



1993

The Hate Connection: A Book Review Essay

Stephen E. Rendahl

Follow this and additional works at: <https://commons.und.edu/ndlr>



Part of the [Law Commons](#)

Recommended Citation

Rendahl, Stephen E. (1993) "The Hate Connection: A Book Review Essay," *North Dakota Law Review*. Vol. 69 : No. 2 , Article 4.

Available at: <https://commons.und.edu/ndlr/vol69/iss2/4>

This Review is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact und.common@library.und.edu.

THE HATE CONNECTION: A BOOK REVIEW ESSAY*

DR. STEPHEN E. RENDAHL**

The increasing interdependence of citizens in post-modern society requires greater tolerance of diversity than at any time in the history of civilization. No longer can ethnic groups, either by choice or by chance, remain isolated. Increased mobility, omnipresent communication systems, affirmative action, civil rights legislation and other factors allow, and even compel, citizens to interact with others outside their social group. The post-modern world requires a tolerance for diversity and dictates behaviors that effectively deal with interdependence.

Yet, there are forces that resist these changes. Ethnic violence occurs in the former Yugoslavia, neo-Nazi groups expand in Germany, anti-Semitism resurges in the former Soviet Union, and hate crimes become more prevalent in the United States. These problems have a long history throughout the civilized world, but they have become more conspicuous since the post-modern world demands increased intolerance of intolerance.

In the United States, the eighties brought "a steady movement to criminalize, recriminalize, and increase punishments for intentionally injurious conduct motivated by certain types of prejudice and hate."¹ These crimes of hate are usually defined as crimes motivated by racial, religious and ethnic prejudices, and sometimes include crimes motivated by sexual orientation, gender, and physical or mental handicap prejudices. Earlier legislation, such as the Klan Act, focused on the actions of organized hate groups. However, the legislation of the eighties and nineties concentrates on the unorganized actions of groups and individuals.

*Hate on Trial*² develops a clear, readable picture of a hate crime and its results. The authors develop a picture of hate and their efforts to use the legal system to stop what they consider to

* MORRIS DEES & STEVE FIFFER, *HATE ON TRIAL: THE CASE AGAINST AMERICA'S MOST DANGEROUS NEO-NAZI* (1993) [hereinafter *HATE ON TRIAL*].

** Associate Professor, School of Communication, University of North Dakota, Grand Forks, North Dakota; Ph.D., 1974, University of Minnesota, Minneapolis, Minnesota. Dr. Rendahl has published articles and presented convention papers on the white supremacist movement.

1. James B. Jacobs, *Hate Crime Legislation: Challenging Intolerance*, *CURRENT*, Sept. 1992, at 15.

2. MORRIS DEES & STEVE FIFFER, *HATE ON TRIAL: THE CASE AGAINST AMERICA'S MOST DANGEROUS NEO-NAZI* (1993) [hereinafter *HATE ON TRIAL*].

be a rising tide of hate motivated crimes. One of the authors, Morris Dees, co-founder of the Southern Poverty Law Center in Montgomery, Alabama, is on a mission to stop racist violence. In dramatic form, this book records his successful suit to deprive Tom and John Metzger, a father-son team who provided the leadership for the California-based White Aryan Resistance, of the financial means to promote racist violence.

Berhanu v. Metzger, the case around which *Hate on Trial* is written, is illustrative of a hate crime, its origination, consequences, and the court proceedings which demonstrate the organizational structure of a crime of hate. In 1988, Mulugeta Seraw, an Ethiopian student, was killed by racist skinheads in Portland, Oregon. Berhanu, an uncle and executor of the victim's estate, sued the Metzgers and several skinheads for damages resulting from Seraw's death. Berhanu received a \$12,500,000 judgment against the defendants.³ The Metzgers did not have many assets—only a house, some small bank accounts, and publishing and television equipment worth about \$200,000—so the total damages could not be collected. However, Dees reasoned that the trial and the damages awarded would deprive the Metzgers of their ability to maintain their white supremacist organization.

In its suit against the Metzgers, the Southern Poverty Law Center, which argued in Berhanu's behalf, based its case on the theory of vicarious liability. First, they argued that the Metzgers, through their agents, had substantially assisted in or encouraged the actions of skinheads Mieske and Brewster, who were convicted of murdering Seraw. Second, the plaintiffs, using the civil conspiracy theory, asserted that "the Metzgers (through their agent Dave Mazella) and the Oregon defendants (Mieske and Brewster) had agreed upon a common objective that clearly contemplated injury to others—the pursuit of white supremacist goals through violent means." Third, the plaintiffs argued that the Metzgers' "negligent or reckless" selection of Mazella and Barrett, both known to be violent, to organize East Side White Pride (Mieske and Brewster's white supremacist organization) resulted in the death of Seraw. Dees states, "Oregon law was clear: a principal who recklessly or negligently engaged an agent with dangerous propensities was responsible for the foreseeable harm that followed."⁴

Metzger admitted that he was a racist, but asserted that his views were protected by the First Amendment. In addition, Metz-

3. *Id.* at 272.

4. *Id.* at 97, 145, 146.

ger filed suit against the city of Portland, claiming that Mazella and Barrett were undercover “agent provocateurs” of the local police.⁵ Dees skirted the freedom of speech issues presented by Metzger by arguing that Metzger’s words were not the issue: “Liability stemmed from their conduct in selecting the agent, not from their words.”⁶ Furthermore, Dees argued that Metzger’s suit against the city admitted that Mazella and Barrett were “agent provocateurs,” but that they were the agents of Metzger, rather than the Portland Police Department.

Dees also describes how he used the resources of the Anti-Defamation League to initiate the case and retain local attorneys to help him in California and Oregon. He relates how he obtained the evidence the Portland authorities had uncovered, particularly a letter from John Metzger introducing Barrett and Mazella to East Side White Pride. Dees describes the process of deciding whether he should depose Mazella, his star witness. If he deposed Mazella, the Metzgers would have known that he was going to be a key witness and might have been able to prepare a better defense, persuade Mazella to change his testimony, or, in the worst case, kill Mazella. If Dees chose not to depose him, Mazella may have changed his mind on his own, or might be in jail (again) and therefore be unable to appear in court. Dees eventually decided not to depose Mazella; however, the uncertainty about Mazella, sometimes written with pseudo drama, recurs throughout the book.

Morris Dees has had experience with this type of case and he notes the similarities between *Berhanu v. Metzger*⁷ and his earlier *Donald v. United Klans of America* suit.⁸ Donald, a young black man, was lynched in Alabama in 1981. His mother filed a \$10,000,000 suit against the United Klans of America. In that case, Dees, on behalf of Mrs. Donald, argued that the murderers, Knowles and Hayes, were acting as agents of Bobby Shelton’s United Klans of America.

[Dees] had to prove that the UKA fulfilled its goal of the “God-given superiority of the white race” through violence. [He] had to convince the jury that Shelton knew about this and, in the face of such knowledge, continued

5. The authors believe this to be a foolish maneuver.

6. HATE ON TRIAL, *supra* note 2, at 146.

7. HATE ON TRIAL, *supra* note 2.

8. For more information on *Donald v. United Klans of America*, see MORRIS DEES & STEVE FIFFER, A SEASON FOR JUSTICE: THE LIFE AND TIMES OF CIVIL RIGHTS LAWYER MORRIS DEES (1991) [hereinafter A SEASON FOR JUSTICE].

to charter units, collect their money, hold training meetings, [and] conduct business as usual.⁹

Furthermore, he argued that these actions resulted in the death of Michael Donald. The jury agreed and awarded \$7,000,000 in damages. However, the UKA assets only amounted to a "new seventy-four hundred-square-foot building that sat at the end of a dirt road on the outskirts of Tuscaloosa."¹⁰ While the full amount was uncollectible, the judgment allowed Mrs. Donald to buy a new house, the first in her life, and Morris Dees achieved his goal of destroying the United Klans of America Unit 900.¹¹

Both *Metzger* and *Donald* demonstrate that Dees has been successful in winning liability cases against organizations that engage in violence to further their ends. The *Donald* case had been tried in federal court under the 1871 Ku Klux Klan Act. Dees originally filed the *Metzger* case in federal court, but later moved it to the Oregon state court where the rules of discovery allowed trial-by-ambush since the parties did not have to disclose as much information to their opponents as the federal rules required. Thus, Dees did not have to inform the plaintiffs that he had a letter from John Metzger introducing Barrett to the Oregon Skinheads or that he would use Mazella as a key witness. Furthermore, Dees could use the element of surprise to introduce evidence that would contradict the Metzgers' courtroom testimony. This secrecy protected Mazzella from physical harm and from any attempts by Metzger sympathizers to change his testimony.

Dees' case was also helped by the fact that the Metzgers were prolific communicators. Dees and the Klanwatch staff researched these communications until Dees believed that he knew what Metzger had said better than Metzger himself. Klanwatch collected copies of WAR, the White Aryan Resistance tabloid, which was full of white supremacist editorials by Tom and John Metzger and others. They had tapes of the WAR hotlines, telephone answering machines which played racist messages recorded by the Metzgers and others. They also had videotapes produced and distributed by WAR, intended for public access cable television, as well as copies of books and manuals advertised and distributed by WAR. Furthermore, they had reports by undercover agents who had infiltrated the private side of the White Aryan Resistance.

9. A SEASON FOR JUSTICE, *supra* note 8, at 250.

10. *Id.* at 331.

11. For more information on the case of *Donald v. United Klans of America*, see A SEASON FOR JUSTICE, *supra* note 8, at 210-331.

Dees surprised the Metzgers by using all of these sources to strengthen his case and impeach their testimony.

During the trial, Dees used this evidence to demonstrate that the White Aryan Resistance used agents and violence to accomplish its goals. When Metzger claimed that he had never told skinheads to “kick ass” unless it was in self-defense, Dees played a video of Tom at an Aryan Fest, sort of a “Woodstock” for white supremacists, telling skinheads to “kick some ass.” Nowhere did Metzger indicate that “kicking ass” should only be used in self-defense. Dees played hotline messages recounting violent crimes by skinheads, and of Metzger saying, “If you are going to get ridiculous sentences for minor offenses or protecting yourself, then why not go all the way and hurt them bad? Maybe you’ve got nothing left to lose.”¹² These hotline messages also reported that “new warriors” were moving into the Portland area, and Dees argued that the new warriors were Mazella and Barrett. Dees produced pictures of the Metzgers training skinheads with AK-47 assault rifles, and videotapes of Tom holding a .45 caliber handgun saying, “A piece of paper won’t save you, but this can. And it can convince a lot of your enemies to do right, too. Let them conform to our law.”¹³ To further prove that WAR was connected with violence, Dees produced United States military training manuals sold by the White Aryan Resistance which contained instructions on the use of explosives. These manuals explained how to make cans and bottles into bombs as well as how to destroy highways with fifty-pound charges. Outrageous caricatures of Jews and Blacks published in the *WAR* tabloid were introduced into evidence by Dees, one of which showed a white man skinning a black man with a knife. Dees possessed a myriad of communications to demonstrate the extremist rhetoric of the White Aryan Resistance.

In both *Hate on Trial* and *A Season for Justice*, Dees explains that he tries to remain courteous to his opponents, even if they are Klansmen. However misguided, he says, “these Klansmen are human beings. What purpose does treating them as dirt serve?”¹⁴ His manner and sales/persuasion technique lead many suspicious opponents to trust him enough to tell the truth. This approach convinced Mazella, Barrett and others to cooperate in the Metzger case as well. In addition, Dees refrains from psychological interpretations of their behavior. The common epithets of “crazy,”

12. *A SEASON FOR JUSTICE*, *supra* note 8, at 234.

13. *Id.* at 236.

14. *Id.* at 237.

“deranged” or “paranoid” are used by many to discount violent people on the fringes of society. These descriptions characterize their actions as personal quirks, not a sociological or organizational problem. For the most part, Dees treats the skinheads as normal people motivated by the need for group identity, a chance to gain leadership, and a place to vent their gripes. In many cases, he says, a bowling league would suffice.

However, Dees could not bring himself to be friendly to the Metzgers. Although he once identified Tom Metzger as “an amiable kook,” he usually describes Tom in Manichean terms such as “deeply evil,” “the Prince of Darkness” and “the Pied Piper of hate.” There is some humor in Dees’ contempt for his opponents. For example, he describes the Metzgers as they arrived for a deposition:

They were compact men, Tom stouter than John, and jowlier, too. He wore a toupee that was the same color if not the same material as his suit. John had blond hair, blue eyes, and a face so pink I doubted he had begun shaving. If not for the scowl and the slit-eyed gaze, he would have made a fine poster boy for the Aryan cause.¹⁵

Dees characterizes the Metzgers as violent racists. In *Hate on Trial* he reports that John Metzger dedicated a speech to Robert Matthews, martyred leader of The Order, a violent racist group suspected of killing Denver radio talk show host, Allen Berg. Robert Matthews was killed in a shootout with authorities in Washington and died in a burning building. Of interest to North Dakotan and other midwestern readers, John Metzger’s speech was also dedicated to Gordon Kahl. Similar to Matthews, Kahl also died in a burning building after he killed a sheriff in Arkansas and two federal marshals near Medina, North Dakota in 1983. Also, the Metzgers consider Gordon Kahl, like Matthews, to be a martyr in the battle for the preservation of the white race. Kahl’s son, Yorie, has been included in most issues of the Metzgers’ tabloid, *WAR*.

The Metzgers have identified White Aryan Resistance sympathizers imprisoned for actions taken in their fight for white supremacy. Their names are printed in the “Prisoners of War” column in every issue of *WAR*. Yorie Von Kahl, incarcerated in a Pennsylvania federal prison, is included in a subheading of that list titled “WAR Approved Prisoners.” *WAR* has also printed a column

15. *Id.* at 81.

evoking the North Dakota name titled "Kahling All Men," a call for uprising against non-whites.

In any melodrama, evil must be contrasted with good. In *Hate on Trial*, the polarization is clearly defined. Dees describes himself as a good lawyer who will take on controversial cases to fight discrimination and poverty. *Hate on Trial* briefly describes his calling, but *A Season for Justice*¹⁶ more fully describes his life. He grew up in the South, the son of a cotton grower. His father treated blacks with dignity and respect, but his uncles were notorious racists. He chose to become like his father in his personal life, and like Clarence Darrow in his professional life.

After graduating from law school in 1960, he practiced for several years and then closed his law practice to begin a publishing firm. The firm became the leading publisher of cookbooks and was very adept at direct-mail sales techniques. In the late sixties, he sold the business to the Times Mirror Corporation for \$6,000,000 and with partner Joe Levin he began the nonprofit Southern Poverty Law Center. In order to survive inflation, Dees used his direct mail skills to raise money for the Center. In both books, Dees says that he was a good lawyer who was wasting his time trying to make a few more million dollars. Dees became willing to sacrifice his fortune to accept controversial cases in the search for justice.

With Dees as the principal attorney, the Southern Poverty Law Center used the courts to fight injustice. In 1969, they integrated the Montgomery, Alabama, YMCA through *Smith v. Montgomery YMCA*.¹⁷ In 1974, they freed three blacks, the Tarboro Three, who were waiting to be executed after being convicted of raping a white woman.¹⁸ In 1975, Dees successfully defended Joan Little,¹⁹ a black woman who killed a jailer when he tried to rape her. In 1981, he successfully sought an injunction to prevent the Texas Emergency Reserve, a dangerous military arm of the Ku Klux Klan, from harassing Vietnamese fishermen in Galveston, Texas.²⁰ The next year they received an injunction to prevent the Texas Emergency Reserve from engaging in paramilitary actions.²¹ In 1987, they won a \$7,000,000 judgment from the United Klans of America, and in 1990, the jury awarded

16. A SEASON FOR JUSTICE, *supra* note 8.

17. *Id.* at 103, 104-05.

18. *Id.* at 141-51 (State of North Carolina v. Hines, Walston, and Brown).

19. *Id.* at 153-89 (State v. Joan Little).

20. *Id.* at 37-49.

21. A SEASON FOR JUSTICE, *supra* note 8, at 37-49.

\$12,500,000 in *Berhanu v. Metzger*.²²

When pursuing the goals of the Southern Poverty Law Center, danger appears to lurk around every corner. In *YMCA, Tarboro Three*, and *Little*, Dees was in conflict with the city elders and the legal establishment. He feared for his professional life as his opponents attempted to destroy his legal practice, and in *Little*, charged him with subornation of a witness. In his cases against the Texas Emergency Reserve, the United Klans of America and the Metzgers, he feared for his physical life. In 1983, Klansmen torched the offices of the Southern Poverty Law Center. One night in 1984, shortly after the slaying of Denver talk show host Alan Berg, his security guards sighted two men carrying guns and wearing camouflage uniforms at Dees' home, the Rolling Hills Ranch. The Metzgers' hero, Robert Matthews, was suspected of trying to assassinate Dees. In 1987, during the *United Klans of America* trial, ten Federal Marshals protected Dees and the courthouse from the harassment of the Klan. (At that time, Dees reports, Mafia trials only required protection from six marshals.) Similar precautions were necessary to protect the attorneys, the plaintiffs and their witnesses in the Metzger case. Dees describes their protection methods at some length, though without the detail necessary to penetrate their strategy.

While *A Season for Justice* develops a panorama of the life of Morris Dees, *Hate on Trial* becomes a very readable description of the strategy of the Metzger case. At the conclusion of the case against the Metzgers, the jury awarded a \$12,500,000 judgment to Berhanu, which Dees believed would stop the WAR operation. However, in 1993, with a new publisher, the WAR tabloid is still being distributed, now monthly instead of bi-monthly. It maintains a violently racist editorial content. It still includes outrageous anti-Semitic and racist cartoons. The books and videotapes are still for sale. The hotline list is still published (the most recent issue lists forty-two telephone numbers around the nation). Yorie Von Kahl is still on the WAR Approved Prisoner list. The organization may have been stalled, but it did not go out of business. The Metzgers appealed the court's decision, and their supporters are engaged in fundraising to finance the appeal. In spite of a \$12,500,000 judgment against them, the White Aryan Resistance still survives, still distributing its message of white supremacist hate.

22. For more information, see *A SEASON FOR JUSTICE*, *supra* note 8.