



STATE OF KANSAS

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CURT T. SCHNEIDER  
Attorney General

March 4, 1975

Opinion No. 75- 91

Mr. Anthony D. Lopez  
Executive Director  
Commission on Civil Rights  
535 Kansas Avenue  
Topeka, Kansas 66603

Dear Mr. Lopez:

We have your letter of February 11, 1975, calling our attention to efforts by an individual in Kingman, Kansas, to solicit interested persons to join together in the formation of a chapter or other designated affiliate of the Knights of the Ku Klux Klan.

You inquire whether this activity constitutes a violation of the laws of the State of Kansas. In State ex rel. Griffith v. Knights of the Ku Klux Klan, 117 Kan. 564 (1925), cited in your letter, the Attorney General commenced an action to oust the Knights of the Ku Klux Klan from doing business in this state. The ouster action was based on alternative grounds, first, that as a Georgia corporation, the Klan had not obtained the necessary authority from the State Charter Board to do business in this state as a foreign corporation, and secondly, that the defendants were engaged in

"propagating race and religious prejudices animosities, and are using intimidations, threats and violence to compel others to agree with the defendants and obey their commands."

The Court referred the action to a commissioner, to make findings of fact and conclusions of law. The Commissioner made extensive and detailed findings, concluding that the Klan did do business

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in this state and that it had not obtained authority to do so as a Georgia corporation. Concerning the allegations of violence and intimidation, the Commissioner stated thus:

"Considerable evidence was introduced before the commissioner, both oral and documentary, as to threats made against individuals, and as to practices of intimidation and threats of injuries to persons and property, but your commissioner finds that such testimony is wholly insufficient to connect the defendant corporation with any such alleged acts and practices, and finds that there is no evidence that the defendant corporation or the individual defendants have ever engaged in or authorized such practices in Kansas. There is nothing to connect the defendant corporation or the individual defendants with any of the threatening letters introduced in evidence . . . ."

Reviewing these findings, the Kansas Supreme Court concluded that as a foreign corporation organized under the laws of the State of Georgia, although organized not for profit and for purported benevolent and eleemosynary purposes, the Knights of the Ku Klux Klan, Incorporated, was required to obtain authority from the State Charter Board in order to do business in this state, for failure to do so, the defendant corporation was "ousted from organizing or controlling lodges of The Knights of the Ku Klux Klan in this state and from exercising any of its corporate functions in the state of Kansas except such as are protected by the interstate-commerce clause of the constitution of the United States.

The information which we have been furnished suggests only that a single individual is engaged in efforts to inform other interested persons regarding the Knights of the Ku Klux Klan, and apparently, to solicit interest in organizing an affiliate thereof in this state. In National Association for the Advancement of Colored People v. State of Alabama ex rel. Patterson, 357 U.S. 449, 2 L. ed.2d 1488, 78 S.Ct. 1163 (1958), the Court pointed out thus:

"Effective advocacy of both public and private points of view, particularly contro-

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versial ones, is undeniably enhanced by group association, as this Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly . . . . It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech." 357 U.S. at 460, 2 L. ed.2d at 1498.

The Klan has historically been notorious for its advocacy of white supremacy. Obnoxious as this principle is to fundamental constitutional guarantees of equality before the law without regard to race, creed, and color, the First Amendment of the United States Constitution which guarantees this equality also protects the right of that small number of citizens who wish to join together for the mutual support and advancement in a lawful manner of their racist views.

Thus, the activities which you describe as occurring to date involve no conduct which is in violation of the laws of the State of Kansas.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj