Appeal by Patler Claims 39 Errors

10/6/70

By Hank Burchard
Washington Post Staff Writer

The Virginia Supreme Court was told yesterday that 39 errors in police and court procedures justify a new trial for John Patler, convicted of the murder of American Nazi Party chief George Lincoln Rockwell.

Rockwell was slain by a rooftop sniper on Aug. 25, 1967, as he left an Arlington laundromat. Patler, a former captain in the party, was arrested a mile away 32 minutes later.

Thomas J. Harrigan, Patler's attorney, argued for an hour before the seven-man court yesterday, 20 minutes longer than is traditionally allowed.

Sweeping Assertions

He asserted that Arlington police seized evidence illegally, Commonwealth's Attorney William J. Hassan prosecuted the case improperly, and Arlington Circuit Court Judge Charles S. Russell permitted inadmissible evidence to be presented to a jury that was unfairly selected.

C. Tabor Cronk, assistant attorney general, conceded that tape recordings of telephone calls made to the police after the shooting should not have been admitted as evidence, but said it was a "harmless error."

Otherwise, he said, witnesses had sufficiently identified Patler as the man fleeing from the scene, that the jury drew inference of his guilt from his flight and that the evidence that Patler had the time, means, motive and opportunity to kill Rockwell was adequate for the jury to make a finding of guilty.

Harrigan said the testimony of six FBI experts contained "not one scintilla of evidence linking Patler with the crime. If anything, it was exculpatory."

He said Arlington police illegally searched Patler's home in Arlington and his father's farm in Highland County, where slugs dug from a tree were linked with the German machine pistol with which Rockwell was killed.

Warrants Defended

Cronk defended the search warrants as proper.

Harrigan said none of the witnesses who identified Patler were able to do so spontaneously, before they were exposed to newspaper photographs or to staged scenes at the police station when Patler was "paraded" before them in the grip of police officers.

Harrigan said Judge Russell erred in not allowing Patler's attorneys to adequately question prospective jurors about their knowledge of the case and their attitudes toward Rockwell's group.

Cronk said Harrigan hadn't shown that this prejudiced the trial.

Harrigan said prosecutor Hassan disturbed the trial by making comments such as "This is for the birds" and "Do you want to take me outside?" while defense evidence was being presented.

The court did not say when it would rule on the appeal.