 movement.

11 No matter what happens, I'll be committed to the preservation of a pure, White race. I don't  
12 make apologies for that, but I change people's opinions through education – not violence. Words  
13 are my only weapons in the Rahowa to save my race and those words are protected by the First  
14 Amendment.

**WITNESS ADDENDUM**

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

*Michael Miller*

Michael Miller

SIGNED AND SWORN to before me at 8:00 AM on the day of this round of the Oregon Mock Trial Competition.

Signed *Ruth Fish*

Ruth M. Fish, Notary Public  
State of Oregon

My Commission Expires: November 29, 2008



## For the defense

### Statement of CHRIS WALLACE, M.D.

1 My name is Chris Wallace, and I was born in 1950. In 1970, I received a BS in biological  
2 sciences and obtained my MD from Harvard Medical School in 1974. I completed my residency  
3 in psychiatry at Mt. Sinai Jewish Hospital in 1976. I am licensed to practice medicine in seven  
4 states and am certified by the American and the National Boards of Psychiatry, as well as by the  
5 American Board of Neuropsychology.

6 I was the Chief of Staff of the Departments of Psychiatry at both Walter Reed Hospital and the  
7 UCLA Medical Center. Since 2000, I have been the Dean of the University of Pennsylvania  
8 Medical School. I have also held professorships at the Universities of Texas, Pennsylvania and  
9 Maryland. In the past few years, I have testified as an expert witness for the defense in five trials.  
10 I am a member of the American Civil Liberties Union, the National Association for the  
11 Advancement of Colored People and the Anti-Defamation League.

12 During my career, I have authored numerous books including texts on the phenomena of mob  
13 violence, the hierarchy of youth gangs, and the history of hate groups and hate crimes. I believe I  
14 am most well-known for my publication, *The Puppet Master*. The book is best described as a  
15 look into the driving force behind Hitler's Germany and the charismatic leader who created it. I  
16 spent nearly ten years conducting research and compiling facts and case studies regarding  
17 incidents involving Nazi Germany. I believe it is quite thorough and accurate. In fact, it is  
18 required reading in many universities.

19 I was retained by the attorneys for the defendants to render my expert opinion regarding whether  
20 the racist writings and web site of Michael Miller could have incited T. Brewster to murder Leon  
21 Johnson. To prepare for the trial, I have reviewed the materials in question, and I have  
22 interviewed both Michael Miller and T. Brewster.

23 Brewster has a demonstrated capacity for violence, as is evidenced by her/his arrest record. S/He  
24 is an admitted Skinhead and known racist. Having been abandoned by her/his mother at an early  
25 age and then having spent the next 14 or so years bouncing from one foster home to the next,  
26 Brewster was a prime candidate to associate her/himself with some type of gang. People with  
27 this kind of background often turn to gangs, which serve as surrogate families. They live in  
28 communal homes and apartments. This is certainly true in Brewster's case. Furthermore, s/he  
29 was accused or convicted of drug possession, theft, burglary and assault before the Johnson  
30 murder. Upon connecting with the Jubilee Prison Ministry, Brewster acknowledged, embraced  
31 and even rejoiced in her/his own racist leanings, blaming people of color for what s/he saw as a  
32 decaying America.

33 At the same time, s/he proved to be resourceful and independent, basically supporting  
34 her/himself since s/he was 16 years old. While in prison, s/he engaged in a self-improvement  
35 program to become more literate, to increase her/his command of the English language and to  
36 develop computer research skills. These all indicate that Brewster is self-motivated and fully

1 capable of thinking and making decisions for her/himself.

2 I have no doubt that Brewster is capable of committing acts of violence, including murder, but  
3 there is nothing to suggest that Brewster's capacity for violence is in any way dependent upon  
4 anything that Michael Miller said, did, published or posted on her/his web site. Instead, I think it  
5 is most likely that if unwarranted acts of violence were committed, they were grounded in  
6 Brewster's own hatred of minorities, which s/he had developed and nurtured in prison on her/his  
7 own more than three years before the Johnson incident.

8 My research has repeatedly confirmed that for someone to induce another to act violently on his  
9 behalf, he must have nearly complete control over the person. Both Miller and Brewster told me  
10 they had never even spoken to one another until Andy Barrett put Brewster on the phone with  
11 Miller upon Barrett's arrival in Rye. In this case, Miller had no connection to, let alone control  
12 over Brewster, since they never met and had only spoken briefly on the telephone.

13 As to the WASP printed materials and web site, I found nothing to support the position that  
14 Miller was responsible for the death of Leon Johnson. While the writings and cartoons are vile  
15 and offensive, there are no calls for violence, there are no orders to incite chaos, there are no  
16 directives to commit murder. Miller steadfastly maintains that s/he does not advocate violence  
17 and my interviews and review of the relevant materials confirms this. S/He has never personally  
18 even been accused of engaging in violence.

19 The Southern Poverty Law Center cites 800 or so hate groups with membership of perhaps a  
20 quarter million. Clearly, all those persons are not committing acts of violence, despite their being  
21 bombarded by the same types of literature and rhetoric to which Brewster has been exposed.  
22 There is no question that individuals who are easily manipulated or insecure can be influenced  
23 by others to do nearly anything, and there are likely persons in the Skinhead movement of that  
24 ilk. However, Brewster is not one of them. The notion that a strong, apparently self-sufficient  
25 individual like Brewster could be persuaded by a virtual stranger to commit murder is silly on its  
26 face.

27 I express no opinion about whether Brewster murdered Leon Johnson or acted in self-defense.  
28 Brewster swears that the fight and Johnson's resulting death was not about race, and, instead,  
29 was due to Johnson's own confrontational nature which may have been exacerbated that night by  
30 his drinking. If the killing was not in self-defense and was a true hate crime, the hate was  
31 Brewster's own and not attributable to or incited by Michael Miller.

**WITNESS ADDENDUM**

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

*Chris Wallace*

CHRIS WALLACE

SIGNED AND SWORN to before me at 8:00 AM on the day of this round of the 2004 Oregon Mock Trial Competition.

Signed *Ruth Fish*

Ruth M. Fish, Notary Public  
State of Oregon

My Commission Expires: November 29, 2005



# WHITE ARYAN SEPARATIST PARTY

**Are you tired of immigrants and race traitors getting what is rightfully ours?**

**Do you want to preserve the purity of the White Aryan race for our future generations?**

Then join the White Aryan Separatist Party by completing the form below and returning it to: Michael Miller at PO Drawer WASP, Denver, Colorado, 80012. To learn more, visit us on the web at [www.WASP.com](http://www.WASP.com) or send e-mail to [mm@WASP.com](mailto:mm@WASP.com).

✂ .....

Yes! I am a **White** Aryan. I am prepared to give my life in defense of my race. I will never betray other **White** Aryans, and I will resist any activity harmful to the **White** Aryan race.

Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Telephone \_\_\_\_\_

E-Mail \_\_\_\_\_

***Remember: White Revolution is the Only Solution***

**FROM THE WASP NEWSLETTER  
JULY 2004**

**White Space** © *The National Alliance*

In spiritually healthier times our ancestors took as theirs those parts of the world suited by climate and terrain to our race: in particular, all of Europe and the temperate zones of the Americas, not to mention Australia and the southern tip of Africa. This was our living area and our breeding area, and it must be so again. After the sickness of "multiculturalism" -- which is destroying America, Britain, and every other Aryan nation, in which it is being promoted -- has been swept away, we must again have a racially clean area of the earth for the further development of our people. We must have White schools, White residential neighborhoods and recreation areas, White workplaces, White farms and countryside. We must have no non-Whites in our living space, and we must have open space around us for expansion.

We will do whatever is necessary to achieve this White living space and to keep it White. We will not be deterred by the difficulty or temporary unpleasantness involved, because we realize that it is absolutely necessary for our racial survival. The long-term demographic trend toward a darker world, which the disastrous policies of the last century have caused, must not only be halted; it must be reversed.

### EXHIBIT 3

*Hey,*

*I'm here in Rye hangin' with ESNP – you can't believe how awesome this is.*

*We're doing the things I've learned we know we need to do to save our White, Aryan race – clashing & bashing, literature drops and we've talked to a lot of potential new recruits to the movement.*

*I'm real glad I decided to come down here because it's been totally successful in every way.*

*Racial Regards,  
Andy*

## EXHIBIT 4

### PARTIAL TRANSCRIPT OF THE RENALD GERARDO SHOW OF OCTOBER 1, 2002

- Gerardo: Michael Miller, do you believe that your conduct can lead to violence?
- Miller: I believe that people, Whites in particular, have the ability to think freely. I advocate self-defense.
- Gerardo: Doctor, can you give me examples of times in which an individual through his or her conduct induces others to commit acts of violence?
- Gonzales: There are numerous examples. Hitler is the first one to come to mind. He advocated eliminating an entire religion. His words and his writings induced his subordinates to murder not just six million Jews but gypsies and other minorities as well. While he did not necessarily tell the doctors in his concentration camps to experiment on Jews and others, clearly he communicated a total disregard for their dignity and humanity. Yes, I blame Hitler for all the atrocities that led to World War II and continued until the Allied powers were able to subdue Germany.
- Gerardo: Doctor, I have read a book called Hate is Not a Crime by J. T. McCallister. Have you ever read that book?
- Gonzales: Yes, I have. Doctor McCallister has written an excellent book on hate crimes in America, their cause and what the future holds both for organizations which espouse hate and for those people in groups that are targeted by such organizations. It is authoritative, and I have it in my library in my office.
- Gerardo: Mr. Miller, have you read *Hate is Not a Crime* and if you have, do you find that Dr. McCallister is correct?
- Miller: No, I haven't read it, and I don't really care what Dr. McCallister believes. I have heard him speak and he seems to imply that those who want to preserve the sanctity of the American White race lack education, are inarticulate and are poor White trash. Nothing could be further from the truth.

- End -

## EXHIBIT 5

### ***HATE IS NOT A CRIME,* J.T. McCallister**

#### **Foreword**

*"People have the ability to form independent ideas."*

Much has been made of the ability of some of our most heinous characters in history to induce others, through the use of hate, to commit violence against a person or a group of people. My research shows, however, that these actors are able to form ideas independently and are not necessarily acting at the bequest or on behalf of those they idolize. I will detail throughout this book an individual's effect on the social integrity of an organization or group. You will see that while many radical organizations thrive on hate, they do not explicitly condone violence. While their leaders may detest minorities, they do not incite violence, they do not instruct people to hurt others, and they do not strive to eliminate minorities. They merely feel that they must organize to protect themselves. While they hate others, they do not act on that hate. In short, hate is not a crime.

Examples of my last statement are the militia and paramilitary units forming throughout the United States. Yes, they organize, in part, to secure their place in society. It is their position that they must arm themselves to protect themselves from minorities and others trying to impose their views on them. They may be radical. They may espouse violence in self-defense. They do not, however, promote killing innocent people without provocation. Their leaders may warn of a coming threat. They may preach that the end of their lifestyle is approaching and that they must act in self-defense to prevent that. This, however, does not mean that their individual subordinates will go out and kill. What it does mean is that they will act violently if attacked. Thus, criminal action cannot be taken against the generals and other offices of these militia and paramilitary units merely because the "enlisted men" act violently. The leaders are not liable and are not responsible for the acts of their underlings.

Throughout this book, however, I will discuss organizations, groups and societies that espouse hate and violence. Some of these organizations and societies commit crimes while others merely talk about the threats to their way of life. The purpose of this book is to show that hate is not a crime but that people have the ability to think for themselves independently.





# WHITE ARYAN SEPARATIST PARTY

PO Drawer WASP  
Denver Colorado 80012  
(800) 555-WASP  
[www.WASP.com](http://www.WASP.com)  
[mm@wasp.com](mailto:mm@wasp.com)

President  
East Side White Pride  
Rye, Oregon 97000

To Whom It May Concern:

I wanted to drop you a line to let you know we are interested in opening up communication between your group and ours. You'll get an understanding of how our group works when you meet Andy Barrett soon.

WASP has been in existence for many years. We have more than 800 members and seven chapters throughout the United States. We work with any pro-Aryan, anti-drug, White group as long as they do not talk.

Racial regards,

*Michael Miller*

Michael Miller  
President

## EXHIBIT 7

## NATIONAL CRIME INFORMATION COMPUTER CRIMINAL HISTORY

|                 |                              |                 |                    |
|-----------------|------------------------------|-----------------|--------------------|
| <b>SUBJECT:</b> | <b>T. Brewster</b>           | <b>D.O.B. :</b> | <b>01/29/80</b>    |
| <b>ALIAS:</b>   | <b>None</b>                  | <b>SSN:</b>     | <b>123-45-6789</b> |
| <b>GANG:</b>    | <b>East Side White Pride</b> | <b>TATOOS:</b>  | <b>None</b>        |

| DATE     | JURISDICTION          | OFFENSE                         | DISPOSITION                                      |
|----------|-----------------------|---------------------------------|--------------------------------------------------|
| 10/11/99 | Rye Police Department | Attempted possession of cocaine | Pled guilty to misdemeanor; six months probation |
| 08/29/00 | Rye Police Department | Theft under \$100               | Guilty plea; 90 days Rye County Detention Center |
| 04/30/01 | Rye Police Department | Burglary                        | Guilty at trial; two years Oregon State Prison   |
| 08/10/03 | Rye Police Department | Assault w/ weapon               | Charges dropped                                  |
| 11/13/04 | Rye Police Department | Second-degree murder            | Guilty plea; 15 years Oregon State Prison        |

## EXHIBIT 8

### *THE PUPPET MASTER*

#### PREFACE

By Chris Wallace, M.D.

There is no question that an organization, group or mob is directed, for the most part, from the leader or leaders. There are times, however, when the organizational head loses control, and anarchy within the group exists. A classic example of this is a riot following a demonstration. The organizers may want noise, rowdiness and civil disobedience, but they do not want violence. Yet, almost spontaneously, a riot may ensue. Does this mean that the leaders of the demonstration are liable for the damage and any injuries that are sustained following the incident? The answer is clearly no. They lost control, they did not induce the violence and they did not intend any damage. The leaders, in fact, in that example, could do little to prevent it. My research has established, however, that there are many occasions in which the organizational head, by his or her very personality and positions on the issues induces others to act. The ability to control others depends on several factors. My research has shown that these factors are as follows:

1. the charisma of the leader;
2. the education or lack thereof of the actor or actors -- that is, the ones who commit the act of violence;
3. the economic well-being of the society of which the actors are a part;
4. the level of fear and hate felt by the organization or group's membership towards the minority or targeted person or persons of that group; and,
5. the manner of speech or writings of the leader.

I will discuss each of these factors in great detail in *The Puppet Master*. I have done extensive research over a ten-year period regarding Hitler and Nazi Germany and, in fact, devote most of the 2,500 pages contained in this volume to that topic. There are, however, other examples of the power of a charismatic leader to incite or induce violence by his subordinates. A classic example is the crusades in Europe. The Pope, at that time, issued a proclamation that it was necessary to free the "Holy Land." The Pope's "freedom fighters" proceeded to engage in violence and murder virtually unprecedented in history. While the Pope did not instruct his followers to kill, rape and pillage, his enunciated logic certainly directed them to do so. In fact, when it was brought to the Pope's attention that Jesus had said not to kill, the Pope theorized that this prohibition was limited to Christians killing Christians and not Christians killing non-Christians such as Jews and Muslims. Did the Pope instruct his flock to murder innocent people? No. However, his rationalizations enabled the crusaders to go on a murderous rampage in the name of religion. Thus, the Pope provided his followers with the moral ammunition to kill those who disagreed with them. He was responsible for the death of thousands of non-Christians in Europe.

Of course, it is always easy to blame the organizational head of a group for an individual member's violent acts. This, however, is not always true. Was Jefferson Davis, the president of the Confederacy, responsible for John Wilkes Booth murdering Abraham Lincoln? The answer is no. Applying the factors set forth above, Jefferson Davis and John Wilkes Booth simply did not fit the mold.

1. The charisma of the leader: Jefferson Davis was a rather uninspiring individual and, in fact, was disliked by many Confederates. John Wilkes Booth felt that Davis had let the Confederacy down and believed that the only way to save the South was to kill Lincoln.
2. The lack of education of the person committing the violence: John Wilkes Booth was a highly educated, literate and articulate individual.
3. The society's economic well-being: the South was all but dead at the time Booth killed Lincoln. Thus, it may be argued that Booth fit this criterion.
4. The level of fear and hate felt toward the person targeted for violence: Booth certainly feared for his beloved South and hated Lincoln. Davis, on the other hand, did not consider it appropriate to assassinate Lincoln and never advocated it. While he may have considered kidnapping Lincoln to hold him for ransom so that the North would stop fighting with the South, he would not have agreed to the killing of the President.
5. The words used by the leader: as just mentioned, Davis neither condoned nor suggested that Lincoln be assassinated.

Hitler's Germany is, on the other hand, an example of a charismatic leader inducing poor and frightened people to commit egregious acts of violence on a targeted group. *The Puppet Master* is a study of how Adolf Hitler used his charisma, the desperate economic conditions of post-World War I Germany, the blind faith of his followers and the hatred towards Jews to destroy not only a religious group but also Germany itself.

The following chapters will discuss the unique and perverse hold Hitler had over his subordinates, Germany and many others. I will discuss how he manipulated the populace and how he was able to induce his subordinates to implement the ritualistic killing of millions and keep others from objecting.

I have not written this book to condemn Hitler. There are volumes which do that. Instead, I have dedicated years of research and thousands of pages in an effort to show how hate can lead to violence and how one can induce others to commit heinous crimes against a targeted group or person.

# LEGAL AUTHORITIES

Trials are designed to be the venue where the facts are established, not the law. However, the facts of this case raise many legal issues students may wish to explore further. So the following excerpts are provided in order to enrich students' understanding of the legal issues, and the issues that have been or could be argued on appeal.

## **From the U. S. Constitution**

### **Amendment I**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### **Amendment XIV, Section 1**

... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## **From the Oregon Constitution**

### **Article I, Section 8**

No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

## **From Statutory Law, Oregon Revised Statutes**

### **ORS 30.020 Action for wrongful death; when commenced; damages**

- (1) When the death of a person is caused by the wrongful act or omission of another, the personal representative of the decedent, for the benefit of the decedent's surviving spouse, surviving children, surviving parents and other individuals, if any, who under the law of intestate succession of the state of the decedent's domicile would be entitled to inherit the personal property of the decedent, ... may maintain an action against the wrongdoer, if the decedent might have maintained an action, had the decedent lived, against the wrongdoer for an injury done by the same act or omission. The action shall be commenced within three years after the injury causing the death of the decedent is discovered or reasonably should have been discovered by the decedent, by the personal representative or by a person for whose benefit the action may be brought under this section if that person is not the wrongdoer. In no case may an action be commenced later

than the earliest of:

- (a) Three years after the death of the decedent; ...

### **ORS 163.125 Manslaughter in the second degree**

(1) Criminal homicide constitutes manslaughter in the second degree when:

- (a) It is committed recklessly;
- (b) A person intentionally causes or aids another person to commit suicide; or
- (c) A person, with criminal negligence, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:
  - (A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or
  - (B) The person caused the death by neglect or maltreatment, as defined in ORS 163.115.

(2) Manslaughter in the second degree is a Class B felony.

### **ORS 161.155 Criminal liability for conduct of another.**

A person is criminally liable for the conduct of another person constituting a crime if:

- (1) The person is made criminally liable by the statute defining the crime; or
- (2) With the intent to promote or facilitate the commission of the crime the person:
  - (a) Solicits or commands such other person to commit the crime; or
  - (b) Aids or abets or agrees or attempts to aid or abet such other person in planning or committing the crime; or
  - (c) Having a legal duty to prevent the commission of the crime, fails to make an effort the person is legally required to make.

### **From Case Law**

#### **Schenck v. United States, 249 U.S. 47 (1919)**

"...[I]n many places and in ordinary times the defendants in saying all that was said... would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic... The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that [the government] has a right to prevent. It is a question of proximity and degree."

[The Court upheld the defendant's conviction for using speeches and leaflets to attempt to obstruct the military draft during World War I.]

#### **Chaplinsky v. New Hampshire, 315 U.S. 568 (1942)**

"... [I]t is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or

'fighting' words -- those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. . . .Resort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution."

[The Court upheld the defendant's conviction for tending to cause a breach of the peace by, as he was speaking and distributing literature, calling someone who disagreed with him a "damned Fascist" and "damned racketeer."]

**Terminiello v. Chicago, 337 U.S. 1 (1949)**

"The vitality of civil and political institutions in our society depends on free discussion. . . .[I]t is only through free debate and the free exchange of ideas that government remains responsive to the will of the people and peaceful change is effected. The right to speak freely and to promote diversity of ideas and programs is therefore one of the chief distinctions that sets us apart from totalitarian regimes.

"Accordingly a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech, although not absolute, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest. There is no room under our Constitution for a more restrictive view. For the alternative would lead to standardization of ideas either by legislatures, courts, or dominant political or community groups."

[The Court reversed the defendant's conviction for disorderly conduct for criticizing certain racial groups in a public meeting.]

**Noto v. United States, 367 U.S. 290 (1961)**

"[T]he teaching of the moral propriety or even moral necessity for a resort to force and violence is not the same as preparing a group for violent action and steeling it to such action. There must be some substantial direct or circumstantial evidence of a call to violence now or in the future which is both sufficiently strong and sufficiently pervasive to lend color to the otherwise ambiguous theoretical material regarding [the organization's] teaching, and to justify the inference that such a call to violence may be fairly imputed to the [organization] as a whole, and not merely to some narrow segment of it."

[The Court reversed the defendant's conviction for being a member of a group, in this case the Communist Party, that advocates the overthrow of the government by force or violence.]

**Brandenburg v. Ohio, 395 U.S. 444 (1969)**

"[T]he constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action. . . . [P]hrases [that] . . . were derogatory of Negroes and, in one instance, of Jews, [and a speech that included the words,] 'We're not a revengent organization, but if our President, our Congress, our

Supreme Court, continues to suppress the white, Caucasian race, it's possible that there might have to be some revenge taken,' [are] mere advocacy not . . . incitement to imminent lawless action."

[The Court reversed the defendant's conviction for advocating the use of violence as a means to achieve political reform.]

**NAACP v. Claiborne Hardware Co., 458 U.S. 886 (1982)**

"There are three separate theories that might justify holding [a speaker at rallies] liable for the conduct of others. First, a finding that he authorized, directed, or ratified specific tortious activity would justify holding him responsible for the consequences of that activity. Second, a finding that his public speeches were likely to incite lawless action could justify holding him liable for unlawful conduct that in fact followed within a reasonable period. Third, the speeches might be taken as evidence that [the speaker] gave other specific instructions to carry out violent acts or threats. . . "This Court has made clear, however, that mere advocacy of the use of force or violence does not remove speech from the protection of the First Amendment. . . .

"In the course of [the speaker's] pleas, strong language was used. If that language had been followed by acts of violence, a substantial question would be presented whether [the speaker] could be held liable for the consequences of that unlawful conduct. In this case, however, . . . the acts of violence . . . occurred weeks or months after the . . . speech. . . .An advocate must be free to stimulate his audience with spontaneous and emotional appeals for unity and action in a common cause. When such appeals do not incite lawless action, they must be regarded as protected speech. To rule otherwise would ignore the profound national commitment that debate on public issues should be uninhibited, robust, and wide-open."

[The Court reversed a judgment against the defendants for economic damage resulting from a boycott, at times violent, of White businesses in Claiborne County, Mississippi.]

**R.A.V. v. City of St. Paul, 120 L.Ed. 2d 305 (1992)**

"The First Amendment generally prevents government from proscribing speech or even expressive conduct because of the ideas expressed. Content-based regulations are presumptively invalid. . . .The government may not regulate use based on hostility -- or favoritism -- towards the underlying message expressed. The First Amendment does not permit . . . special prohibitions on those speakers who express views on disfavored subjects. . . .

"What we have here is . . . a prohibition of fighting words that contain . . . messages of bias-motivated hatred and in particular, as applied to this case, messages based on virulent notions of racial supremacy. One must wholeheartedly agree . . . that it is the responsibility, even the obligation, of diverse communities to confront such notions in whatever form they appear, but the manner of that confrontation cannot consist of selective limitations upon speech. . . .

"The point of the First Amendment is that majority preferences must be expressed in some fashion other than silencing speech on the basis of its content."

[The Court reversed the defendant's conviction for violating a "hate crime" statute by burning a cross in the yard of an African American family.]



**Collin v. Smith, 578 F.2d 1197 (7th Cir., 1978)**

"We would hopefully surprise no one by confessing personal views that [this organization's] beliefs and goals are repugnant to the core values held generally by residents of this country, and, indeed, to much of what we cherish in civilization. As judges sworn to defend the Constitution, however, we cannot decide this or any case on that basis. Ideological tyranny, no matter how worthy its motivation, is forbidden as much to appointed judges as to elected legislators. . . .

"We cannot . . . be unmindful of the horrors associated with the Nazi regime of the Third Reich, with which to some real and apparently intentional degree appellees associate themselves. Nor does the record allow us to ignore the certainty that appellees know full well that, in light of their views and the historical associations they would bring with them to Skokie, many people would find their demonstration extremely mentally and emotionally disturbing, or the suspicion that such a result may be relished by appellees. . . . [But] it is, after all, in part the fact that our constitutional system protects minorities unpopular at a particular time or place from governmental harassment and intimidation, that distinguishes life in this country from life under the Third Reich. . . .

"Above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content. . . . To permit the continued building of our politics and culture, and to assure self-fulfillment for each individual, our people are guaranteed the right to express any thought, free from government censorship. The essence of this forbidden censorship is content control. Any restriction on expressive activity because of its content would completely undercut the profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open."

[The Court upheld the right of Neo-Nazis to hold a march in the predominately Jewish community of Skokie, Illinois.]

**State v. Plowman, 67 Or.App. 738, 838 P.2d 558 (Ore. 1992)**

Oregon Supreme Court upholds the criminal intimidation statute, ORS 166.165 (1)(a)(A). "Two or more persons acting together commit the crime of intimidation in the first degree, if the persons intentionally, knowingly or recklessly cause physical injury to another person because of the actors' perception of that person's race, color, religion, national origin or sexual orientation. The Statute overcomes a constitutional vagueness challenge and it does not violate a defendant's right to free expression under the United States Constitution or the Oregon Constitution because it prohibits effects, not expressions of opinion.

[Plowman was charged with intimidation in the first degree and assault for viciously beating a Hispanic man. During the attack, witnesses heard defendant yell "white power" and "white pride," as well as various other racial slurs.]

**State v. Henry, 302 Or. 510, 732 P.2d 9 (Ore. 1987)**

Oregon Supreme Court held that a statute prohibiting the dissemination of obscene material was unconstitutional because there is not exception in Oregon's Constitution freedom of speech provisions for obscene material. This ruling explicitly expands freedom of speech protections in Oregon beyond the United States Supreme Court ruling in *Chaplinsky v. New Hampshire*. Obscene expression does not fall within any historical exception to the plain wording of the Oregon Constitution that no law shall be passed restraining expression of speech freely on any

subject whatsoever.

[Defendant owned and operated an adult bookstore and was arrested for disseminating obscene material.]

### **from Other Authorities**

#### **Uniform Civil Jury Instruction. Agent; principal; definition.**

An agent is a person who, by agreement with another called the principal, represents the principal in dealings with third persons or transacts some other business, manages some affair or does some service for the principal, with or without compensation. The agreement may be oral or written, and may be either expressed or implied by a course of conduct showing an intention that the relationship exists.

#### **Uniform Civil Jury Instruction. Liability of principal.**

If you find there was a principal and agent relationship, the principal is liable for the acts of [his] [her] [its] agent when:

1. The agent was acting within the scope of [his] [her] agency; and,
2. The principal had the right to control the manner in which the details of the work were to be performed at the time of the occurrence, even though the right of control may not have been exercised.

#### **Restatement (Second) of Torts § 63 (1979)**

- (1) An actor is privileged to use reasonable force, not intended or likely to cause death or serious bodily harm, to defend himself against unprivileged harmful or offensive contact or other bodily harm which he reasonably believes that another is about to inflict intentionally upon him.
- (2) Self-defense is privileged under the conditions stated in Subsection (1), although the actor correctly or reasonably believes that he can avoid the necessity of so defending himself,
  - (a) by retreating or otherwise giving up a right or privilege, or
  - (b) by complying with a command with which the actor is under no duty to comply or which the other is not privileged to enforce by the means threatened.

#### **Restatement (Second) of Torts § 65 (1979)**

- (1) Subject to the statement in Subsection (3), an actor is privileged to defend himself against another by force intended or likely to cause death or serious bodily harm, when he reasonably believes that
  - (a) the other is about to inflict upon him an intentional contact or other bodily harm, and that
  - (b) he is thereby put in peril of death or serious bodily harm or ravishment, which can safely be prevented only by the immediate use of such force.
- (2) The privilege stated in Subsection (1) exists although the actor correctly or reasonably believes that he can safely avoid the necessity of so defending himself by
  - (a) retreating if he is attacked within his dwelling place, which is not also the dwelling place of the other, or
  - (b) permitting the other to intrude upon or dispossess him of his dwelling place, or

(c) abandoning an attempt to effect a lawful arrest.

(3) The privilege stated in Subsection (1) does not exist if the actor correctly or reasonably believes that he can with complete safety avoid the necessity of so defending himself by

(a) retreating if attacked in any place other than his dwelling place, or in a place which is also the dwelling of the other, or

(b) relinquishing the exercise of any right or privilege other than his privilege to prevent intrusion upon or dispossession of his dwelling place or to effect a lawful arrest.

**Restatement (Second) of Torts § 876(b) (1979)**

"For harm resulting to a third person from the tortious conduct of another, one is subject to liability if he . . .

(b) knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other so to conduct himself. . . .

"Comment d. Advice or encouragement to act operates as a moral support to a tort-feasor and if the act encouraged is known to be tortious it has the same effect upon the liability of the adviser as participation or physical assistance. If the encouragement or assistance is a substantial factor in causing the resulting tort, the one giving it is himself a tort-feasor and is responsible for the consequences of the other's act. . . .

"Comment d, illustration 3. A and B participate in a riot in which B, although throwing no rocks himself, encourages A to throw rocks. One of the rocks strikes C, a bystander. B is subject to liability to C.

"Comment d, illustration 4. A, a policeman, advises other policemen to use illegal methods of coercion upon B. A is subject to liability to B for batteries committed in accordance with the advice."