

Lawyer and Justice Dept. both gripe about tax-case sentence

Who is the real J. Randall Groves?

His lawyer and friends say he's among Charlotte's most talented tax lawyers, a savvy investor and pillar of Calvary Church, who has given millions to Campus Crusade for Christ and other charities and traveled last winter with Franklin Graham to deliver Christmas gifts to Bosnian children.

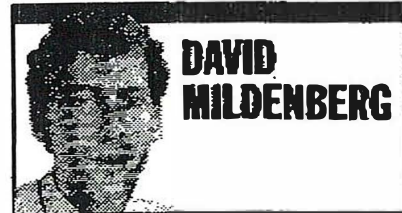
But the government says he's also the guy who intentionally tried to cheat the IRS out of more than \$70,000 in taxes in 1988 and 1989.

The dispute centered over a tax problem that's likely bedeviling many a taxpayer still struggling to finish their returns: figuring out the cost basis of stock sold during the previous year.

Groves invested \$3,000 in 1984 in what became One Price Clothing Stores, a South Carolina-based retailer. He later bought another investor's shares for \$1.2 million and then became a multimillionaire when the company went public in 1987.

A grand jury indicted Groves in 1992 on two felony counts for not reporting all the money he received from the '88 and '89 sale of his One Price shares. He could have received six years in prison and \$200,000 in fines.

Groves plead not guilty. There was no intent to defraud the government, he contended, noting that stock splits and reorganizations had made the cost-basis calculation



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tion extremely complex.

"This case represents the most unprincipled and errant prosecutorial decision that I have ever witnessed in my professional career," James Wyatt Groves' Charlotte lawyer, told *The Observer* in 1992.

Last week, Groves pleaded guilty to two misdemeanor charges of willful failure to provide information on his '88 and '89 tax returns. He was sentenced to two months imprisonment, which he will serve at home on work release, one year of probation, a \$1,000 fine and \$1,000 in court costs.

The relative mildness of the punishment was surprising. On the same day the *Observer* reported Groves' sentence, another item appeared about a local restaurateur who pleaded guilty to understating her sales, thus shortchanging the state on \$8,000 in sales taxes. Her punishment: A fine of more than

\$5,000, five years of supervised probation, and 300 hours of community service.

But U.S. District Judge Graham Mullen, who issued the sentence, had previously termed the government's case against Groves "appalling."

Groves didn't return a phone call Friday, but he sent a press release.

"My heart wants to continue this dispute, but based on the counsel of six respected attorneys who advise me, my three pastors and my family, I decided to place my wife's health above any and all other considerations and accept this misdemeanor offense," Groves said in his release.

Mullen gave Groves the minimum allowable under the sentencing guidelines, Wyatt and Justice Department lawyer Bruce Morton agreed. Both also griped about the sentence, for different reasons.

"The only way the government could save face, short of dismissing the case, was a misdemeanor charge," Wyatt said. "People make mistakes on their taxes all the time. His only criminal offense was he made a mistake at the same time he was very aggressive in repre-

sending clients before the IRS."

The IRS vindictively picked on Groves, Wyatt said, because he was a high-profile, wealthy target who had baffled the agency on many clients' behalf. "He's a tax attorney with a reputation for being very tough with the IRS," he said.

Morton responded that the IRS and Department of Justice treated the case like any other. Given the guilty plea, the government believes Mullen should have sentenced the lawyer to a prison term of 12 to 18 months, he said.

"I'm not going to speculate what (Groves) thought, but the fact is he admitted that he willfully understated his gains by (\$180,485 in 1988 and \$96,066 in 1989)," he said. Understating those gains cut Groves' tax bill by \$51,805, according to Mullen's findings.

Aside from Groves, the other intriguing figure in the case was Charlotte IRS agent Kathy Sexton, whose work prompted the government's charges.

"It is clear that Agent Sexton

was being vindictive when she made the Fraud Referral ...," Mullen wrote. The judge also found that Sexton had "falsely testified" and made a "critical omission" in her findings.

Mullen said Sexton had failed to mention One Price's corporate reorganizations, which were "highly relevant to the stock basis issue."

Still, Mullen denied Groves' motion to dismiss the government's case.

Sexton could not be reached for comment. But Morton said he considers her a truthful witness. "We disagree respectfully with the judge regarding (Sexton's) credibility," he said.

Whether Groves will face any disciplinary action from the N.C. State Bar is uncertain, Wyatt said.

In his statement, Groves concluded, "I am confident that I will be ultimately judged by my friends and peers on the basis of 25 years of unblemished service to my community, my profession and the government in the administration of its tax laws."

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