LaRouche associate Billington fights attempt to impose Soviet justice

In Roanoke, Virginia, the judge, prosecutor, and defense lawyer in the trial of the *Commonwealth of Virginia vs. Michael Billington* are currently carrying out the same practices as in the infamous Soviet courts—by treating the defendants as "insane."

One of the "LaRouche Seven," Michael Billington, already a victim of double jeopardy by being subjected to trial twice for the same acts of political fundraising for which he was wrongly convicted in federal court last year, was facing trial in state court for taking his political loans. The trial was scheduled to begin Sept. 19, in the Roanoke County District Court.

But on Sept. 18, his lawyer, Brian Gettings, filed a motion to withdraw from the case, claiming that "Mr. Billington's free will is so impaired that he cannot intelligently assist counsel in making decisions as to how best to try the case." At issue, as Gettings explained to the court, was that Billington insisted on a jury trial, rather than a bench trial. Trial by jury is a defendant's right under the Constitution in any criminal trial.

Immediately, prosecutor John Russell demanded a psychiatric evaluation of Billington, which Judge Clifford Weckstein said that state statute mandated him to order. The judge also told Gettings he could not withdraw from the trial.

On Sept. 19, psychiatrist Dr. Conrad Daum addressed the court on his examination of Billington. On the basis of his experience for the county court system, and an hour's examination, Dr. Daum concluded that Billington was sane, and not acting under undue influence of others. But under questioning by prosecutor John Russell, Dr. Daum said that he did not have experience in the area of "shared delusional beliefs," or "cults," which is what Russell asserted was of relevance to the Billington case.

At that point prosecutor Russell proposed the University of Virginia Center for Psychiatry and Law examine Billington, and urged that the trial continue to be postponed for a second psychiatric evaluation. Billington's lawyer, and the judge, agreed with the oral agreement that Billington could veto the recommended doctor, should he or she be involved in "cult deprogramming" activities, or the like.

Within 24 hours, the court had determined that Billington should go to the center Russell proposed, on Sept. 25. This center is not only under the influence of the state Attorney General's office, but is a virtual adjunct of the FBI's Behavioral Sciences Center. Below, we reprint the text of Billington's motion to resist these outrageous measures.

The motion

Defendant Michael O. Billington, pro se, filed the following, "Petition for the Court to Dismiss Counsel and to Vacate the Order for a Second Psychiatric Examination," to the Circuit Court of Roanoke County, Virginia, on Sept. 25, 1989.

I am filing this request for reconsideration of my counsel's motion to withdraw and to vacate the order for a second psychiatric examination as I am effectively unrepresented in this case at this time and there is no reason for this examination. What follows is a brief description of what I believe are the relevant facts and arguments in support of this petition. I have had my handwritten notes typed by my wife, Gail Billington, who is a paralegal working on my case, so that this Court could read what I have to say.

I. Factual background

In August 1987, I made a motion by counsel to change venue from Loudoun County because I could not get an impartial jury. In February 1989, that motion was granted.

On Thursday, September 14, 1989, my counsel, Brian Gettings, told me that the Court advised him to ask me if I wanted to waive the jury, warning him that "in this part of Virginia judges don't reduce jury sentences," and suggesting that the technical issues may be better handled by a judge. Mr. Gettings advised me to consider it that night. But, he

advised me strongly to accept on Friday, September 15, arguing we would have a better chance of winning before the Court than before a jury. He claimed that he was not considering the danger of a ninety year sentence by a jury because I had so often told him that justice, and not the sentence, was my only criteria. Later, Mr. Gettings recanted admitting that the sentencing issue remained one of the principal motivations for his recommendation.

In response, I made absolutely clear to Mr. Gettings I would not give him a decision yet, despite his strong advice. He assured me repeatedly that this was one of three decisions that was mine to make, not counsel's.

According to Mr. Gettings, the Court also told him on Friday that the trial would be continued until the following Monday, September 25, if I waived a jury. Although I wanted time to think, Mr. Gettings tried to encourage me to decide immediately, so that, he said, he could stay in Washington a few days and try to arrange a "work-release" program for me during the trial. Although he pressed me, he was not overbearing until Sunday when I decided to go with a jury.

Upon Mr. Gettings' return from Arlington on Sunday night, September 17, Martha Quinde, one of the paralegals, told him I had decided to stick with the jury as originally planned. Mr. Gettings immediately came to the jail but was delayed by an unrelated disturbance at the jail. As a result, he did not get in to see me until midnight. From midnight until 2:00 AM he raged at me, saying he was offended personally, that he'd never been treated this way by a client, concluding this with attacks on my credibility and my sanity. I was stunned to say the least, but I tried to calm him down, assured him this is what I wanted to do, had always wanted to do, and thought I had a good chance to win the case before a jury if they got the whole picture.

He returned Monday morning with his Motion to Withdraw. He spent another two hours raging over my decision and refused to consider my request for a jury trial or my advice that the Motion was wildly false and should not be submitted. He told me that one of my associates had told him the same thing. He repeated his charge that I was not responsible for my own decision, and personally attacked three different members of the national executive of my organization.

In the final analysis, Mr. Gettings persisted in filing the motion. Thus, my predicament. He said in open court that I'd been "directed" in my thinking. It is a matter of public record I wanted a jury trial. I told the Court of my long history of commitment to a jury trial, and explained the clear course of developments in coming to a final decision. I repeat again that the very reason for the successful motion for a change of venue from Loudoun County was my search for a fair jury!

It was never clear to me whether Brian Gettings or the prosecutor, Assistant Commonwealth Attorney John Russell, first proposed the psychiatric exam. It is safe to say, however, my counsel agreed, over my objection, with the prosecutor that such examination should proceed.

The events then unfolded as follows:

1) The exam, while including what seem to me some standard psychological test questions, was focused on questions about the case and my political organization, but also included an extended relentless series of questions on my recognition of the severe danger of jury sentencing. The psychiatrist, Conrad Daum, even asked me to make step-by-step calculations of how the sentence would probably result in a total sentence of ninety years and that it would be 12-14 years before I would be eligible for parole. He emphasized that in this part of Virginia, judges just don't reduce jury sentences.

He described cases of kids caught with a single joint serving 40 years. He told me how the Supreme Court has refused to overturn these sentences, and so on and so on. All this was supposedly part of the "exam" to test my sanity, and Dr. Daum even repeated regularly that he was working "for me," and was sympathetic with injustice in the system. Frankly, I interpreted this as a further effort to discourage me from exercising my constitutional right to a jury trial and object to it here and now.

2) The next morning, Tuesday, Sept. 19, in court, Brian Gettings and John Russell went into chambers, while Dr. Daum was in the audience. Mr. Russell came out alone and took Dr. Daum out the back door for about 15 minutes or so, then returned to chambers. When they came out of chambers, Mr. Gettings told me there would be a second evaluation.

3) Dr. Daum's testimony was accurate in all but two aspects. First, he made the statement that "he [Billington] expressed to me that he wants to conform his behavior so as not to alienate these other individuals"; that was not based on anything discussed in the examination. Indeed, he partially admitted this when he said moments later, "at least, this is the impression I obtained." Second, I believe strongly that the introduction of the issue of "cults" was not of his own making. Dr. Daum made clear that the issue "came up" (September 19 Transcript, p. 8). It did not, however, "come up" in the exam; it had not previously come up in court; so it could only have "come up" from Mr. Russell or Mr. Gettings, who had "pretrial discussions" with Dr. Daum (September 19 Transcript, p. 9).

4) On cross-examination, Mr. Gettings did not represent my interests. He did not probe in any way Dr. Daum's obscure references to "cults." Had he in fact been representing my interests, he should have cross-examined Dr. Daum on his unsolicited and baseless introduction of the cult issue. Instead, Mr. Gettings sought to undermine Daum's expert opinion that I am competent. He (Mr. Gettings) tried to establish that Dr. Daum lacked expertise in law, despite Dr. Daum's earlier acceptance by the Court as an expert. According to Dr. Daum's own testimony, he has "examined over 450 cases over the past decade for the courts of this area, regarding competency to stand trial and related issues (Sep-

tember 19, 1989 Transcript, pp. 4-5). Mr. Russell nevertheless added this "lack" of legal expertise to his "lack of cult expertise" to recommend the second examination. This Court certified Dr. Daum as an expert and underscored the fact there was no evidence in the record to support any "cult" analysis.

It must be considered that the "cult" issue, which played into the hands of our political adversaries, including the Anti-Defamation League (ADL), causing media slanders over the next three days (see *Roanoke Times & World-News,* September 18-20, 1989), had further unfortunate consequences. There was prejudicial publicity on these baseless charges compromising my right to a fair trial and there was an unjustified examination ordered which stimulated more prejudicial coverage.

All this served to obscure the threat in the proposed second exam that interested parties, even political enemies, although not necessarily "deprogrammers," would be chosen. Indeed, this *did* take place. Mr. Gettings' misrepresentation—i.e., his statement that I had no objection other than the right to object to a "deprogrammer"—aided this. After the Court's rulings, I asked Brian Gettings to clear up the record by saying that I *did* object to the entire process, but would only *vigorously* object if a background investigation determined any connection between the examiners and past or present political enemies.

The choice of the Institute of Law, Psychiatry and Public Policy to conduct the second examination was clearly on Mr. Russell's mind during the testimony of Dr. Daum, since his immediate response was "Perhaps I think maybe not only someone experienced in the area of cults, but maybe experienced more in the legal area also and his reference to the Institute of Law and Psychiatry at the University of Virginia perhaps offers us an opportunity . . ." (September 19, 1989 Transcript, p. 16). This is no surprise, since the Annual Report of the Institute for 1987 (see attached Exhibit A), reveals that the Institute is "supported in part . . . by the Office of the Virginia Attorney General" (see Exhibit A "Introduction") and is in "partnership" with the Office of the Virginia Attorney General, a partnership which is described as "strong" (see p. 2). Representatives of the Office of the Attorney General teach courses and present symposia there. The collaboration between the Institute and the FBI is even more extensive. In short, the Institute is an interested party.

The Office of the Virginia Attorney General and the FBI are part of a joint federal-state task force which has prosecuted me in three different jurisdictions: the present case in Roanoke, the federal District of Massachusetts, and the federal Eastern District of Virginia. According to its own literature, the Institute enjoys a close working relationship with the very same agencies who are prosecuting me.

Furthermore, I wish to note that, throughout this period, my conditions of incarceration have been extraordinarily restricted and all this at a time when I have antagonistic counsel. I have been in 24-hour isolation, with no phone privileges except to my lawyer, and no other visits of any sort permitted. On Sunday night, at the time of Mr. Gettings' first rage state, the Sheriff removed paralegal Martha Quinde's right to see me, on the grounds that she is a co-defendant, even though she has worked in this capacity long before the indictments and since, and even though she came to the jail with Brian Gettings. My wife and other paralegal, Gail Billington, had been denied access on Friday, September 15, on the grounds that she is my wife! For 48 hours, my only permitted contact with the outside world was through Brian Gettings, who was on another planet or worse—as far as I could determine.

On September 19, 1989, Mr. Gettings submitted a letter to the sheriff designating Sanford Roberts as his paralegal on the case and providing the sheriff with Mr. Roberts' Social Security number to facilitate a background check. This was done to attempt to fill the void created by the barring of Martha Quinde and Gail Billington. Mr. Roberts visited me in jail on September 20, September 21, and the morning of September 22.

At 6:30 P.M. on the evening of September 22, Mr. Roberts was denied access to the jail on direct orders from the sheriff. Purportedly, the sheriff had not completed the background check on Mr. Roberts. Thus, I am once again denied any paralegal visits.

II. Argument

I won't repeat what I've said above in this, my argument. I object to this entire proceeding in that I have been denied my Fifth and Sixth Amendment rights. Further, the ruling of Tuesday, Sept. 19 to order a second examination also lacked any foundation in the record. While Dr. Daum did ask for a second evaluation, his *grounds* for that call were carefully and repeatedly restricted to his lack of experience and lack of expertise in *cults*. He described the disorder he was looking for—shared delusional disorder—as disorder he *was* expert in, *in regard to individuals,* and stated emphatically several times that his opinion was that I did not suffer from such a disorder:

1) As for my having a "shared delusional disorder": Dr. Daum said, "In my opinion, he is not [suffering from it]" (September 19 Transcript, p. 9);

2) He was asked specifically whether he agreed that he was *not* an expert in "shared delusional disorder," but he would *not* concur, and said, "Okay, I don't think he has one. We'll go on the record that way." (Tr., p. 10);

3) On the question of being "under the influence of leadership such that he is making bad decisions for himself," Dr. Daum stated: "With my limited experience in cults, I cannot give you an opinion on that regard. In terms of evaluation individuals, with my experience I don't think he is." (Tr., p. 10);

Dr Daum's solicitation of a second opinion was precisely addressed to the cult issue: "I am not an expert in cult activities. I certainly would welcome a second opinion from someone who had more experience *in that area* to confirm my own

opinion." (Tr., p. 10).

The Court itself responded to my objection to the cult issue by stating, "I agree that there is nothing that has come before the Court to support any cult analysis" (Tr., p. 20). Thus, the only grounds that Dr. Daum had for recommending a second examination were ruled to be without foundation by this Court.

Mr. Russell clearly approved of this "cult" ruse: he said "I'm still troubled . . . in light of his admitted lack of expertise or experience in dealing with cults. . . . Perhaps, I think maybe . . . someone experienced in the area of cults should re-examine." (Tr., p. 16) Mr. Russell's other concern, the length of the interview and Dr. Daum's "legal area" experience are absurd, since Russell himself established him as an expert to do this examination, and I afforded Dr. Daum as much time as he felt was necessary, even though I objected to the examination from the start.

I make one last point on this issue of the grounds for the second examination. Dr. Daum's *definition* of "shared delusional disorder" is that "while he [the subject], himself, is psychologically intact, he is so under the influence of *someone who is not psychologically intact* that he picks up beliefs. . . ." (p. 9). While he says that in his opinion I do not have this disorder, it is clear that to *conclude* that I *do* have this disorder requires establishing that someone else who is "influencing me" is not "psychologically intact." It is clear that that there is no reason to examine me to determine if someone else is not "psychologically intact." The real target of the "examination," proposed by Mr. Russell and not objected to by my "counsel," Mr. Gettings, appear to be my political associates. This would not appear to be a proper purpose for a psychiatric examination under the First Amendment to the U.S. Constitution.

III. Conclusion

I am most grateful for the Court's indulgence in receiving and reviewing this petition. I regret the circumstances requiring me to make this application, but the circumstances were not of my making. In conclusion, I once again ask this Court to allow me to discharge Mr. Gettings as my attorney. This case goes well beyond "irreconcilable differences"; Mr. Gettings has, by acts of commission and omission, taken on the role of an adversary since he filed his Motion to Withdraw. I also ask the Court to vacate its order directing the second psychiatric examination because such an examination violates my Fifth and Sixth Amendment rights as I am presently unrepresented by counsel. Further, there is no probable cause for this second examination, the Institute which was designated by the Court to conduct the examination is an interested party in the proceedings, and the prospective examination implicates my political beliefs and associations which are protected by the First Amendment.

Finally, I assure the Court there's nothing in this matter that I consider a "game." I am concerned with nothing less than my reputation, my liberty, and my right to obtain justice.

Defeat of Koch opens new era for New York

by Dennis Speed

New York City's Mayor Edward Koch was defeated in his bid for an unprecedented fourth term in the Sept. 12 Democratic primary by David Dinkins, who will face the Republican nominee, former U.S. Attorney Rudolph Giuliani, in the November election. A new chapter in the "human comedy" of the premier city of the United States is, therefore, about to begin.

The city's monumental economic, financial, and social problems were never made the subject of the campaign. They were judiciously avoided except when, either by accident, or for expediency's sake, it became inevitable that the candidates would have to speak to these questions.

Let us inform the reader of a few of the staggering challenges that face New York. By official estimate the city harbors more than 100,000 homeless men, women, and children; many analysts, social workers, and community activists place the number at 250,000.

In the spring of 1985, the official estimate of the number of AIDS victims, offered by then-Health Commissioner, David J. Sencer, was 400,000. If one accepts even a 24-month doubling rate for the AIDS virus, the figure would now be 1.6 million (although the city's official figure as of August 1989, indicated that only 150,000 New Yorkers were infected.)

In areas such as the South Bronx, AIDS rates in neighborhoods have been calculated at 20-25%—exactly identical to the rate of homosexual-dominated areas, such as Greenwich Village.

The situation in public education is even more nightmarish. At Seward Park High School, on the Lower East side of Manhattan, for example, 3,500 students attend a school whose total capacity is 2,600; 85% of the students come from households where English is not the dominant language; 60% come