Nazi unit wins go-ahead; Skokie march bans voided

By Dennis D. Fisher

A federal judge ruled three Skokie ordinances unconstitutional Thursday, clearing the way for neo-Nazis to hold a public demonstration in the suburb wearing military-type uniforms with swastikas.

U.S. District Court Judge Bernard M. Decker said in a 55-page opinion that "it is better to allow those who preach racial hate to expend their venom in rhetoric rather than to be panicked into embarking on a dangerous course of permitting the government to decide what its citizens may say and hear."

A National Socialists Party of America spokesman said a new march in Skokie has been tentatively scheduled for April 20. which would have been Adolf Hitler's 89th birthday.

Decker made a lucid, scholarly review and analysis of all the decisions of the U.S. Supreme Court before voiding the Skokie laws.

He said the ordinances could not stand because of the First Amendment guarantee of freedom of speech and public assembly and the Fourteenth Amendment guarantee of equal protection of the laws for all persons.

The ordinances were hastily enacted by the village board May 2 after Frank Collin and his neo-Nazi followers were prevented by a Circuit Court order from holding a demonstration in Skokie the previous day.

Of the village's 70,000 residents, about 40,500 are Jewish and some are survivors of World War II Nazi concentration camps.

One ordinance required that demonstrators have a village permit and obtain public-liability and property-damage insurance.

Another ordinance barred the distribution of racial and religious hate material. A third ordinance prevented persons wearing military-style uniforms and symbols like the swastika from demonstrating in Skokie.

The ordinances provided criminal penalties for violation.

Skokie Mayor Albert J. Smith said at a press conference in the village hall Thursday:

"Another step in the legal process has been taken. However, it is far from the final step as far as the Village of Skokie is concerned. We strongly disagree with today's decision, We are morally, ethically and legally bound to take every recourse at our disposal to have Judge Decker's decision reversed. We will appeal."

Asked if he anticipated violence if the neo-Nazis did march in Skokie, the mayor said:

"Violence begets violence begets violence begets violence."

But he added: "Our police force would he obligated to uphold the law."

When Collin tried to obtain a permit for a planned July 4 march in the suburb, village officials refused to issue it.

Collin, with the assistance of the American Civil Liberties Union, filed suit in federal court seeking to void the ordinances and to prevent their enforcement by court order.

Decker granted what the ACLU sought.

David Goldberger, an ACLU attorney, said he was relieved by Decker's opinion. "The First Amendment has not been damaged as the result of a highly emotional case," he said.

The ordinances were found to be void because Decker said they were ambiguous, vague and overbroad and provided no avenue of appeal for the denial of a permit.

Decker also held that the ordinances impinged directly and indirectly on the fundamental right of free speech and open debate on all issues.

The Village of Skokie had argued that the type of speech Collin and his followers would use in a demonstration was like "shouting fire in a crowded theater." This is not protected by the First Amendment, Skokie officials noted.

On the insurance requirement for the permit, Decker noted that it would cost $1,000 for the premium, which he said was "beyond the reach of plaintiffs."

He concluded on the insurance question that the ordinances imposed a "drastic restriction" on the right of free speech "in the guise of a regulation."

The judge said the Skokie ordinance barring racial slurs in public demonstrations "punishes language which intentionally incites hatred." He said the standard involved is too subjective under recent Supreme Court decisions.

"A society which values 'uninhibited, robust and wide-open' debate cannot permit criminal sanctions to turn upon so fine a distinction," said Decker.

He also said the Skokie ordinance punishes the mere dissemination of material that incites hatred, including such passive activity as leafleting or wearing symbolic clothing.

"The requirement that speech poses an imminent danger of violence before it may be suppressed is relaxed to a great extent when the speech serves no useful social purpose, but (the ordinance) seeks to dispense with the requirement entirely, and this it may not do," the judge said.

"In resolving this case in favor of the plaintiffs, the court is acutely aware of the very grave dangers posed by public dissemination of doctrines of racial and religious hatred," Decker observed, adding: "In this case, a small group of zealots, openly professing to be followers of Nazism, have succeeded in exacerbating the emotions of a large segment Of the citizens of the Village of Skokie who are bitterly opposed to their views and revolted by the prospect of their public appearance.

"When feelings and tensions are at their highest peak, it is a temptation to reach for the exception to the rule announced by Mr. Justice Holmes: 'If there is any principle of the Constitution that more imperatively calls for attachment than any other it is. the principle of free thought — not free thought for those who agree with us but freedom for the thought that we hate.'

"The ability of American society to tolerate the advocacy even of the hateful doctrines espoused by the plaintiffs without abandoning its commitment to freedom of speech and assembly is perhaps the best protection we have against the establishment of any Nazi-type regime in this country," Decker wrote.

The original Circuit Court order banning the May 1 march was appealed to the Illinois Appellate Court, which ruled in July that the march could take place but that swastikas could not be worn.

The swastika ban was then appealed to the Illinois Supreme Court, which ruled the ban unconstitutional Jan. 27.

On the same day, the Illinois Supreme Court dismissed an injunction to prevent the march obtained in Circuit Court on behalf of Sol Goldstein as a class representative of survivors of the holocaust residing in Skokie.

The U.S. Supreme Court had entered the dispute on a purely procedural question June 14, when it instructed the state to move rapidly in ruling on the validity of the injunction or to lift the iniunction pending such a ruling.

The following statement was issued Thursday by Raymond Epstein, chairman of the public affairs committee of the Chicago Jewish Fund:

"It would be a monstrous travesty for the courts of this land to rule that an obscene spectacle should be held under the guise of our First Amendment freedoms, which we, the Jewish community of Chicago, hold equally dear.

"The Jewish community of Chicago hopes that the Village of Skokie will continue its efforts to overturn the decision of the U.S. District Court that would enable the Nazis to deliberately provoke the citizens of Skokie and the many others who would be grievously offended by the march.

"However, should all legal means fail, the Jewish community would co-operate fully with the Village of Skokie and peoples of other faiths in framing a nonviolent response more in keeping with what our founding fathers had in mind when they drafted the Bill of Rights."