Collin vs. Skokie

A classic case of protection of 'repulsive' beliefs

By Jim Szczepaniak

Any person is entitled to publicly present his beliefs – even when that person identifies himself as a Nazi and even when his beliefs are represented by the swastika. The U.S. Supreme Court upheld that ruling almost 10 years ago in the cast of Collin vs. Skokie.

The neo-Nazis' effort to demonstrate in Skokie, argued for more than a year in state and federal courts, has been characterized by some as a classic First Amendment case. Others continue to believe that Frank Collin's planned demonstration on the steps of Skokie Village Hall is a special case; that mitigating circumstances clouded the issue.

The uproar began in early 1977, when Collin sent a letter to the Skokie Park District asking for a permit to hold a rally in one of the parks.

Park trustees responded by stating that Collin would be required to post an insurance bond of $350,000.

A SIMILAR TACTIC imposed by the Chicago Park District was temporarily keeping Collin out of Marquette Park, close to Collin's headquarters. The American Civil Liberties Union (ACLU), representing Collin, had taken the matter of the Chicago insurance requirement to court, labeling it as an unconstitutional restriction on Collin's First Amendment right of assembly and speech since the insurance was virtually impossible to obtain.

When Collin heard about the Skokie Park District's requirements, he adopted a new tactic: he sent a letter to the Village of Skokie, announcing his intention to demonstrate May 1 in objection to the park district's tactics.

The demonstration was to be an orderly one, according to Collin. He and a number of followers would stand on the steps of the village hall, dressed in their neo-Nazi uniforms. No speeches would be given.

Collin's choice of location was perfect for his purposes: Skokie, with a population of approximately 60,000, was recognized for having one of the largest communities of Holocaust survivors in the nation. Up to 10 percent of the population included survivors or immediate relatives, according to one estimate.

"The liberties of any person are the liberties of all of us. The liberties of none are safe unless the liberties of all are protected."
-Justice William 0. Douglas

IN THE DAYS following Collin's announcement, Skokie officials decided that the best strategy would be to "keep the lowest profile possible and minimize the publicity," according to Harvey Schwartz. Schwartz, now a Cook County Circuit Court associate judge, was Skokie's corporation counsel at the time.

"We were operating on the general premise that Collin had an almost absolute right to hold the demonstration," Schwartz said.

Officials began to alter that approach once news of Collin's demonstration became public.

Skokie Mayor Albert Smith, Schwartz and other officials held a public meeting with some clergymen, representatives of the Anti-Defamation League and residents. "Our goal was to allay people's concerns and to present our position that Collin's group had a First Amendment right to rally," Schwartz said.

THAT POSITION WAS met with "an absolute swarm of protest" from survivors and other residents; people were "highly agitated and emotional," Schwartz said. "You could tell that this was now a major issue."

Media reports about "Nazi marches through the village" began to appear on the front pages of publications around the country. Anti-Semitic literature distributed in the community was automatically attributed to Collin. And Skokie trustees, responding to the unanimous pressure from their constituents, decided to seek an injunction against the demonstration in Cook County Circuit Court.

On April 28, Judge Joseph Wosik heard arguments from the village and Collin. Among the five witnesses for the village was Sol Goldstein, a prominent leader in the survivor community. Goldstein testified that he could not promise that he could contain himself from committing violence against the Nazi demonstrators.

His testimony encapsulated the village's main argument for injunction: while there was no contention that Collin or his followers would engage in any illegal activity, village officials argued, angry residents certainly would. The demonstrators' safety could not be ensured.

DAVID GOLDBERGER, THE ACLU attorney representing Collin, argued that the court could not prevent Collin's constitutionally protected demonstration; the village had not attempted to prove, much less proved beyond doubt, that Collin would break the law.

Wosik issued an injunction barring Collin and his party members from parading in uniform in the village on May 1.

Collin's reaction was almost immediate: he would come to Skokie on April 30, the day prior to his originally announced rally.

That Saturday morning, Skokie officials got an emergency hearing from Circuit Court Judge Harold Sullivan, a Skokie resident. Using the same argument submitted to Wosik, the officials said the demonstration had to be stopped. Sullivan agreed and expanded Wosik's ruling, ordering that Collin and his party be banned from appearing in Skokie in uniform "until further notice of the court ."

EVEN WHILE SULLIVAN was making his decision, hundreds of community members and people who had come from other parts of the country were gathering on the village green.

Schwartz said the gathering substantially altered the way he viewed the case.

"As the crowd grew, they were singing songs, talking with each other. As the time got nearer for the planned demonstration, there was an almost unnatural intensity in the mood of the crowd.

"You could literally see the crowd's collective reaction as the news came that the Nazis were on their way, then the rumor that the judge had expanded the injunction but that Collin wasn't going to obey it," Schwartz said.

COLLIN DID OBEY Sullivan's order; he turned back when Skokie police intercepted his party at the Edens Expy. and informed him about the ruling.

But back at the village green, Schwartz said, "Holocaust survivors were getting hysterical, literally hysterical. They were obviously reliving something that led up to the Holcaust. You could not logically reason with them at the time, explaining that this was some group of punks playing a game. For them, (Collin's appearance) was nothing less than the Nazis coming back this time to get them for good.."

The following week Skokie trustees passed three ordinances aimed at preventing any future Collin appearances in the village. The first required that the village issue a permit for any parades or demonstrations on public streets or sidewalks. Applicants had to provide 30 days' written notice and post $350,000 in insurance liability. Officials could waive any of the requirements if they chose to.

The second ordinance made it illegal to publicly display any "symbols offensive to the community" and banned parades by political party members in "military style" uniforms. The third banned the distribution of any literature

containing "group libel," or literature which sought to libel a collective group of people based on religious or ethnic beliefs.

THE THREE ORDINANCES were all clearly aimed at preventing Collin from coming to the village, in the judgment of the ACLU. They had something else in common, according to Goldberger: they all constituted prior restraint.

The ordinances were the only legal avenue open to the village, Schwartz said. "We were battling on all the issues that we could raise," he said. "Now the ACLU had to take us to court."

The ACLU did exactly that, maintaining that all three ordinances were unconstitutional. The Illinois Appellate Court in July, 1977, agreed in part. The appellate court ruling stated that while the Nazis had the right to assemble in Skokie, the swastika could not be displayed.

Upon appeal, the Illinois Supreme Court decided the case in January, 1978, stating that the demonstration could not be prohibited. Nor could the display of the swastika. "We do not doubt that the sight of this symbol is abhorrent to the Jewish citizens of Skokie," stated the ruling , "and that the survivors of the Nazi persecutions, tormented by their recollections, may have strong feelings regarding its display. Yet it is entirely clear that this factor does not justify enjoining defendants' speech."

IN A FEBRUARY, 1978, ruling, Judge Bernard Decker of the U.S. District Court for the Northern District of Illinois declared all three village ordinances unconstitutional. Following a similar ruling on the Chicago Park District's insurance requirement, Decker stated that the first Skokie law imposed "a virtually insuperable obstacle " to the free exercise of First Amendment rights."

The group libel ordinance, he ruled, was overly broad, and the ordinance banning militatry-style uniforms infringed upon a person's constitutional right to wear one as a means of political speech.

The U.S. Court of Appeals in May affirmed Decker's ruling and ordered Skokie to issue a demonstration permit to Collin. While Skokie officials sought a stay of that ruling, they also agreed to issue a permit to Collin for June 25.

On June 12, by a 7-2 decision, the U.S. Supreme Court refused to grant a stay to the Seventh Circuit Court ruling. Skokie no longer had any chance to prevent the rally.

IN THE END, Collin did not come to the village. Having won his right to do so and receiving continued threats of violence by counter-demonstrators Collin stated that he had really been wanting all along to march in Marquette Park. Because of continuing problems with the Chicago parks administration, Collin ultimately appeared on the plaza of the federal building in Chicago. Counter-demonstrators greeted Collin and his handful of supporters with eggs and epithets. The neo-Nazis left, under police guard, about 15 minutes after they had arrived.

Having lost the legal battles, Skokie officials still claimed the moral victory.

"Looking back on it, that view is more right than wrong in the strictly political sense," Schwartz said. "The village could claim a victory in that the Nazis never marched here. The community united around a cause that we thought was good and right.

"For many of the Holocaust survivors, I believe that many who had been living with this horror bottled up for more than 30 years experienced a catharsis. In a sense, the survivors, in their battle against the Nazis, were paying a debt to their relatives and friends who perished under the Third Reich."

GOLDBERGER SEES THE case differently. While he said it was "impossible not to view the profound anguish of the survivors and feel for them " it is also impossible to remove the issue from the First Amendment context.

"What was always at issue here was the identity of the speaker and the anticipation of what he might say or would want to say," Goldberger said. "The whole set of reactions by the Village of Skokie was anticipatory. And, through all of the early court decisions and the entire course of public debate, everyone seemed to fall into the trap of accepting the argument that the content of this man's beliefs was the issue. The debate consistently ignored his right to express those beliefs, however unpopular, or even repulsive, they might be."

Schwartz argues that the specific circumstances of the Skokie case makes the case tougher to call.

"I know of no parallel case in American history where the words and symbols of a particular political philosophy came so close to the near equivalent of physical assault," Schwartz says. "In this particular village, with these particular survivors, it seemed clear that these words, these symbols were every bit as harmful as being beaten with sticks and clubs."

BY CONTRAST, GOLDBERGER said he believes that "You can make hypothetical arguments about restrictions on the First Amendment. But those limits were never approached in Skokie."

For example, Goldberger said, there was no question that Collin had the right to appear at the village hall. "But imagine if Collin had stated that he would stand on a public sidewalk immediately outside a synogogue on the high holy days, where he would actively excoriate the 'captive audience' of worshipers. That's only hypothetical, but I think you have a much tougher call there."

In any event, Goldberger said, "I think that city and other officials around the country have learned a lot from the (Skokie) case. A lot of officials, put in the same position today, would realize that if you get a march like this over in a hurry, it's history. And I think they realize that the courts would rule against efforts to try to prevent such marches.

"There is still the unforgiving attitude toward (the ACLU's) stand from some segments of the Jewish community," Goldberger says. "I guess that's to be expected.

"But I think we're all better off for having made the fight."