Tweedledum and Dumber

Obscene phone calls? Off with their heads! How two pariahs who made friends of our enemies and enemies of us became activism's new cause.

April 1, 2002 By Alex MacDonald

Eileen Shields is 50-ish, single and lives alone. For seven years she has worked as the public-information officer of the San Francisco Department of Public Health, routing questions from the public and the media. Many callers ask about sexually transmitted diseases, and few conversations surprise her.

But in late October, Michael Petrelis, locally famous as the queer liberationist who has made enemies of the gay establishment and friends of the homophobic right, demanded to know how many tests for syphilis were performed on gay men in San Francisco, data that, as Shields had told him repeatedly in prior calls, the department does not keep. "He was also yelling," she told the court in December during the preliminary hearing in *The People v. David Pasquarelli and Michael Petrelis*, "and delivering a steady diatribe of accusations." She put him on hold for about 20 seconds, then picked up the phone again. "Why aren't you answering, Ms. Shields?" Petrelis was saying. "Do you have a penis in your mouth performing oral sex?"

"I recall being stunned by this obscenity, and said, 'My god, Michael,' and promptly hung up...," Shields testified. "Even though I knew who had said this obscenity to me, I could not shake that terrible feeling, as though I had been molested by a man I find personally revolting." When she got another such call two days later only minutes after she got home from work, panic set in.

In January, at the same hearing, Sabin Russell, a writer who covers AIDS at *The San Francisco Chronicle*, testified that he had long tolerated calls from Petrelis and his codefendant David Pasquarelli, head of the AIDS denialist group ACT UP/San Francisco, as part of his professional turf -- even if the leap from "You're a shitty writer" to "You've given your wife's pussy a bunch of diseases" went over the top. He was alarmed, however, when insults and vulgarities gave way to physical threats, as in "the rock through your window will break more than glass." And he was terrified when a caller he ID'd as Pasquarelli said, "You're a sick syphilitic pile of shit.... If there is one more word in the paper coming from you, you're finished. Forever." These calls, Russell told the court, "woke me up at night, created a level of tension at home and made work more difficult. We were in the middle of an anthrax attack on the media. The calls had the intended effect."

Suffice it to say, *The People v. Pasquarelli and Petrelis* is not your run-of-the-mill case against harassing heavy-breathers. The evidence against San Francisco's two most notorious activists --

that even their self-proclaimed HIV status is doubted by some critics suggests the deep mistrust they have inspired -- includes dozens of recorded calls, dozens more unrecorded and an even larger number of e-mails. All were sent over a few weeks last fall. The two men stand charged with 18 misdemeanors and 19 felonies, ranging from disturbing the peace to stalking to "criminal threat" -- formerly known as the "terrorist" charge -- for insinuating threats of violence. The 11 victims include city health-department staff such as Shields, *Chronicle* reporters such as Sabin, their wives and families, and Michael Shriver, a member of AIDS Activists Against Violence and Lies, a coalition formed specifically to counter ACT UP/SF. Each testified that Pasquarelli and Petrelis' decision to carry their intimidation into their homes convinced them that the callers presented a real and imminent threat to their safety. Bail was set at an extraordinarily high $500,000. If convicted, the 34-year-old Pasquarelli and the 43-year-old Petrelis could do 10 years in prison for each felony. It is no exaggeration to say that the Bay Area's potent gay and AIDS leadership sighed with relief during the 72 days the two sat behind bars waiting for bail to be lowered.

No date has yet been set for the trial. Neither man has spoken in court; they will be arraigned and enter pleas -- presumably, not guilty -- on February 25. But while the two proudly big-mouthed activists remained mum, many big-name gays and AIDS veterans outside San Francisco made noise in their defense. As bankrupt or brutish as many find the duo's issues and tactics, they say, something larger is at stake. In the wake of September 11, with the Bush administration serving up militant patriotism and terrorist paranoia while sacrificing civil liberties on the altar of national security, it's not just, arguably, the two most hated men in AIDS activism who are on trial -- it's the freedom of dissent itself. They fear the "chilling effect" of what they call trumped-up charges and jacked-up bail. Meanwhile, local activists deflect criticism that they have ignored such abuses by pointing out that the duo have long had their own "chilling effect," thank you very much.

What started as a bizarre Bay-area sideshow is fast becoming a three-ring activist circus, right down to ACT UP/SF's small but potent propaganda machine dispatching daily updates on the "political prisoners." When District Attorney Terrence Hallinan foolishly and incorrectly labeled the two defendants "terrorists" at a December press conference, it only fanned the leftist flames. Even if they had to hold their nose over the two defendants, some 250 people, ranging from Broadway's Harvey Fierstein to ACT UP/New York's Ann Northrop to *POZ*'s own Sean Strub, signed an open letter by New York City lawyer-activist Bill Dobbs protesting "charges out of all proportion to the alleged harms -- prosecutors have succumbed to political pressure to 'dust off the books'.... 'Terrorist' characterizations are used by prosecutors to inflame passions. There is a larger context for this increased repression of dissent in the last several years. Those involved with AIDS issues have felt the sting, too." As another example of the attempt to stifle civil disobedience, the petition cited the million-dollar bail imposed on ACT UP/Philly's Kate Sorenson for the ruckus the group raised at the Republican National Convention protests two summers ago. (For her part, Sorenson refused to sign the letter, e-mailing the two men: "I will fight for our right to demonstrate [and] to free speech..., but I will not fight for you." She also derided them for "damaging the good work that real AIDS activists have done for years.")

The e-mails flew as activists debated *The People v. Pasquarelli and Petrelis*. Liz Highleyman, a San

Francisco journalist-activist, summed up the defendants' defenders nicely: "The original ACT UP groups, Queer Nation, etc., made the advances they did by being obnoxious and in your face, not by cozying up to the powers that be.... But these groups never, to my knowledge, relied on threats of violence.... Petrelis and members of ACT UP/SF have not in fact been convicted of any violent actions. They have been convicted of things like...disturbing a public assembly, but that is what radical activists *do*." But by no means do all 250 agree. As Sean Strub explains, "They were arrested because of legitimate evidence that they made horrific threats and committed crimes. The problem is not in their arrest, but in the prosecutorial abuses. The integrity of the judicial system's application of justice is, frankly, more important to me than Petrelis, Pasquarelli or their many victims."

Responding to these so-called East Coast fears, Martin Delaney, Project Inform founder and a leading ACT UP/SF target and critic, urged activists to "take the time to learn the real facts about this case -- it is clear that many people are signing on to this letter in knee-jerk support of AIDS activism, but with little or no knowledge of the specifics." His statement proceeded to supply such specifics as a list of the group's most egregious actions, such as dumping 25 pounds of cat shit on a pregnant Pat Christen, the director of the San Francisco AIDS Foundation, to protest her "fat cat" $150,000 salary.

Extreme tactics and common enemies bind the two defendants to each other. Flying the banner of what he calls radical queer liberation, Petrelis has become the local gay establishment's worst headache. For years he has irritated AIDS honchos with his sharp eye for how AIDS service agencies waste money and his skill at publicizing bureaucratic indiscretions. But the ballsy Petrelis was equally comfortable standing alone on the steps of City Hall demanding that the female condom be approved for gay men. More recently, he has redirected his abundant energies to demonize city health department officials -- especially Jeffrey Klausner, MD, the STD specialist -- for reporting increases in the incidence of HIV and syphilis among gay men. Petrelis views health department attempts to alert men to the danger of syphilis not as a responsible public-health measure but as homophobic fear-mongering. The data, he contends with no evidence, are fabrications. In November -- while ACT UP/SF was doing its own hate number on Klausner, misrepresenting him as supporting quarantine for barebackers -- Petrelis vowed on his online listserv: "All public health officials must condemn S.F. DPH STD Chief Dr. Josef Mengele KKKlausner and his call for quarantining gay men with HIV. In fucking fag Frisco! I will demand Congress CUT, CUT, CUT the CDC's HIV prevention budget to the bone."

Such goals have inevitably turned Petrelis into a political pariah. He has, in turn, sought allies among traditional enemies of the gay community in Congress, including Bush's new AIDS Advisory Council co-chair, then-Rep. Tom Coburn. He hooked up with the Traditional Values Coalition and its boss, Lou Sheldon, a homophobic preacher whose ability to turn out voters for conservative Republicans has won him access to Tommy Thompson, Secretary of Health and Human Services. For Petrelis, the ends -- getting rid of the gay establishment -- justify the means. The large number of social services for PWAs incidentally provide income to gay staffers and give the community some clout. Take away the money, and you undermine the gay leadership. But he shows only indifference to the danger posed by his alliance with powerful right-wing advocates for antigay and

sexually repressive AIDS prevention.

Isolated, Petrelis found common cause with David Pasquarelli and the AIDS denialists of ACT UP/SF. While Petrelis has said publicly that he has AIDS, believes that HIV causes AIDS and takes anti-HIV meds, Pasquarelli calls HIV “a harmless virus,” the meds “poison,” the epidemic “over.” His gallery of ACT UP/SF graphics reveal a craftsman rather than an artist. He claims to be an anarchist and tax-resister. In court, he has adroitly adopted the manners of an astute attorney, but wisely decided not to do so in the current case. His AIDS beliefs are equally synthetic. “All orthodoxy begins as dissent,” he is fond of quoting (himself). “All dissent ends as orthodoxy.” This notion may lie behind his assertion in a civil suit that “Martin Delaney will one day be tried…as a mass murderer, smack (heroin) freak, bought-off murderer and a purveyor of schemes against gay men that are reminiscent of the Nazis’ Final Solution.” Mercurial might describe his mind.

Eventually, Pasquarelli and ACT UP/SF captured the attention of venture capitalist Robert Leppo, who finds the HIV hypothesis less false than poorly researched. Leppo is a political maverick, contributing both to right-wing Republicans and to the presidential campaigns of John McCain and Bill Bradley. He fronted the AIDS dissidents $800,000 to buy a property at the edge of the gay Castro. There, the group runs a pot club that grosses $1.5 million per year and boasts 1,300 members. Illegal under federal law but not under state law, the business has no license, pays no payroll taxes, does not report to the IRS and collects no sales tax. (Critics note that while right-wing Attorney General John Ashcroft is raiding and closing other California cannabis clubs, ACT UP/SF’s has never been touched. Nor has the IRS investigated.)

Until this most recent arrest made Pasquarelli and Petrelis a *cause célèbre*, AIDS activists have largely been at a loss as to how to confront the juggernaut. Most locals tried not to mess with them; New Yorkers and others counted their blessings. Some who have come under direct assault, such as Delaney, have resorted to the courts, with success -- ACT UP/SF is tangled up in restraining orders -- but at great cost. But over the years, activists complain, the police have consistently looked the other way, as if the disruptions were a mere activist squabble.

It is tempting to say that the official response took a harder line after September 11. Such is the claim promulgated by Petrelis, Pasquarelli and the 250 activists who signed Dobbs’ letter. But, in fact, the criminal-justice system cared so little about the charges that only one police inspector was assigned to investigate their case -- with its 11 victims, masses of evidence and serious charges. Yet the prosecution’s perfunctory response is exactly what the two men’s lawyers call overkill. Petrelis and Pasquarelli allege that the investigation against them is a vast plot by such megapowers as Mayor Willie Brown, the University of California/SF’s Center for AIDS Prevention Studies (a different criminal case) and the Hearst Empire. But on the part of local activists, who warily greeted the pair’s February 8 release on lowered bail, this apparent complacency has instilled a fear that San Francisco district attorney Hallinan will strike a deal or even drop the charges. As the theory goes, no jury in progressive San Francisco will resist the defendants’ appeal to the First Amendment.

How far into criminality activism may go and still benefit from First Amendment protections is a

nice question that courts tend to settle on a case-by-case basis. Are obscene and threatening phone calls to homes protected as free speech? Chief Justice Abe Fortas, in a pamphlet on civil disobedience published in 1967, wrote that sometimes outrageous behavior -- in a complex society with centralized mass media -- is necessary in order to be heard in the marketplace of ideas. Michael Guingona, a former attorney for ACT UP/SF, memorably called it “the cacophony of democracy.” It is worth noting, however, that unlike Fortas, Guingona did not go on to make the point that violators for a good cause still must accept the legal consequences. Pasquarelli and Petrelis will seek the protection of both the precedents of the legitimate ACT UP and the leniency of the First Amendment.

They have put themselves, however, in a bind: Before 9/11, their actions were along the lines that Pasquarelli defended in court in June 2000. He claimed the right to disrupt Project Inform’s community treatment-education forums to raise “media awareness” of AIDS denialism. ACT UP had to “interrupt their flow of information in order to get our information out.” He characterized the disruptions as “performance art.” But last fall, something changed. The accusation is that in order to frighten public officials so badly that they would not perform their lawful jobs, the activists sought to provoke in them a reasonable fear of imminent harm, whether or not they intended to carry out the threat.

Calls to homes are not “threats to persons” -- crimes -- unless made in a credible way. Predictably, both men deny that their calls amount to threats. Since their release February 8, they have said only that all the charges are outrageous and that they will be exonerated. (They refused to speak to this reporter.) But the victims tell a different story. And while printed transcripts of the taped messages may give scant reason for seeing them as “obscene and threatening,” the taped voices can have a hair-raising effect on a listener. “It’s primordial,” one member of ACT UP/SF remarked with admiration.

It may be naïve to assert that poor communication alone between East Coast and San Francisco activists is what threatens to open a rift between the two. But the sentiment that Bay Area HIVers want to “throw the book” at the two is simply wrong. Petrelis still draws on a reservoir of respect for his long advocacy for gay rights; his role as self-appointed watchdog and Coburn collaborator, however distracting, frightens no one. The worst you can say about him may be that he just isn’t taken seriously. Few want to see him imprisoned. Pasquarelli is a different bird. He is widely regarded as a dangerous person who does only harm. A long prison sentence would strike some as justice done.

The fact that Pasquarelli and Petrelis broke the law in order to stifle others’ speech may work to deprive them of First Amendment protections. If, however, a First Amendment defense succeeds, the court will have chosen their freedom of speech over their targets’ feelings of safety. This would be a striking victory for the two agitators. Whether it would be a “victory” for activism remains a debate. But given how Pasquarelli and Petrelis have become not only a conundrum and a cause but a dividing wedge in the AIDS community, the worst damage may already be done.

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