

'Pirate' broadcaster guilty on 14 counts

Important constitutional issues unresolved, says defense attorney.

Posted: February 27, 1998
1:00 a.m. Eastern

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It took a federal jury just a little over an hour to find Arthur ("Lonnie") Kobres guilty on 14 criminal counts of operating a low power FM broadcasting station without a license from the Federal Communications Commission. Each count represents a specific day Kobres had operated a 24-hour talk radio station, featuring political, patriotic and Christian programming, rebroadcast from satellite feeds. Together the counts carry a two-year prison sentence and fines totaling nearly \$3 million. But Kobres and his attorney Larry Becraft of Huntsville, Alabama, do not see Wednesday's verdict in Tampa, Florida, as a defeat, for the case can now move to higher judicial levels where the courts will be forced to look at an important constitutional issues that have never been raised. "As far as losing goes, we see it as a glass that's half full, not half empty," Kobres told WorldNetDaily. Kobres was arrested and his radio equipment seized Nov. 19, when a 20-member SWAT team, comprised of armed U.S. marshals and local sheriff department representatives -- led by FCC agents -- stormed his home in the quiet community of Lutz, an unincorporated area about 10 miles north of Tampa, at 6:45 a.m. Simultaneous pre-dawn assaults were made on two other Tampa-area broadcasters. Their radio equipment, too, was confiscated, but only Kobres was charged with a criminal indictment. The raids were instigated by the FCC, which has made the elimination of unlicensed micropower broadcasting a high priority. They were intended as a warning to the thousands of other broadcasters who have set up similar operations in communities across the country. Micropower broadcasters operate FM radio stations of extremely low power (under 100 watts). Dubbed "pirates," because the FCC does not license them, their range can cover anywhere from a few blocks to an entire community. Kobres' station, Lutz Community Radio, which he operated from his garage, had a radius of 12 miles. The ongoing FCC war on micropower broadcasters is often cast as a First Amendment issue -- particularly since the FCC refuses to issue licenses to low power broadcasters, thus forcing those interested in serving their communities into the "pirate" role. But for Larry Becraft the issue is more about the expansion of the federal government into areas not authorized by the U.S. Constitution. "This case is really about federal jurisdiction," Becraft told WorldNetDaily before the trial. "We're not saying Lonnie didn't broadcast without a license -- we admit that. We're saying the FCC has no authority to require licenses for intrastate radio transmissions. We've got important constitutional issues here that the government would like to ignore." According to Becraft, the original statute authorizing the FCC to regulate radio communications between states is constitutional because the U.S. Constitution gives Congress jurisdiction over interstate and foreign commerce. "But in 1982, Congress amended the section 301 of Title 47 of the United States Code to include intrastate commerce specifically. We feel Congress overreached its powers when it did that," he said. Becraft views the case as "a bid by the federal government to extend its jurisdiction to intrastate commerce. They want the courts to uphold that unconstitutional amendment to the statute." Becraft attempted unsuccessfully to persuade Judge Henry Adams to dismiss charges against his client in part on grounds that 301 was unconstitutional. When Adams refused to allow arguments based on the constitutionality of the statute, Kobres' main defense was to explain that he had relied on a manual sent by the FCC in 1970 when he applied for and received his broadcast engineer's license. "I kept it [the manual] all these years, and never read section 301 from any other book other than that one," Kobres recalled. "It never occurred to me that Congress would be so blatant as to change that statute. I never realized it had been changed until Larry Becraft pointed it out." The constitutional issues -- though dismissed by Judge Adams -- will be the basis for Kobres' appeal. "That's why I'm saying the glass is half full," he said. "If I had won, the only person who would have gained anything is me, and the FCC would still be going around shutting people down. Everybody else would have lost as far as getting these issues responded to point-for-point at a higher level."