

Opinion in Chambers

NATIONAL SOCIALIST PARTY OF AMERICA ET AL. v.
VILLAGE OF SKOKIE

ON APPLICATION FOR STAY

No. A-162. Decided August 26, 1977

Application for stay of Illinois trial court's injunction preventing applicants from displaying swastika "in the course of a demonstration, march, or parade," pending the Illinois Supreme Court's review of the Appellate Court's decision modifying the original injunction and upholding the above portion, is denied, where it does not appear that the controversy will become moot pending appeal or that the Illinois courts failed to comply with this Court's order for "immediate appellate review," and where a stay would be tantamount to a decision on the merits in applicants' favor.

MR. JUSTICE STEVENS, Circuit Justice.

Following the entry of this Court's order of June 14, 1977, 432 U. S. 43, the Illinois Appellate Court reviewed and substantially modified the injunction entered against applicants by the Circuit Court of Cook County, upholding only that portion of the injunction that prevented applicants from displaying the swastika "in the course of a demonstration, march or parade." Thereafter, the Illinois Supreme Court scheduled an expedited review of the Appellate Court's decision, but it denied an application for a stay of the injunction pending that review. On August 18, 1977, a similar application was submitted to me as Circuit Justice. I requested a response from the village of Skokie and have now decided to deny the application.

Applicants have not demonstrated that a stay is necessary to protect this Court's appellate jurisdiction. There appears to be no danger that the controversy will become moot while the appeal is pending in the Illinois Supreme Court. Nor have applicants demonstrated that the Illinois courts have failed to comply with the "immediate appellate review" requirement of

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this Court's order of June 14, 1977. After the entry of that order, both the Illinois Appellate Court and the Illinois Supreme Court expedited their consideration of the case, and I am confident that the Illinois Supreme Court will make its decision without any unnecessary delay. Even "immediate" appellate review of an important and difficult issue necessitates appropriate deliberation. Considering these facts, the fact that the injunction has been substantially modified, and the fact that the entry of the stay would be tantamount to a decision on the merits in favor of the applicants, it seems clear that a stay should not be granted.

The application submitted to me as Circuit Justice is denied.