

# **Amish Beard-Cutting Attacks and Hate Crimes Convictions**

## **Research Notes and Findings**

**Updated: September 2014**

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### **My Two-Year Research Project Explored the Following Questions:**

- How did a cultlike group emerge in pacifist Amish society?
- What underlying motives propelled the attacks?
- Were the Amish offenders really Amish?
- Why did the jury convict the defendants of federal hate crimes?
- Is the case significant for religious freedom in America?
- How will this case impact future hate crime prosecutions for Americans?

### **The Bergholz Clan**

- In 1995 Amishman Samuel Mullet purchased 800 acres of mountainous land in eastern Ohio near the village of Bergholz to start a new Amish community. Many of the families who joined the community were directly related to Mullet.
- Mullet was ordained bishop in 2001. He consolidated power, did not tolerate dissent, and broke off relationships with other Amish communities.
- In 2006, Bishop Mullet excommunicated nine families who objected to his autocratic leadership.
- In response, 300 Amish elders from five states unanimously nullified Mullet's authority to excommunicate members, severely limiting his power and control.
- The Bergholz Amish devolved into a clan as non-Mullet families left. By 2010, all but one of the 20-some families in the group was related to Bishop Mullet.
- One of Mullet's daughters lost a child custody case to her husband, who had left the community.
- Mullet filed a \$35 million suit against the local sheriff and Jefferson County because law enforcement officers removed the children from the community.

### **The Attacks**

- Sixteen members of the Bergholz Amish community executed five beard-cutting attacks by ambush on Amish people in other communities at night and in Bergholz over eight weeks in fall 2011.
- The assaults were motivated by revenge against Amish people who were critical of Bishop Mullet's practices. The attacks aimed to discipline Amish people whom the assailants thought had strayed from Amish ways.
- The three ordained officials in the clan were involved in the assaults.
- The attacks violated historic Amish convictions against the use of violence.

### **Are the Amish Defendants Really Amish?**

- The Bergholz clan engaged in some two dozen aberrations of Amish life: They rejected a Christian identity, terminated Sunday worship services, rejected Amish values of nonviolence and forgiveness, condoned physical punishment of adults, placed deviants in animal pens dubbed “Amish jails,” made death threats to law enforcement officers, and committed various sexual improprieties.
- These and other unorthodox practices are unprecedented in the 325 years of Amish history. Such aberrations place the Bergholz clan far beyond the boundaries of orthodox Amish behavior.

### **The Criminal Investigation**

- The FBI investigated the assaults because the victims and attack sites involved several counties in Ohio, making it difficult to conduct multiple trials in different municipalities.
- The US government indicted 16 Bergholz defendants (10 men and six women) with a 10-count indictment involving four charges: conspiracy, assault, concealing evidence, and lying to the FBI.
- The government built its case on the 2009 Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act. This federal statute criminalizes physical attacks based on a victim’s gender, sexual orientation, disability, race, ethnicity, or religion.
- Prosecution of hate crimes under the Shepard-Byrd Act requires evidence of some instrumentality of interstate commerce—in this case, traveling on interstate highways, accessing the U.S. Postal Service, and using a horse shears and battery-operated clippers manufactured out of state.
- The Shepard-Byrd Act does not regulate religious speech or belief, but it does criminalize violent conduct that targets victims because of their religion. The First Amendment does not protect individuals who exact violence in the name of their own religious beliefs. In other words, Shepard-Byrd focuses on the victim’s religion not the assailant’s.

### **The Convictions**

- The three-week trial in September 2012 was a legal maze, with five attacks, nine victims, 16 defendants (including four married couples), 90 separate verdicts, and 20 attorneys.
- To convict the defendants under the Shepard-Byrd Act, the jury had to find evidence that an attack caused bodily injury “no matter how temporary.” Disfigurement is one type of bodily injury.
- The jurors agreed that forcible beard cutting was a temporary disfigurement.
- The jury also found evidence that four of the attacks were motivated by the religion of the victims.
- The jurors found the 16 defendants guilty of 87 of the 90 separate counts.
- Bishop Mullet was sentenced to 15 years in prison. Four men, including two ministers, received seven-year sentences. Five-year sentences were imposed on three other men. The remaining eight defendants received one- to two-year sentences, and by the summer of 2014 most of those defendants had returned to Bergholz.

### **Appellate Court Overturns the Hate Crime Verdicts**

- The defendants appealed to the United States Court of Appeals for the Sixth Circuit in Cincinnati in February 2013. There were several possible appellate court outcomes.
- The court might have (1) upheld the convictions, (2) remanded the case for a retrial because of prejudice or procedural errors, (3) determined that the hate crimes statute is unconstitutional because of the interstate commerce clause or, (4) considered the evidence of interstate commerce weak as applied in the beard-cutting case.
- On August 27, 2014, the appellate court overturned the hate crime convictions in a 2-1 sharply divided decision. The court upheld the hate crime convictions for what it considered an error in the district court's instructions to the jury. The sixth circuit court buttressed its decision with a US Supreme Court opinion, *Burrage v. United States* (2014) that was decided *after* the Bergholz trial.
- The appellate court did not address the constitutionality of the Shepard-Byrd Hate Crimes Prevention Act.
- The non-hate crime convictions (perjury and obstructing justice) were not overturned.

### **Why the Appellate Court Reversed the Hate Crime Convictions**

- No one disputes that the attacks took place. But what *motivated* them? What motives drove the assailants—family feuds, interpersonal spite, or religion?
- The defendants argued that family malice and personal bitterness sparked their late-night assaults and ambushes. The prosecution contended that religious differences propelled the attacks.
- The federal statute considers an attack a religious hate crime if an assailant “willfully causes bodily injury to any person . . . *because of* the actual or perceived . . . religion . . . of [that] person.” The appellate court's opinion hinged on two different interpretations of the words “because of.”
- The federal district court instructed the jury that a religious motive was evident if the victim's “actual or perceived religion was a *significant motivating factor* for a defendant's action...even if he or she had *other* reasons” for attacking the victim.
- The defendants contended that the words “because of” require a “but-for” cause to show that an assailant would not have cut beards *but for* the victim's actual or perceived religious beliefs.
- The appellate court agreed with the defendants, saying that “because of” means “by reason of” or “on account of.”
- The appellate court opinion made a distinction between religion being *the* primary or predominant motive and religion being *a* significant motive among other motives. Did the assailants attack “because of” the religion of the victims or was religion only *one* significant reason among others such as familial strife?
- The district court used a broader, more *expansive* definition of the motive(s) driving the Amish hate crimes. The appellate court's opinion is a narrower, more *restrictive* interpretation of the words “because of,” suggesting that religion must be *the* overriding or predominant motive for a religious hate crime.
- The dissenting judge strongly disagreed, saying, “The overwhelming and unrefuted evidence adduced at trial demonstrates that Mullet participated in the assaults because of the victims' religious beliefs.”

### **Why This Case Matters**

- The Bergholz case was the first religious hate crimes conviction under the 2009 Shepard-Byrd Act. The interpretation of motives in this case is important not only for the Amish convictions and for other religious hate crimes, but for all types of hate crimes as well.
- The legal decisions ensuing from this reversal will establish a judicial standard for how the Shepard-Byrd Hate Crimes Prevention Act is interpreted in the future for all hate crimes sparked by a victim's gender, sexual orientation, disability, race, ethnicity, or religion.
- If the appellate court's restrictive interpretation remains unchallenged, future prosecution of hate crimes will require evidence of a *predominant* motive for attacks that cause bodily injury.

### **What Will Happen Next?**

- The US Department of Justice may consider several possible options: 1) proceed with new trials for some of the defendants, 2) appeal to the full bench of judges in the US Court of Appeals for the Sixth Circuit (*en banc*), 3) petition the US Supreme Court, or 4) resentence those defendants charged with lying to the FBI and concealing evidence.
- Depending on the response of the Department of Justice, local municipalities in Ohio might proceed with their own prosecutions.
- Sam Mullet and the other defendants remaining in prison are still under indictment. They remain convicted of concealing evidence and perjury. They will likely petition the district court to be released from prison while the legal process continues.

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**Primary Source:** *Renegade Amish: Beard Cutting, Hate Crimes, and the Trial of the Bergholz Barbers* (Johns Hopkins University Press; 208 pages; \$24.95 hardcover; 2014)

**Research Methods:** Interviews with 30 Amish people related to Bergholz (including some former community members and relatives of Bishop Mullet); interviews with detectives, sheriffs, an FBI agent, knowledgeable non-Amish people, and the foreman of the jury; the jury foreman's notes; and some 2,000 pages of court testimony.