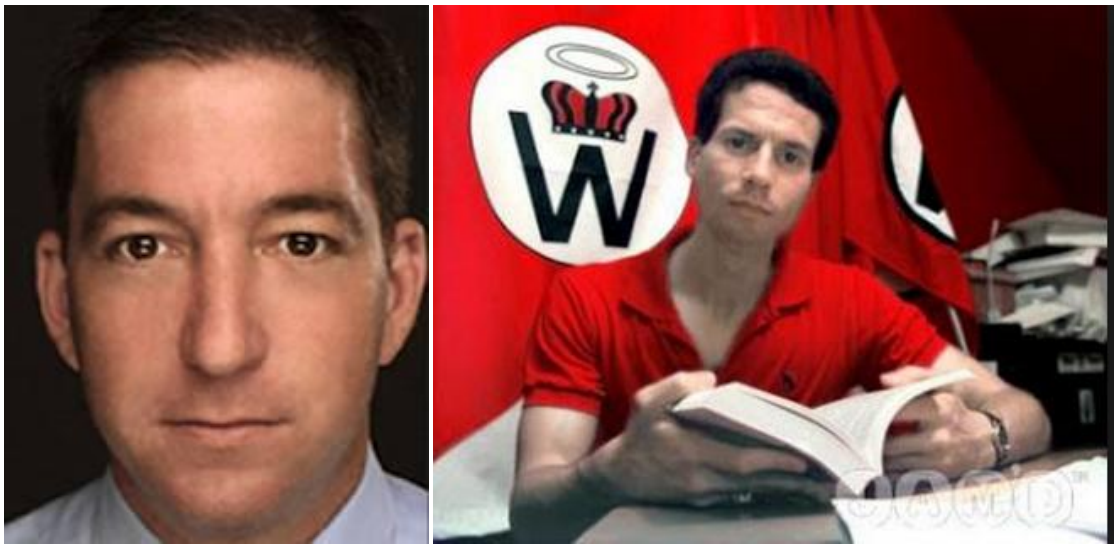
GLENN GREENWALD'S LAW LICENSE WAS SUSPENDED FOR RECEIVING CODED MESSAGES FROM PRISON FROM HIS CLIENT AND PARAMOUR NAZI MATT HALE WHICH GLENN PASSED ON TO MEMBERS OF HALE'S CREW OF MISCREANTS UNTIL HE WAS QUESTIONED BY THE FBI

JEWISH DEFENSE ORGANIZATION DOSSIER ON GLENN GREENWALD



The writer who broke the NSA SNOWDEN PRISM story, Glenn Greenwald, is a traitor to the United States. Additionally, evidence suggests he was sexually attracted to the Nazi Matt Hale, which makes him one perverted Jew. His involvement with Hale went well beyond the normal attorney / client relationship. Glenn became an honorary member of Hale's Church of the Creator and one of his crew. He represented the Church in every legal matter for five years for free, flying to Peoria to hook up with his client. He did illegal undercover work for Hale. Why risk imprisonment and loss of your law license if you do not believe in Nazi doctrine? The answer is Greenwald was in a relationship with Hale.

We know Glenda is gay but what about Hale? For one thing Hale could never consummate a heterosexual relationship. Hale was married to a 16 year old for three months. Her name, according to the Nazis, was

“Terra Heron.” Then he married Peggy Anderson in 1997 but he was divorced shortly thereafter. Hale was never attracted to women and was unable to perform in bed. He moved back in with his father. He spent 30 years with his father Russell Hale who croaked in 2012. Sources within the Church of the Creator have reported Matt was suspected of being gay.

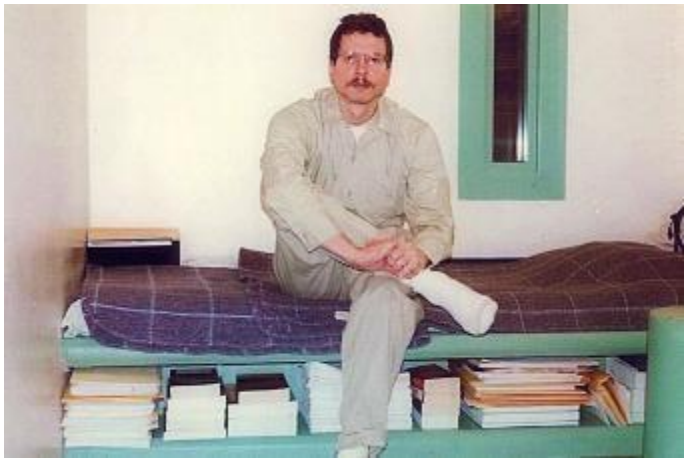
Gays made up a "significant" — if carefully hidden — part of George Lincoln Rockwell's American Nazi Party in the 1960s. In 1974, the first openly gay American neo-Nazi group, the National Socialist League, was formed in Los Angeles. Neo-Nazi Harold Covington claimed Ben Klausen, founder of the Church of the Creator was a homosexual pederast and murderer, among other things, and that the Church Of The Creator was a "sodomy cult" for over 15 years. Ben Klausen was accused of drugging and raping a teenage skinhead. Covington was a key player in the National Socialist White People's Party, helped pioneer cyberspace as a medium for neo-Nazi propaganda, and led the North Carolina unit of the National Socialist Party of America at the time it took part in the 1979 killings of five left-wing anti-Klan protesters in Greensboro, N.C. (He later bragged about his people "greasing communists" in Greensboro.) Two members of his group were among the 16 Klansmen and neo-Nazis arrested and charged with murder in connection with what came to be known as the "Greensboro Massacre," although none of them was ever convicted. The Jewish Defense Organization’s counter-intelligence Chief, Mark Levy, warned the FBI that the Klan was planning a shootout in Greensboro. Nazi Tom Metzger warned his skinhead followers that Klausen was a gay rapist.

Pretending it was out of his concern for civil liberties Greenwald, a piece of dreck, became an in house counsel and a *pro bono publico* attorney for Hale and his Church of the Creator for five years. Hale is now doing 40 years in prison for plotting to kill a federal judge. Glenn was caught collaborating with his homosexual lover Hale in smuggling coded messages out of jail despite the fact Hale was under Special Administrative Measures. Glenn Greenwald passed on the coded messages Hale's mother smuggled out of the joint. He did not report the existence of these messages to the FBI until many months later after the Feds visited him. Knowledge of new illegal activity on the part of a client is not covered by attorney client confidentiality. Glenn had to stop practicing law; his law partners no longer wanted to work with him and his law license was suspended.

GREENWALD REVEALED THE EXISTENCE OF MESSAGE ***AFTER*** THE FBI QUESTIONED HIM ABOUT THEM

Glenn told *The New York Times* that Hale's mother Evelyn Hutcheson **(309) 699-0785**) called him and asked him to pass on an encoded message to one of Mr. Hale's supporters. "She said she didn't know what the message meant, but she was going to read it to me verbatim because Matt made her write it down when she visited him. It was two or three sentences that were very cryptic and impossible to understand in terms of what they were intended to convey." Greenwald said he did not believe that his client had anything to do with the killings of a Judge and her husband who had presided over one of Hale's trials. When the FBI asked her about messages, Hutcheson said it was "the dumbest thing I've ever heard of." Hutcheson claimed that her message to Greenwald was about someone her son thought should testify at his April 6 sentencing, and that any coding was only to keep the federal monitors of their conversations from figuring out his legal strategy. "It was a message for Greenwald about a letter that Matt had written him. I said, 'Matt, this doesn't make sense to me.' He said, 'Greenwald will understand, ask him to read the letter.'"

Of course Glenn would know what it means, Glenn had become part of Hale's crew. After this the maggots parents were barred from visiting their miscreant son. Greenwald also made illegal tape recordings of witnesses in another matter involving Hale.



Matthew F. Hale #15177-424
U.S. Penitentiary Max
P.O. Box 8500
Florence, CO 81226-8500

GLENN GREENWALD RESUME

After studying German (why would he study German of all languages?), Glenn began to practice law: Glenn Greenwald, (Member) born New York, N.Y., March 6, 1967; admitted to bar, 1995, New York, U.S. District Court, Southern District of New York; 1996, U.S. District Court, Eastern District of New York; 1998, U.S. Court of Appeals, Second Circuit; 2002, U.S. Court of Appeals, Seventh Circuit. Education: George Washington University (B.A., 1990); New York University School of Law (J.D., 1994). Member, New York University Law Review, 1992-1993. Recipient, American Jurisprudence Awards, Civil Procedure, Contracts and Property. Associate, Wachtell, Lipton, Rosen & Katz, 1994 -1995. Practice Areas: General Litigation; Commercial Litigation; Intellectual Property; Civil Rights. Greenwald, Christoph & Holland, P.C. 1370 Avenue of the Americas 32nd Floor New York, NY 10019 Telephone: (212) 489-6359 Fax: (212) 246-2698. His partners asked him to resign (Christoph was a Yeshiva University Graduate) after his collaboration with Hale became public. Stopped practicing law and became blogger then worked for Salon.

GLENN GREENWALD PSYCHOLOGICAL PROFILE

Glenn Greenwald along with Tony Kushner, the PLO sympathizer and Holocaust exploiter and Norman Finkelstein, Holocaust denier, are all gay Jews. These men grew up in an atmosphere where gays were not held in high regard: “If a man also *lieth* with a man, as he *lieth* with a woman, both of them have committed an abomination: they shall surely be put to death.” So this turned off a lot of gay Jews to Orthodox Judaism which spilled over to hating Jews and Israel in general. So what happened here is that they internalized the hatred they were exposed to earlier in life and side with people who want to kill them for being Jewish and gay. And Greenwald was a militant gay from the word go:

> In a terse per curiam decision issued on July 1, 1997 the N.Y. Appellate Division, 1st Department, rejected a claim of evidentiary spousal privilege on behalf of a gay couple. Greenwald v. H & P 29th Street Associates, 1997 WL 365935. Glenn Greenwald and his same- sex partner brought an action against the owner and the managing agent of an apartment building for refusing to aggregate their income for purposes of determining whether they met the building's minimum income requirements, presumably for purchasing an apartment. The plaintiffs moved for a protective order limiting disclosure in discovery to matters not privileged under N.Y. Civ. Prac. L. & Rules 4502(b), which protects confidential communications between a "husband" and "wife" "during marriage." N.Y. Supreme Court Justice David Saxe denied the motion, and the plaintiffs appealed. The appellate division held that the trial court correctly concluded that the spousal privilege statute does not extend "in the plaintiff's words, `to homosexuals in a spousal relationship.'

How did Greenwald’s client and lover get arrested? Greenwald’s little Nazi sweetie pie pro bono client Matt Hale was arrested at federal court in Chicago. Prosecutors said he had sent an e-mail to his chief of security, instructing him to get the home addresses of three attorneys who had sued Hale's group and of U.S. District Judge Joan Humphrey Lefkow, who was

presiding in the case. Prosecutors said Hale later asked about the Lefkow address and was told: "I'm working on it. When we get it, we can exterminate the rat." "Good," Hale was quoted as saying on the tape, which was not played in court. "Whatever you want to do, basically." Prosecutors also quoted Hale as saying: "You know my position has always been that I'm going to fight within the law, but that information has been provided. If you wish to do anything yourself you can."

> Chicago - A federal judge from Indiana will come to Chicago to hear the solicitation-for-murder case against white supremacist Matt Hale. The 7th U.S. Circuit Court of Appeals on Monday selected James Moody of Indiana's Northern District after Chicago-based federal judge Elaine Bucklo recused herself. Federal prosecutors say Hale, 31, of East Peoria encouraged an unnamed individual to murder Bucklo's colleague, Judge Joan Humphrey Lefkow, who was presiding over a trademark-infringement case he had lost. Judge Moody's usual courtroom in Hammond, Ind., is located across the state border within Chicago's broad metropolitan region. He'll travel to the Dirksen Federal Building in The Loop.
>
> Hale's bond hearing there was postponed Monday because of the switch in judges, but he appeared briefly in Bucklo's courtroom with his court-appointed attorneys. Hale wore an orange jumpsuit and dark blue canvas loafers - standard clothing for prisoners held at the nearby Metropolitan Correctional Center. Hale has been segregated from the general population at the federal lockup and is being denied the organic foods his non-meat diet requires, said New York attorney Glenn Greenwald, who may aid in Hale's defense. "He's very strict on that. He'd rather go hungry" than eat processed food, Greenwald said.

After Alan Dershowitz refused to represent Hale on the JDO's advice Greenwald took over for Hale in his attempt to get admitted to the Illinois bar.

> White supremacist Matt Hale continued his attempt to get a federal court to determine whether he was unfairly denied an Illinois law license because of his racist beliefs. Three judges of

> the 7th Circuit Court of Appeals considered the East Peoria man's case during brief oral arguments that included a reference to Benjamin Smith, the Hale disciple who went on a deadly shooting rampage that targeted non-whites in July 1999. Hale's appeal stems from a U.S. District Court judge's dismissal of his lawsuit against the Illinois Supreme Court and its Committee on Character and Fitness, which rejected Hale's application for a license. The judge in March ruled that the Supreme Court's refusal to hear Hale's case was the final word on the matter. Hale attorney Glenn Greenwald of New York City disagreed that the state high court, in taking a pass on the case, made a decision about it. And still unresolved, he said, is Hale's broader contention that his free-speech protections under the U.S. Constitution were violated. "He has a claim that his First Amendment rights were violated," Greenwald said. "No court has ever heard it."

Greenwald attempted to win millions for Hale and he said he is confident that the lawsuit will end favorably. "I think it's very dangerous when anybody loses their right to express their views no matter what those views are," Greenwald said. In a press release, Hale said he will use the lawsuit as a way of gaining compensation and finally getting his much-awaited-for law license. If only there was a gay marriage law in Illinois at this time the two could have wed.

GREENWALD v. CENTER FOR CONSTITUTIONAL RIGHTS

Glenn fought for the Constitutional Right of the Church of Creativity's associate group, the National Alliance, to incite the beating of Hispanic workers . This is what transpired: In September 2000, two local racist skinheads posed as homebuilding contractors to lure two Mexican day laborers to a warehouse where the white supremacists stabbed and nearly beat the immigrants to death. One of the assailants was tattooed with swastikas. The other had a tattoo on his stomach of a skinhead menacing a kneeling Jew. Perez and Escamilla were Mexican/Chicano day laborers residing in Farmingville, New York. Slavin and Wagner Escamilla was bludgeoned by Slavin until he lost consciousness; Perez too was clubbed by Slavin and was stabbed several times by Wagner. Escamilla eventually regained consciousness, and both plaintiffs managed to escape. They were aided by a passing motorist who summoned the police.

“In September 2001, Perez and Escamilla commenced the present action under 42 U.S.C. §§ 1981, 1985, 1986, and 1988, and state law, with the filing of a complaint signed by Brewington, alleging the above acts of violence by Slavin and Wagner. The complaint also named as defendants seven advocacy organizations (collectively the "organization defendants"), describing them as associations that advocated hatred against various groups on the basis of, *inter alia,* race, nationality, or religion and alleging that Sachem, a Farmingville-based association, "advocate[d] hatred and intolerance against immigrants, and in particular, day laborers" The complaint alleged that defendants had conspired to deprive plaintiffs and similarly situated immigrant laborers of, *inter alia,* their Fifth, Thirteenth, and Fourteenth Amendment rights to travel, to enjoy equal protection of the laws, to "be free from badges and incidents of slavery," and to "be free from assault and battery motivated by racial prejudice". It alleged that Slavin and Wagner had "acted with the support of" the organization defendants and that the assaults by Slavin and Wagner constituted overt acts in furtherance of the conspiracy.”

This was his comments when a judge dismissed a lawsuit against The National Alliance after their rhetoric had inspired some morons to beat up two Mexican workers: "The lawsuit was a very dangerous attempt to start imposing liability and punishment on groups because of their political and religious views," Glenn Greenwald, a Manhattan attorney representing the National Alliance and other groups, was quoted by *Newsweek* as saying. "If you can be liable for the actions of other people who hear your views, then you would be afraid to ever express any views that were ever unconventional."

The National Alliance (NA) was for decades the most dangerous and best organized neo-Nazi formation in America. Explicitly genocidal in its ideology, NA materials call for the eradication of the Jews and other races — what a principal foundational document describes as "a temporary unpleasantness" — and the creation of an all-white homeland. Founded by William Pierce in 1970, the group produced assassins, bombers and bank robbers, among other things. Pierce's novel, *The Turner Diaries*, was the inspiration for Timothy McVeigh's 1995 bombing of the federal building in Oklahoma City and many other acts of terror. After Pierce died unexpectedly in 2002, the group suffered several splits and ultimately lost most of its members.

Greenwald has also represented Hale several times in legal action that resulted from an incident involving a member of Hale's congregation. White supremacist and Hale-follower Benjamin Smith targeted minorities in Indiana and Illinois when he went on a shooting spree that killed two, including SIUC alumnus Yun Won-joon, and wounded nine. Smith then killed himself, ending a standoff with police. The public was outraged after investigators tied Smith to Hale's white supremacist church. The Illinois Attorney General's office tried to make Hale submit his church's financial records, but Greenwald had the request dismissed in court. Families of Smith's victims attempted to make Hale liable for the crime through civil lawsuits, but Greenwald was able to get those attempts rejected by a judge.

Civil Rights Group Sues White Supremacist
Plans to use historic Anti-Klan Act to bankrupt Matt Hale
American Lawyer Media/April 6, 2000

By Molly McDonough

Elevating the profile of last July's racially-motivated shooting spree to still a higher level, the New York-based Center for Constitutional Rights has filed suit against the white supremacist group it claims is responsible for the two-state tear that left two dead and nine wounded.

In a federal lawsuit filed here Tuesday, lawyers for a Decatur pastor wounded during the spree allege World Church of the Creator leader Matthew F. Hale not only encouraged, but conspired with shooter Benjamin Nathaniel Smith to "commit wholesale acts of genocidal violence in furtherance of their self-proclaimed 'racial holy war' against any and all African-Americans, Jews, Asians and other ethnic groups."

Filed on the anniversary of the assassination of civil rights leader Dr. Martin Luther King Jr., the suit seeks unspecified actual and punitive damages from Hale, Smith's estate and the World Church of the Creator for the Rev. Stephen Anderson, a pastor of Greater Faith Temple Church who suffered three gunshot wounds July 3, 1999, while standing in the driveway of his home in Decatur. Lawyers are suing under the Illinois Hate Crimes Act and the historic Anti-Klan Act, enacted in the 1870s to financially damage white supremacist organizations engaging in acts of terror, intimidation and violence.

The Center for Constitutional Rights has been involved in one other similar case. Back in 1982, in *Crumsey v. Justice Knights of the Ku Klux Klan,* the Center won a $535,000 judgment against the Klan members for five Chattanooga women injured during a 1980 shooting spree. This suit seeks to cause similar damage to Hale's organization, which seeks the deportation of all "mud races" from American soil. "It is our hope, indeed it is our intention, to put Hale and his ilk out of business," said Pamela Armour, lead counsel in the Center's suit.

The Rev. Anderson was one of nine shot July 4th weekend by Smith, who killed two others before shooting himself to death as police closed in on him. Left dead were former Northwestern University basketball coach Ricky Byrdsong and Indiana University doctoral student Won Joon Yoon. All of the victims were black, Jewish or of Asian descent. This is the second such suit filed against Hale, an Illinois bar applicant who has been denied a law license on moral fitness grounds.

Indeed the Center's suit appears to link Hale's rejection into the bar to Smith's "rampage." In late June, the state bar's Committee on Character and Fitness again denied Hale's petition to join the bar. Smith, who had testified as a character witness for Hale that April, began shooting two days later. "Immediately after the Illinois State Bar's decision and as part of the World Church of the Creator's war, Smith ... began a rampage of genocidal violence," the lawsuit states.

And while Hale himself has linked the shootings to his bar application in the past, he said Tuesday that it's ridiculous to think he had any control over Smith. "Certainly I had a lot of contact with Ben Smith, I never denied that for one minute," Hale said. "If every lawyer who knows someone who commits a crime is a conspirator, the legal profession would cease to exist."

Hale's lawyer, **New York attorney Glenn Greenwald**, took a similar tact in responding to the suit. "It's all just guilt by association," said Greenwald, who isn't sure yet whether he will be representing Hale on this latest federal action.

He did, however, seem interested in taking the case on. He compared it to the first suit, which alleged Hale ordered Smith to target minorities. "All they can say Matt Hale did is express the view that Jews

and blacks are inferior," he said. "There's just no question that expressing those views is a core First Amendment activity." Further, Greenwald said, "**I find that the people behind these lawsuits are truly so odious and repugnant, that creates its own motivation for me."**

The first suit, filed in state court by Chicago attorney Michael Ian Bender on behalf of two Orthodox Jewish teens shot at in Rogers Park, is pending, though a circuit judge in Chicago threw out allegations that Smith's parents were somehow responsible for the shootings.

In addition to the Center for Constitutional Rights, Chicago's Latham & Watkins and the People's Law Office represent the Rev. Anderson.

"We signed onto this because we felt strongly about this case and this cause of action [for the Rev. Anderson] as a victim of a hate crime," said Mary Rose Alexander, the Latham & Watkins partner handling the case. "We feel justice should be served." The case is Rev. Stephen Tracy Anderson v. Matthew F. Hale, The World Church of the Creator, etc., and the Estate of Benjamin Nathaniel Smith, No. 00C2021.

RON PAUL

"*Ron Paul is* ***the only major candidate from either party*** *advocating crucial views on vital issues that need to be heard, and so his candidacy generates important benefits.* Whatever else one wants to say, it is indisputably true that Ron Paul is the only political figure with any sort of a national platform — certainly the only major presidential candidate in either party — who advocates policy views on issues that **liberals and progressives have long flamboyantly claimed are both compelling and crucial**" – Glenn Greenwald.

ARTICLES AND DOCUMENTS

DEMOCRATIC UNDERGROUND.COM

Glenn Greenwald made a choice to defend Matthew Hale in a series of civil lawsuits that Hale faced after he encouraged shooter Benjamin Smith to go on a two-state shooting rampage. If you don't know who Hale is, well, he's a pretty famous white supremacist who is currently serving 40 years for soliciting the murder of a federal judge who ruled against him in a trademark case. Who put him away? Patrick Fitzgerald. (Yes. And Mr. Greenwald got an FBI visit regarding the passing of coded messages by Hale while under SAMS restrictions.) Mr. Hale, for his role in the shootings, was sued by a number of survivors. This included a case filed by two teenage Orthodox Jewish boys. And another case filed by a Black minister. These people were selected by Benjamin Smith because they looked like the religious/ethnic minorities they are. And Glenn Greenwald called them 'odious and repugnant' for suing his client!

Indeed the Center's suit appears to link Hale's rejection into the bar to Smith's "rampage." In late June, the state bar's Committee on Character and Fitness again denied Hale's petition to join the bar. Smith, who had testified as a character witness for Hale that April, began shooting two days later. "Immediately after the Illinois State Bar's decision and as part of the World Church of the Creator's war, Smith ... began a rampage of genocidal violence," the lawsuit states. And while Hale himself has linked the shootings to his bar application in the past, he said Tuesday that it's ridiculous to think he had any control over Smith. Further, Greenwald said, "I find that the people behind these lawsuits are truly so odious and repugnant, that creates its own motivation for me." The first suit, filed in state court by Chicago attorney Michael Ian Bender on behalf of two Orthodox Jewish teens shot at in Rogers Park, is pending, though a circuit judge in Chicago threw out allegations that Smith's parents were somehow responsible for the shootings.

It wasn't enough that Glenn took the case, which was his right to do. No--he had to insult the Plaintiffs--shooting victims. And then, he

unethically taped the witnesses he subpoenaed, even directing their statements. A court found that he violated TWO separate rules--

> "The magistrate judge granted both motions, finding defense counsel's conduct unethical under two separate rules: Local Rule 83.58.4(a)(4), prohibiting "dishonesty, fraud, deceit or misrepresentation;" and Local Rule 83.54.4, stating "a lawyer shall not ... use methods of obtaining evidence that violate the legal rights of person." *Anderson v. Hale* 159 F.Supp.2d 1116 (2001)

He also attempted to manipulate the witness statements, per the magistrate's findings of fact-

> A 52-page transcript of one conversation showed defendants' counsel steered the conversation by eliciting particular responses to detailed questions, leading to more detailed questions, to lure the witness into damning statements for later use." Anderson v. Hale, 202 F.R.D. 548 (N.D.Ill. 2001)

That's right--Glenn Greenwald, self-proclaimed civil rights lawyer, violated the civil right of witnesses. The New York Bar later wrote a clarifying opinion on the ethics of said taping, referencing this case.

The New York Times
March 9, 2005
Supremacist Sent Code From Jail, Lawyer Says

By JODI WILGOREN

CHICAGO, March 8 - A lawyer for Matthew Hale, the white supremacist convicted last year of plotting to kill a federal judge whose husband and mother were slain last week, said on Tuesday that Mr. Hale's mother called him **a few months ago** and asked him to pass on an encoded message to one of Mr. Hale's supporters. "She said she didn't know what the message meant, but she was going to read it to me verbatim because Matt made her write it down when she visited him," the lawyer, **Glenn Greenwald**, said in an interview. "It was two or three sentences that were very cryptic and impossible to understand in terms of

what they were intended to convey." Mr. Greenwald, who has represented Mr. Hale and his organization in several civil cases and said he did not believe that his client had anything to do with the recent killings, said he told federal agents last week about the conversation with Mr. Hale's mother, Evelyn Hutcheson. Ms. Hutcheson previously said that agents investigating the killings peppered her with questions about encoded messages, which she denounced as "the dumbest thing I've ever heard of."

Mr. Hale's parents said on Tuesday that prison officials were cutting off their contact with their son, who has been held under special administrative measures that restrict them to weekly 15-minute telephone calls on Thursday mornings, and separate hour long visits every other Tuesday.

Mr. Hale's father, Russell Hale, said he was preparing for the two-and-a-half-hour trek from his home in East Peoria, Ill., to the Metropolitan Correctional Center here when he got a call from his son's prison counselor at 8:30 Monday evening saying not to bother.

"It's tearing at my ex-wife and me because we need him now and he needs us," the elder Mr. Hale said of his son. He said he was too stunned to ask the prison counselor for an explanation, adding, "You can't battle the government, because they always win, no matter what." Prison officials would not discuss the curtailed contact, and a spokesman for the F.B.I. declined to talk about Ms. Hutcheson's call to Mr. Greenwald.

After their most recent telephone conversation Thursday, Ms. Hutcheson distributed a statement to the news media that she said had been dictated by her son, who denied any involvement in the killing of the judge's relatives. Mr. Greenwald said that communication might have been seen as a violation of the special restrictions and might have led to the cancellation of contact with the parents, who were the only people allowed to speak with Mr. Hale by telephone or in person. "She's not allowed to disseminate any messages," he said. Mr. Greenwald, who said he believed that Mr. Hale was wrongly imprisoned, said he did not recall the exact message Ms. Hutcheson relayed to him, or the person it was intended for, but that he had declined to deliver it. He called the message "a caricature of what a coded message would be."

Ms. Hutcheson, in an interview Monday, said that her message to Mr. Greenwald was about someone her son thought should testify at his April 6 sentencing, and that any coding was only to keep the federal monitors of their conversations from figuring out his legal strategy. "It was a message for Greenwald about a letter that Matt had written him," Ms. Hutcheson recalled. "I said, 'Matt, this doesn't make sense to me.' He said, 'Greenwald will understand, ask him to read the letter.'" Gretchen Ruethling contributed reporting for this article.

MONTHS BEFORE KILLINGS, HALE TRIED TO PASS CODED MESSAGE

CHICAGO (AP) — An attorney for jailed white supremacist Matthew Hale, who has been a focus of the investigation into the killings of a federal judge's husband and mother, said Wednesday that Hale's mother asked him late last year to relay a coded message from Hale to one of his supporters.

Hale is awaiting sentencing for earlier soliciting the murder of the same jurist, U.S. District Judge Joan Humphrey Lefkow. Lawyer Glenn Greenwald told *The Associated Press* that Hale's mother, Evelyn Hutcheson, asked him ***a few months ago*** to pass the message. "She said, 'I don't know what this message means, but Matt made me write it down verbatim so I could read it to you. He said it is an emergency that you communicate this as quickly as possible,'" Greenwald said. Greenwald said he doesn't recall what the message was but said there was no way anyone could understand it unless they were told beforehand what it meant. "The message was almost a cartoonish version of what a coded message would be," he said. Greenwald said he declined to deliver the message. He didn't recall the name of the person who was supposed to receive it and had never dealt with the person when he represented Hale. **He said he talked to the FBI last week.**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

_____

X
MATTHEW F. HALE:
:
Plaintiff, Case No. _____
:
v.
:
COMMITTEE ON CHARACTER AND FITNESS FOR THE STATE OF ILLINOIS; BOARD OF ADMISSIONS TO THE BAR; COMMITTEE ON CHARACTER AND FITNESS, STATE OF ILLINOIS, THIRD JUDICIAL DISTRICT; GORDON L. LUSTFELDT; THOMAS DUNN; CLARK ERICKSON; CHARLES MARSHALL L. LEE PERRINGTON and THE SUPREME COURT OF ILLINOIS:

_____X

COMPLAINT

Now comes Plaintiff Matthew F. Hale, by and through his attorneys, and alleges as and for his complaint against defendants, alternatively and/or conjunctively, as follows:

STATEMENT OF THE CASE

1. The denial of Matthew Hale's application to practice law in the State of Illinois embodies the most egregious -- and most dangerous -- constitutional abuses which have, again and again, been resoundingly declared by courts in this Nation to be patently unlawful. In sum, Hale, a well-known and vigorous advocate of racist and anti-Semitic ideas, was barred from the legal profession and denied his livelihood because the individuals sitting on the Committee of Character and Fitness for the State of Illinois happened to disagree -- strongly -- with Hale's political and

religious views. To describe the denial of Hale's application to practice law, then, is to illustrate the profound dangers it poses to the most basic and valued liberties guaranteed to all citizens by the United States Constitution.

2. Matthew Hale graduated from law school and passed the Bar Examination of the State of Illinois. Despite these achievements, Hale, on June 30, 1999, was denied a license to practice law by the Committee on Character and Fitness for the State of Illinois, by the Board of Admissions to the Bar, and by its individual members – not because of any misconduct in which he engaged, but rather, because the political and religious views espoused by Hale, and his practice of privately discriminating on the basis of race and religion, led the defendants to conclude that Hale lacked the requisite "character and fitness" to practice law. The Committee's denial of Hale's application based on these grounds wilfully and recklessly violated the rights of freedom of statement, freedom of association, due process of law, and equal protection under the law which are guaranteed to all citizens of this Nation, including Hale, by the First and Fourteenth Amendments to the United States Constitution. Defendants' conduct therefore violated Hale's rights, privileges and immunities secured by the Civil Rights Act of 1871, 42 U.S.C. * 1983.

3. Independent of the denial of Hale's specific application, both the substance and procedure of the Rules governing the admissions process are plainly unconstitutional on their face. Specifically, those Rules:

* bar an applicant from receiving a law license who, in his/her private life, racially discriminates -- a clear violation of the First Amendment's freedom of association;

* bar an applicant who advocates racial discrimination from practicing law -- a clear violation of the First Amendment guarantee of free statement;

* permit an applicant to be denied a license to practice law without providing the applicant an opportunity to have constitutional challenges to that denial be actually heard or adjudicated by a court that has jurisdiction to do so -- a clear violation of the Fourteenth Amendment's guarantee of due process of law.

4. But for the patent constitutional abuses of the Committee on Character and Fitness and its individual members, Matthew Hale would be practicing law in Illinois today. Independently, but for the facially unconstitutional

procedural and substantive rules governing the admissions process, Hale would be practicing law in Illinois today. The members of the Committee on Character and Fitness, acting under color of law, knowingly and/or recklessly violated Matthew Hale's constitutional rights to free statement, free association, due process of law, and equal protection. Hale is thus entitled to compensatory damages, punitive damages, and the declaratory and injunctive relief sought herein.

THE PARTIES

5. Plaintiff Matthew F. Hale is a resident of the State of Illinois who, at all relevant times herein, resided in East Peoria, Illinois. In 1998, Hale graduated Southern Illinois University at Carbondale School of Law with a Juris Doctor degree, and thereafter sat for and passed the State of Illinois' Bar examination conducted in the summer of 1998. Despite his law school degree and successful Bar examination, Hale was denied a license to practice law in Illinois by the Board of Admissions, the Committee of Character and Fitness, and its individual members, on June 30, 1999, when they purportedly concluded that Hale did not possess the requisite character and fitness to practice law in the State of Illinois.

6. Defendant Committee on Character and Fitness of the State of Illinois is a committee appointed pursuant to Rule 708 of the Illinois Supreme Court Rules, and operates pursuant to Rule 4 of the Illinois Rules of Procedure for the Board of Admissions and Committee on Character and Fitness. Pursuant to these Rules, the Committee determines whether an applicant possesses the requisite character and fitness for admission to the practice of law. Upon the Committee's certification that the applicant possesses the requisite character and fitness, the Board of Admissions to the Bar, pursuant to Supreme Court Rule 708, will admit the applicant to practice law in Illinois. Absent the Committee's certification, the Board of Admissions to the Bar, pursuant to Rule 708, will deny the applicant the right to practice law in Illinois.

7. Defendant Board of Admissions to the Bar is a panel which, pursuant to Supreme Court Rule 702, oversees the administration of all aspects of the bar admissions process, including the assessment of each candidate's character and fitness to practice law in Illinois. The Board of Admissions administratively implements the Committee's decision regarding whether an

applicant possesses the requisite character and fitness to practice law in Illinois.

8. Defendant Committee on Character and Fitness for the State of Illinois, Third Judicial District, is a committee appointed pursuant to Rule 708 of the Illinois Supreme Court Rules, and operates pursuant to Rule 4 of the Illinois Rules of Procedure for the Board of Admissions and the Character and Fitness Committee. Pursuant to these Rules, the Committee determines whether applicants within the Third Judicial District possess the requisite character and fitness for admission to the practice of law. Upon the Committee's certification that the applicant possesses the requisite character and fitness, the Board of Admissions to the Bar, pursuant to Supreme Court Rule 708, will admit the applicant to practice law in Illinois. Absent the Committee's certification, the Board of Admissions to the Bar, pursuant to Rule 708, will deny the applicant the right to practice to practice law in Illinois.

9. Defendant Gordon L. Lustfeldt is an individual who, at all relevant times herein, was a member of the Committee on Character and Fitness and was a commissioner on the Hearing Panel that presided over, and denied, plaintiff's application to practice law in Illinois.

10. Defendant Thomas Dunn is an individual who, at all relevant times herein, was a member of the Committee on Character and Fitness and was a commissioner on the Hearing Panel that presided over, and denied, plaintiff's application to practice law in Illinois. Dunn was and is a resident of this District.

11. Defendant Clark Erickson is an individual who, at all relevant times herein, was a member of the Committee on Character and Fitness and was a commissioner on the Hearing Panel that presided over, and denied, plaintiff's application to practice law in Illinois.

12. Defendant Charles Marshall is an individual who, at all relevant times herein, was a member of the Committee on Character and Fitness and was a commissioner on the Hearing Panel that presided over, and denied, plaintiff's application to practice law in Illinois.

13. Defendant L. Lee Perrington is an individual who, at all relevant times herein, was a member of the Committee on Character and Fitness and was

a commissioner on the Hearing Panel that presided over, and denied, plaintiff's application to practice law in Illinois.

14. Defendant Supreme Court of Illinois, acting in its administrative capacity, promulgates rules governing all aspects of admission to practice law in the State of Illinois. As such, it created the rules, procedures and guidelines used by the Committee on Character and Fitness and Board of Admissions to the Bar to determine the character and fitness of all applicants, including Hale, to practice law in the State of Illinois.

JURISDICTION AND VENUE

15. Jurisdiction is conferred upon this Court by 28 U.S.C. ** 1331 and 1343(a) (3) and (a) (4), as this action seeks redress pursuant to a law of the United States, and for violations of plaintiff's constitutional and civil rights.

16. Plaintiff's claims for declaratory and injunctive relief are authorized by 28 U.S.C. ** 2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure.

17. Plaintiff further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. * 1367(a), over any and all state constitutional and state law claims that are so related to the claims within the original jurisdiction of this Court that they form part of the same case or controversy.

18. One or more defendants resides in this District, and a substantial part of the events or omissions giving rise to these claims occurred in this District. Venue is therefore proper in the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. * 1391(b).

FACTUAL ALLEGATIONS

19. Plaintiff Hale is a graduate of Southern Illinois University at Carbondale School of Law. Hale graduated in 1998 with a J.D. degree. Hale then took and passed the Illinois State Bar Examination and, having completed all requirements for admission to practice law in Illinois, applied for admission in the summer of 1998. There were no incidents of misconduct in Hale's past to justify denial of Hale's application to practice law.

20. The Committee on Character and Fitness and the Board of Admissions denied Hale's application on the ground that the political and religious views he holds are so disagreeable that those views, by themselves, render him unfit to practice law. As the Committee, in denying his application, reasoned: "Mr. Hale's long standing and strongly held beliefs are in absolute contradiction to the letter and spirit" of the Rules of Professional Conduct. In light of these views, the Committee predicted that, as a result of the political and religious beliefs he espouses, he "will quickly run afoul" -- in the future -- of the rules governing attorney conduct.

21. The denial of Hale's application to practice law based on the grounds that his political and religious beliefs render him unfit violates numerous core constitutional rights. The constitutional rights which defendants' conduct so plainly violates are among the most clearly established and long standing constitutional liberties -- liberties which lie at the heart of this Nation's democracy. The violation of Hale's rights by defendants was wilful and reckless, and therefore violative of 42 U.S.C. * 1983.

Background of Hale's application to practice law

22. Hale is, and since 1996 has been, the "Pontifex Maximus," or Supreme Leader, of The World Church of the Creator ("WCOTC"), an avowedly racist and anti-Semitic church which espouses White Separatist views. As part of his leadership of the WCOTC, Hale has become a well-known advocate of racism and anti-Semitism, and has written numerous articles, given countless speeches, and regularly appeared on television shows and in the written media advocating and disseminating his and the WCOTC's racist and anti-Semitic ideas.

23. Hale does not conceal or dilute his views. As part of the application process to become authorized to practice law in Illinois, he candidly acknowledged that he fervently believes in the ideas he advocates and does not intend to abandon them. He further acknowledged that he -- like many citizens -- stands firmly opposed to many laws and rules, including certain constitutional amendments, which the majority of the population favors.

24. Regardless of these opinions, Hale, from the beginning of the admissions process, repeatedly affirmed his ability and intent to comply

with all rules and laws governing the conduct of an attorney, regardless of whether he agreed or disagreed with such rules and laws. Moreover, while candidly disclosing his intent, via advocacy and persuasion, to bring about the repeal of laws with which he disagrees, he unequivocally committed to abide by all laws and rules as written and/or as courts interpreted and applied them.

25. Hale's commitment to adhere to all applicable laws and rules in the future was bolstered by his past. Unlike many applicants who are admitted to practice law in the State of Illinois despite a history of criminal behavior, Hale has no criminal record. Indeed, as the Inquiry Panel of the Committee on Character and Fitness found, Hale demonstrated "an absence of criminal conduct . . . by clear and convincing evidence."

The Inquiry Panel's Recommendation

26. Pursuant to Rule 5.1(a) of the Rules of Procedure of the Board of Admissions and the Committee on Character and Fitness for the State of Illinois (the "Rules of Procedure"), Hale's application was, in the first instance, referred to a single member of the Third District Committee for consideration. After reviewing the application, that member advised the Illinois Board of Admissions that he was not prepared to recommend that Hale be admitted to practice law in Illinois.

27. Accordingly, pursuant to Rule 5.2(a) of the Rules of Procedure, the Chairperson of the Third District Committee assigned Hale's application to a three-person "Inquiry Panel" for further review, examination, and ultimately, the issuance of a recommendation to the Committee as to whether or not Hale was fit to practice law.

28. On December 16, 1998, in a 2-1 written Decision, the Inquiry Panel recommended that the Committee withhold Hale's admission to practice law in Illinois. The Inquiry Panel candidly admitted that "the reasons for [its] decision relate to the applicant's active advocacy of his core beliefs."

29. Indeed, the Inquiry Panel, in refusing to recommend Hale for admission to practice law, expressly acknowledged that: "The easiest resolution of Mr. Hale's application is to certify him. This would be in accord with the view that the First Amendment is virtually absolute." Despite its apparent recognition that unwavering application of the First Amendment would compel Hale's admission to practice law, the Inquiry Panel -- after lengthy

philosophical discussions regarding why the majority of the Inquiry Panel believe Hale's political and religious views to be misguided and "irrational" -- concluded that, by virtue of these views, Hale was not fit to practice law.

30. Appallingly and unconstitutionally -- but also revealingly -- the Inquiry Panel outright admitted that its recommendation to deny Hale's application was based on its belief that it was entitled to place its "preference for anti-discriminatory values over the First Amendment." Indeed, the Inquiry Panel went so far as to admit that while Hale was "free" to "incite as much racial hatred as he desires . . . he cannot do this as an officer of the court." The Inquiry Panel further explained its recommendation not to certify Hale by expressing its opposition to Hale's purported desire to submit "fundamental rights" to majority vote, and by condemning Hale's admiration for Adolph Hitler.

31. The Inquiry Panel concluded its recommendation by excerpting a passage from the historian William L. Shirer relating to the treatment of Jews in Nazi Germany, and then reasoned that -- while "merely holding private theoretical beliefs favoring either [destruction of the Bill of Rights or overthrow of the government] is not a legal basis for disqualifying a bar applicant" -- Hale does not merely believe, but also actively advocates such views. As a result of his advocacy of these views, the Inquiry Panel recommended that Hale should not be admitted to practice law in Illinois.

32. That the Inquiry Panel's recommendation is replete with expressions of the political beliefs of the majority of its members, and that it is comprised almost exclusively of a refutation of Hale's political views, reveals the profoundly unconstitutional and tyrannical impulses underlying its recommendation. Indeed, the Inquiry Panel unabashedly acknowledged that it was recommending Hale's denial to practice law not because of any conduct in which he had engaged, but rather, because Hale's views were so disagreeable to the two individuals who, on that day, happened to comprise a majority of the Inquiry Panel.

The Hearing Panel's June 30, 1999 rejection of Hale's application

33. Pursuant to Rule 5.3(a) of the Rules of Procedure, the Inquiry Panel's recommendation that Hale not be certified resulted in the automatic creation by the Committee of a 5-member "Hearing Panel" to determine with finality whether Hale should be certified for admission to practice law.

Certification by the Hearing Panel would presumptively result in Hale's admission. Refusal to certify Hale would result in the denial of Hale's admission.

34. The 5-member Hearing Panel, consisting of the 5 individual defendants, convened a hearing on April 10, 1999 in Joliet, Illinois. At that hearing, multiple witnesses testified that Hale possessed the requisite character and fitness to practice law and that he had always displayed a respect even for those laws with which he disagreed.

35. The evidentiary hearing held by the Hearing Panel had very little to do with Hale's conduct or with his fitness to practice law. To the contrary, the hearing principally focused on Hale's political and religious beliefs. Indeed, the questions asked by the Committee's counsel and the Hearing Panel of both Hale and most of his witnesses almost exclusively related to the nuances and intricacies of Hale's political and religious views.

36. In sum, the April 10, 1999 hearing that was conducted by the Hearing Panel resembled a Spanish Inquisition-like interrogation of a person's political thoughts, religious convictions, and core beliefs. The vast bulk of the questions were those which would be expected from a tribunal charged with policing a person's thoughts and beliefs, not a person's conduct, character and fitness to practice law.

37. Again and again, the Hearing Panel commissioners and the Committee's counsel demanded to hear Hale's responses to the political arguments they presented against Hale's political and religious beliefs. Repeatedly, they questioned Hale and his witnesses as to the underlying premises of the views he espouses and his reasons for believing what he believes, and demanded to know whether he would admit that his views, and the manner in which he expresses them, are "insulting."

38. At the hearing, defendant Lustfeldt, the Chairman of the Hearing Panel, while denying that the inquiry was confined to Hale's beliefs and insisting that it instead was focused on his "character," simultaneously acknowledged that the focus of the Hearing Panel's assessment of Hale's "character" was the views and beliefs he espoused. As defendant Lustfeldt put it:

As far as I'm concerned, this is really not about your beliefs except as they might be indicative of your character and fitness to be a member of the bar

. . . . The question is whether you are credible when you say [that you can take the attorney oath], and I think the difficulty from that is that when someone says every day I believe this, I believe this, I believe this and they publicly advocate these positions repeatedly and encourage others to take them up and then for you to come in here today and say well, I know I say that Jews all have to be shipped out of the country and I know I say that blacks are like apes, but I'll tell you what, I can do this job, and that's the difficulty, you see, in trying to sort this out, and that's been the sources of these questions. . . .

It's not about your beliefs, it's about your character and fitness, and one of the windows into somebody's character is what they will say, along with what they do, and I think that's the purpose of this as far as I'm concerned.

Thus, even at the hearing, the Chairman of the Hearing Panel made perfectly clear that the reason that so much of the hearing was devoted to Hale's political and religious beliefs, rather than his conduct, was because -- in the view of the Hearing Panel -- Hale's political and religious beliefs were, by themselves, sufficient to question Hale's fitness to practice law, as such views provided a "window" into his character.

39. Consistent with defendant Lustfeldt's admissions at the hearing, the Hearing Panel decided, on June 30, 1999, to deny Hale's application for admission to practice law in Illinois. In a 6-page document, the Committee purported to cite 3 reasons for its conclusion:

(a) that Hale's belief in private-sector racial discrimination, and his stated intent to privately discriminate, were inconsistent with the "letter and spirt" of the Rules of Professional Conduct;

(b) that Hale's refusal, at the Committee's insistence, to "repudiate" a 1995 letter he had written to an advocate of affirmative action -- a letter the Committee believed was "insulting and totally inappropriate" -- shows a "monumental lack of sound judgement" which will put Hale "on a collision course with the Rules of Professional Conduct"; and,

(c) in a one-paragraph, indescribably conclusory assertion placed at the end of its decision, the Committee claimed that Hale "was not open with the panel during the hearing," but then cited two excerpts in the record to demonstrate this was so which pertained exclusively to Hale's political views: (i) where Hale did nothing more than refuse to assent to the

Committee's characterization that Hale's statement of his beliefs in the above-referenced Affirmative Action letter was "inappropriate" and "insulting"; and (ii) where Hale did nothing more than refuse to agree with the Committee's apparent belief that disseminating literature with swastikas on them outside of a prayer breakfast was inappropriately "insulting." In short, the Committee disingenuously, and as a pretext, equated Hale's refusal to swear to the Rightness of the Committee's views regarding what is and is not "appropriate" statement with a lack of "candor" on Hale's part.

40. In sum, the Hearing Panel's denial of Hale's application to practice law in the State of Illinois was unmistakably, and unabashedly, motivated notby any conduct on Hale's part, but rather, by: (a) the Committee's disapproval of Hale's political and religious views; (b) the Committee's objections to Hale's intent to discriminate on the basis of race and religion when forming his private associations; and (c) the Committee's "prediction" as to what Hale's future conduct likely would be.

41. In rejecting Hale's application to practice law, the Committee violated Hale's most basic and fundamental liberties guaranteed by the First and Fourteenth Amendments. Its denial of Hale's application based on his political and religious views violated the First Amendment's guarantee of free statement. Its punishment of Hale for his private associational choices violated the First Amendment's guarantee of free association. Its deprivation of Hale's right to practice law based not on conduct in which he has actually engaged, but rather, based on conduct in which the Committee "predicts" he will engage in the future, violates the Fourteenth Amendment's right to due process of law.

42. The grounds invoked by the Hearing Panel to deny Hale's application were ones which had not been previously raised by the Inquiry Panel. Hale had multiple challenges to the constitutionality of the Committee's denial which he wished to raise. In order to have these challenges heard and adjudicated, Hale, pursuant to Supreme Court Rule 708, petitioned the Supreme Court of Illinois for review of the Committee's denial. The Illinois Supreme Court, however, refused to hear or adjudicate these constitutional challenges.

43. As a result of the Illinois Supreme Court's refusal to hear or adjudicate Hale's constitutional challenges to the Committee's denial, the Committee's

denial has been unchallenged, and Hale's constitutional claims have never been heard or adjudicated.

The Rules governing the admissions process

44. Independent of the Committee's deprivation of Hale's Constitutional rights, both the Illinois Rules of Professional Conduct, as well as the Rules of Procedure for the Board of Admissions and Committee on Character and Fitness, are, on their face, unconstitutional in violation of the First and Fourteenth Amendments.

45. Initially, despite the profound and serious constitutional challenges to the acts and decisions of the Committee in rejecting his application which Hale wanted to raise, Hale had no opportunity to have those constitutional challenges heard or adjudicated. This was so because the Rules governing the admissions process guarantee that an applicant who is denied admission to practice law in Illinois only has the right to appear before the Committee on Character and Fitness, and not before a court of general jurisdiction which is bestowed with jurisdiction to adjudicate such claims.

46. Supreme Court Rule 708 provides that an applicant who is denied admission to practice law does not have any entitlement to have constitutional or other challenges to that denial heard in a court of general jurisdiction authorized to adjudicate such claims. Instead, that Rule provides that it is in the unfettered discretion of the Illinois Supreme Court whether to hear and adjudicate such challenges.

47. Thus, an applicant can be denied admission to practice law in violation of the applicant's constitutional rights, and be consigned to the Committee on Character and Fitness, a body with very narrowly circumscribed jurisdiction, which is not even authorized to adjudicate the applicant's constitutional claims.

48. Specifically, Rule 4 of the Rules of Procedure of the Board of Admissions to the Bar and the Committee on Character and Fitness expressly enumerates the narrow issues which the Committee is permitted to hear and adjudicate. All such issues are narrow evidentiary issues relating to whether the applicant possesses the requisite character and fitness to practice law in Illinois. Manifestly, the Committee is a body of very limited jurisdiction which does not include jurisdiction to adjudicate an applicant's constitutional claims.

49. Thus, the admissions process, and the specific rules cited, are unconstitutional on their face, as they provide for the denial of an applicant's right to practice law in Illinois without providing the applicant with an opportunity to have constitutional and other challenges to that denial heard and adjudicated.

50. Independently, the Rules are also facially unconstitutional because of their substantive provisions. Specifically, Rule 8.4(a)5 of the Rules of Professional Conduct prohibits a lawyer from discriminating on the basis of race, religion, and national origin not only in the lawyer's public and professional life, but also in the lawyer's private life. Such a prohibition unduly intrudes into a citizen's free associational choices. The First Amendment's guarantee of freedom of association prohibits the State from proscribing a citizen's private associational choices and from punishing a citizen for the exercise of associational choices. As such, Rule 8.4(a)5 of the Rules of Professional Conduct, on its face, is unconstitutional in violation of this First Amendment right.

51. Similarly, Rule 8.4(a)5 of the Rules of Professional Conduct prohibits a lawyer from advocating precepts of discrimination on the basis of race, religion, and national origin. Such a prohibition unduly intrudes into a citizen's right of free statement. The First Amendment's guarantee of freedom of statement prohibits the State from proscribing the views which a citizen is permitted to express and from punishing a citizen for the exercise of free statement. As such, Rule 8.4(a)5 of the Rules of Professional Conduct, on its face, is unconstitutional in violation of this First Amendment right.

52. Thus, not only did the Committee violate Hale's fundamental constitutional rights, and not only are the Rules governing admissions unconstitutional on their face, but also, the procedural rules governing the admissions process provided Hale with no opportunity to be heard with regard to these constitutional challenges to the denial of his right to a livelihood and to practice law.

53. As a result of these patent, reckless and wanton violations of his constitutional rights by defendants, Hale, for almost two years, has been denied the right to practice law in Illinois and has therefore been severely injured. Moreover, the facially unconstitutional rules and laws governing the admission process, unless enjoined, are certain to be applied to future

applicants, including Hale, in order to deny those applicants fundamental constitutional rights.

As Applied Constitutional Challenges:

COUNT I

Claim Pursuant to 42 U.S.C. * 1983 for Violation of Plaintiff's First Amendment Right of Freedom of statement

54. Plaintiff repeats and realleges paragraphs 1 through 53, as if fully set forth herein.

55. Defendants Committee on Character and Fitness for the State of Illinois, Board of Admissions to the Bar, Committee on Character and Fitness for the State of Illinois, Third Judicial District, Gordon L. Lustfeldt, Thomas Dunn, Clark Erickson, Charles Marshall, and L. Lee Perrington acted with recklessness and deliberate indifference to the First Amendment rights of plaintiff. As a direct and proximate result of these acts and omissions, plaintiff's First Amendment right to freedom of statement, as incorporated by the Fourteenth Amendment, was violated by denying him the right to practice law in the State of Illinois, based upon his statement and advocacy of constitutionally protected political and religious views. Specifically, defendants' rejection of Hale's application to practice law in Illinois was motivated by their disagreement with his views and their desire to punish him for expressing, advocating and ascribing to those views.

56. Moreover, defendants' purported conclusion that Hale lacked the requisite character and fitness to practice law was based upon their view that an applicant vigorously advocating racist and anti-Semitic views by definition lacks the requisite character and fitness to practice law.

57. The conduct of the aforementioned defendants in denying plaintiff admission to practice law in Illinois, and thereby depriving him of his right to earn a livelihood, was performed under color of law and was in patent violation of the constitutional rights of free statement guaranteed to plaintiff by the First and Fourteenth Amendments to the United States Constitution.

58. As a direct and proximate result of those constitutional abuses, these defendants deprived plaintiff of his First and Fourteenth Amendments rights and have thus violated 42 U.S.C. * 1983.

59. As a direct and proximate result of those constitutional abuses, plaintiff has suffered and will continue to suffer substantial damages, including loss of income, harm to his career, the denial of a livelihood, and the loss of his constitutional liberties.

60. Moreover, the constitutional rights defendants violated are well-established and long-standing. As a result, defendants' conduct contravened clearly established constitutional rights which reasonable persons would have known. Thus, the acts of these defendants were intentional, wanton, malicious, reckless and oppressive, thus entitling plaintiff to punitive damages.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendants on this Count I and award plaintiff an amount equal to all of the damages he has suffered as a result of these defendants' actions, attorneys' fees and costs, and, because these defendants acted maliciously, wilfully, wantonly and/or with reckless disregard for plaintiff's rights, award punitive damages and other relief as may be appropriate.

COUNT II

Claim Pursuant to 42 U.S.C. * 1983 For Violations of Plaintiff's First Amendment Right of Freedom of Association

61. Plaintiff repeats and realleges paragraphs 1 through 53, and 55 through 60, as if fully set forth herein.

62. Defendants Committee on Character and Fitness for the State of Illinois, Board of Admissions to the Bar, Committee on Character and Fitness for the State of Illinois, Third Judicial District, Gordon L. Lustfeldt, Thomas Dunn, Clark Erickson, Charles Marshall, and L. Lee Perrington acted with recklessness and deliberate indifference to the First Amendment rights of plaintiff. As a direct and proximate result of these acts and omissions, plaintiff's First Amendment right to freedom of association, as incorporated by the Fourteenth Amendment, was violated by denying him the right to practice law in the State of Illinois, based upon his belief in discriminating in his private associations on the basis of race and religion, and based on the exercise of his associational freedoms in accordance with those beliefs. Specifically, defendants' rejection of Hale's application to practice law in Illinois was motivated by their disagreement with his

associational choices and their desire to punish him for exercising his associational freedoms in a discriminatory manner.

63. Moreover, defendants' purported conclusion that Hale lacked the requisite character and fitness to practice law was based upon their view that an applicant who, in his/her private life, discriminates on the basis of race and religion by definition lacks the requisite character and fitness to practice law.

64. The conduct of the aforementioned defendants in denying plaintiff admission to practice in Illinois, and thereby depriving him of his right to earn a livelihood and practice law, was performed under color of law and was in patent violation of the constitutional rights of free association guaranteed to plaintiff by the First and Fourteenth Amendments to the United States Constitution.

65. As a direct and proximate result of those constitutional abuses, these defendants deprived plaintiff of his First and Fourteenth Amendments rights and have thus violated 42 U.S.C. * 1983.

66. As a direct and proximate result of those constitutional abuses, plaintiff has suffered and will continue to suffer substantial damages, including loss of income, harm to his career, the denial of a livelihood, and the loss of his constitutional liberties.

67. Moreover, the constitutional rights defendants violated are well-established and long-standing. As a result, defendants' conduct contravened clearly established constitutional rights which reasonable persons would have known. Thus, the acts of these defendants were intentional, wanton, malicious, reckless and oppressive, thus entitling plaintiff to punitive damages.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendants on this Count II and award plaintiff an amount equal to all of the damages he has suffered as a result of defendants' actions, attorneys' fees and costs, and, because these defendants acted maliciously, wilfully, wantonly and/or with reckless disregard for plaintiff's rights, award punitive damages and other relief as may be appropriate.

COUNT III

Claim Pursuant to 42 U.S.C. * 1983 For Violations of Plaintiff's Fourteenth Amendment Right to Due Process of Law

68. Plaintiff repeats and realleges paragraphs 1 through 53, 55 through 60, 62 through 67, as if fully set forth herein.

69. Defendants Committee on Character and Fitness for the State of Illinois, Board of Admissions to the Bar, Committee on Character and Fitness for the State of Illinois, Third Judicial District, Gordon L. Lustfeldt, Thomas Dunn, Clark Erickson, Charles Marshall, and L. Lee Perrington acted with recklessness and deliberate indifference to the Fourteenth Amendment rights of plaintiff. As a direct and proximate result of these acts and omissions, plaintiff's Fourteenth Amendment right to due process of law was violated by denying him his right to practice law in the State of Illinois not on the basis of any actual misconduct in which plaintiff actually engaged, but instead, based on the Committee's prediction that he will, in the future, engage in conduct violative of the Illinois Rules of Professional Conduct.

70. These defendants thus punished plaintiff and deprived him of rights not for any conduct in which he actually engaged, or for any acts he actually committed, but instead punished him for acts in which the defendants -- based on Hale's constitutionally protected beliefs -- predicted he would engage in the future.

71. The imposition of punishment and/or a deprivation of rights, based on acts in which the State predicts a citizen will engage violates the most basic constitutional guarantees of due process of law.

72. The conduct of these defendants in denying plaintiff admission to practice law in Illinois, and thereby depriving him of his right to earn a livelihood, was performed under color of law and was in patent violation of the constitutional right of due process guaranteed to plaintiff by the Fourteenth Amendment to the United States Constitution.

73. As a direct and proximate result of those constitutional abuses, these defendants deprived plaintiff of his Fourteenth Amendment right to due process of law and have thus violated 42 U.S.C. * 1983.

74. As a direct and proximate result of those constitutional abuses, plaintiff has suffered and will continue to suffer substantial damages, including loss of income, harm to his career, the denial of a livelihood, and the loss of his constitutional liberties.

75. Moreover, the constitutional rights defendants violated are well-established and long-standing. As a result, defendants' conduct contravened clearly established constitutional rights which reasonable persons would have known. Thus, the acts of these defendants were intentional, wanton, malicious, reckless and oppressive, thus entitling plaintiff to punitive damages.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendants on this Count III and award plaintiff an amount equal to all of the damages he has suffered as a result of defendants' actions, attorneys' fees and costs, and, because these defendants acted maliciously, wilfully, wantonly and/or with reckless disregard for plaintiff's rights, award punitive damages and other relief as may be appropriate.

COUNT IV

Claim Pursuant to 42 U.S.C. * 1983 For Violations of Plaintiff's Fourteenth Amendment Right to Equal Protection Under the Law

76. Plaintiff repeats and realleges paragraphs 1 through 53, 55 through 60, 62 through 67, and 69 through 75, as if fully set forth herein.

77. Defendants Committee on Character and Fitness for the State of Illinois, Board of Admissions to the Bar, Committee on Character and Fitness for the State of Illinois, Third Judicial District, Gordon L. Lustfeldt, Thomas Dunn, Clark Erickson, Charles Marshall, and L. Lee Perrington acted with recklessness and deliberate indifference to the Fourteenth Amendment rights of plaintiff. As a direct and proximate result of these acts and omissions, plaintiff's Fourteenth Amendment right to equal protection under the law was violated. To the extent that these defendants purported to rely on plaintiff's alleged misconduct as a basis for denying him his license to practice law in the State of Illinois, they treated plaintiff differently, unequally, and worse as compared to similarly situated applicants to practice law in Illinois. Plaintiff was treated unequally because of his statement and advocacy of constitutionally protected views, and

because of his exercise of his constitutionally protected freedom of association.

78. Multiple applicants with extensive histories of serious criminal misconduct or even violence have been admitted to practice law in the State of Illinois. Hale has no such history. To the extent defendants' denial of Hales's application was allegedly based on any alleged misconduct, such denial constitutes unequal treatment accorded to Hale as compared to similarly situated applicants, based on, and as a punishment for, the views he advocates and the associations he chooses.

79. The conduct of these defendants in denying plaintiff admission to practice law in Illinois, and thereby depriving him of his right to earn a livelihood, was performed under color of law and was in patent violation of the constitutional right of equal protection under the law, guaranteed to plaintiff by the Fourteenth Amendment to the United States Constitution.

80. As a direct and proximate result of those constitutional abuses, these defendants deprived plaintiff of his Fourteenth Amendments right to equal protection under the law and have thus violated 42 U.S.C. * 1983.

81. As a direct and proximate result of those constitutional abuses, plaintiff has suffered and will continue to suffer substantial damages, including loss of income, harm to his career, the denial of a livelihood, and the loss of his constitutional liberties.

82. Moreover, the constitutional rights defendants violated are well-established and long-standing. As a result, defendants' conduct contravened clearly established constitutional rights which reasonable persons would have known. Thus, the acts of these defendants were intentional, wanton, malicious, reckless and oppressive, thus entitling plaintiff to punitive damages.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendants on this Count IV and award plaintiff an amount equal to all of the damages he has suffered as a result of defendants' actions, attorneys' fees and costs, and, because these defendants acted maliciously, wilfully, wantonly and/or with reckless disregard for plaintiff's rights, award punitive damages and other relief as may be appropriate.

Facial Constitutional Challenges:

COUNT V

Claim for Judgment Declaring Rule 8.4(a)5 of the Illinois Rules of Professional Conduct Facially Unconstitutional in Violation of the First Amendment Right to Freedom of Association and for Injunctive Relief

83. Plaintiff repeats and realleges paragraphs 1 through 53, 55 through 60, 62 through 67, 69 through 75, and 77 through 82, as if fully set forth herein.

84. The Supreme Court of Illinois drafted, codified, implemented, enforced, encouraged and sanctioned Rule 8.4(a)5 of the Illinois Rules of Professional Conduct, a statute which is unconstitutional on its face, as it impermissibly infringes upon a bar applicant's and all attorneys' First Amendment right to freedom of association.

85. Rule 8.4(a)5 of the Illinois Rules of Professional Conduct prohibits attorneys from engaging in conduct that discriminates against any person on the basis of race, sex, religion or national origin, regardless of whether such discrimination is committed in the attorneys' professional or private life. Thus, this Rule allows that a bar applicant can be denied admission to practice law in Illinois if the applicant discriminates on the basis of such factors even in the applicant's private, non-professional life.

86. This Rule is therefore unconstitutional because it infringes bar applicants' and attorneys' First Amendment right to freedom of association.

87. As a direct and proximate result of this unconstitutional Rule, defendant Supreme Court of the Illinois is depriving attorneys admitted to practice in Illinois and prospective attorneys the right to freedom of association guaranteed by the First Amendment.

88. Future application of this facially unconstitutional Rule is certain. Moreover, because plaintiff is entitled to re-apply for admission to practice law in Illinois, this facially unconstitutional Rule is almost certain to be again applied adversely to him. Plaintiff is therefore entitled to declaratory judgment declaring Rule 8.4(a)5 of the Illinois Rules of Professional Conduct to be unconstitutional on its face in violation of the First Amendment and an injunction permanently enjoining future application of this Rule to the extent it prohibits or punishes the exercise of freedom of association.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendants on this Count V, declaring Rule 8.4(a)5 to be unconstitutional on its face in violation of the First and Fourteenth Amendments, and permanently enjoining future application of this Rule to prohibit or punish the exercise of freedom of association.

COUNT VI

Claim for Judgment Declaring Rule 8.4(a)5 of the Illinois Rules of Professional Conduct Unconstitutional as Violative of the First Amendment Right to Freedom of statement and for Injunctive Relief

89. Plaintiff repeats and realleges paragraphs 1 through 53, 55 through 60, 62 through 67, 69 through 75, 77 through 82, and 84 through 88, as if fully set forth herein.

90. The Supreme Court of Illinois drafted, codified, implemented, enforced, encouraged and sanctioned Rule 8.4(a)5 of the Illinois Rules of Professional Conduct, a statute which is unconstitutional on its face, as it impermissibly infringes upon a bar applicant's and attorneys' First Amendment right to freedom of statement.

91. Rule 8.4(a)5 of the Illinois Rules of Professional Conduct prohibits attorneys from advocating discrimination against any person on the basis of race, sex, religion or national origin, regardless of whether such discrimination is committed in the attorneys' professional or private life. Thus, this Rule allows that a bar applicant can be denied admission to practice law in Illinois if the applicant advocates discrimination on the basis of such factors even in the applicant's private, non-professional life.

92. This Rule is therefore unconstitutional because it infringes bar applicants' and attorneys' First Amendment right to freedom of statement.

93. As a direct and proximate result of this unconstitutional Rule, defendant Supreme Court of the Illinois is depriving attorneys admitted to practice in Illinois and prospective attorneys awaiting admission the rights to freedom of statement guaranteed by the First Amendment, and is thus violative of 42 U.S.C. * 1983.

94. Future application of this facially unconstitutional Rule is certain. Moreover, because plaintiff is entitled to re-apply for admission to practice

law in Illinois, this facially unconstitutional Rule is almost certain to be again applied adversely to him. Plaintiff is therefore entitled to declaratory judgment declaring Rule 8.4(a)5 of the Illinois Rules of Professional Conduct to be unconstitutional on its face in violation of the First Amendment and an injunction permanently enjoining future application of this Rule to the extent it prohibits or punishes the exercise of freedom of statement.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendants on this Count VI, declaring Rule 8.4(a)5 to be unconstitutional on its face in violation of the First and Fourteenth Amendments, and permanently enjoining future application of this Rule to prohibit or punish the exercise of freedom of statement.

COUNT VII

Claim for Judgment Declaring Illinois Supreme Court Rule 708 and Rule 4 of the Committee's Rules of Procedure Unconstitutional in Violation of the Fourteenth Amendment Right To Due Process of Law and for Injunctive Relief

95. Plaintiff repeats and realleges paragraphs 1 through 53, 55 through 60, 62 through 67, 69 through 75, 77 through 82, 84 through 88, and 90 through 94, as if fully set forth herein.

96. The Supreme Court of Illinois drafted, codified, implemented, enforced, encouraged and sanctioned the Illinois Supreme Court Rule 708 and Rule 4 of the Rules of Procedure for Character and Fitness Committees. These Rules, taken together, allow the Committee on Character and Fitness and Board of Admissions to deprive bar applicants of rights, privileges and property while denying those applicants an opportunity to be heard with respect to their claim that such deprivation constitutes a violation of their constitutional rights.

97. Illinois Supreme Court Rule 708 provides that an applicant who is denied admission by the Committee on Character and Fitness does not have a right to have constitutional claims, or any other claims, regarding that denial heard in any court of general jurisdiction, such as the Supreme Court. Instead, Rule 708(d) provides that such an application has the right only "to petition the Supreme Court for review," a petition which the Supreme Court may, in its unfettered discretion, grant or deny.

98. Thus, an applicant can be denied admission to practice law in violation of the applicant's constitutional rights, and be consigned to being heard not in a court of general jurisdiction, but instead, only in the Committee on Character and Fitness, a body with very narrowly circumscribed jurisdiction, which is not even authorized to adjudicate the applicant's constitutional claims.

99. Specifically, Rule 4 of the Rules of Procedure of the Board of Admissions to the Bar and the Committee on Character and Fitness expressly enumerates the narrow issues which the Committee is permitted to hear and adjudicate. All such issues are narrow evidentiary issues relating to whether the applicant possesses the requisite character and fitness to practice law in Illinois. Manifestly, the Committee is a body of very limited jurisdiction which does not include jurisdiction to adjudicate an applicant's constitutional claims.

100. Thus, Illinois Supreme Court Rule 708 and Rule 4 of the Rules of Procedure establishes a system whereby an applicant can be denied rights, privileges and property without ever having an opportunity to be heard with regard to claims concerning the unconstitutionality of said denial, and without ever having the applicants' arguments heard in, or adjudicated by, a court of general jurisdiction.

101. The deprivation of rights, privileges and property without a full opportunity to be heard violates the Fourteenth Amendment right to due process of law. Such deprivation contravenes clear, well-established principles of which reasonable persons would be aware.

102. These rules were the direct and proximate cause of the deprivation of plaintiff's Fourteenth Amendment rights.

103. Future application of these facially unconstitutional rules in order to deprive future applicants of due process rights is certain. Moreover, because plaintiff is entitled to re-apply for admission, these facially unconstitutional rules are almost certain to be applied adversely to him again in the future.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendants on this Count VII: (a) declaring Supreme Court Rule 708 and Rule 4 of the Rules of Procedure of the Board of Admissions and the Committee on Character and Fitness to be unconstitutional on their

face in violation of the Fourteenth Amendment to the extent that they allow the denial of admission to practice law without providing an opportunity to have constitutional challenges to said denial actually heard and adjudicated in a court of general jurisdiction authorized to hear and adjudicate such challenges, and (b) permanently enjoining future application of these Rules to deny applicants admission without providing the constitutionally mandated opportunity to be heard.

Dated: June 27, 2001

MATTHEW F. HALE

By _____
One of his attorneys
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OF COUNSEL PURSUANT
TO LOCAL RULE 83.15:
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff Matthew F. Hale hereby demands a trial of the above-entitled action by Jury.

MATTHEW F. HALE

By _____
One of his attorneys

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ANDERSON v. HALE *NO. 00 C 2021.*

159 F.Supp.2d 1116 (2001)

Reverend Stephen Tracy ANDERSON, Plaintiff,
v. Matthew F. HALE, the World Church of the Creator, an unincorporated association, and the Estate of Benjamin Nathaniel Smith, Defendants.

United States District Court, N.D. Illinois, Eastern Division.

August 23, 2001.

Mary Rose Alexander, Sylvia A. Stein, Paula W. Render, Stephen A. Swedlow, Katherine Davis Vega, Amy J. Kappeler, Latham & Watkins, Chicago, IL, for Plaintiff.

Glenn Greenwald, Greenwald, Christoph & Holland, P.C., New York City, for Defendants.

MEMORANDUM OPINION AND ORDER

MORAN, Senior District Judge.

Defendants Matthew Hale, The World Church of the Creator, and the Estate of Benjamin Nathaniel Smith have filed objections to Magistrate Judge Ashman's resolution of this discovery dispute. *See* Fed.R.Civ.P. 72(a). Those objections are denied.

The magistrate judge's opinion, *Anderson v. Hale,* 202 F.R.D. 548 (N.D.Ill. 2001), thoroughly details the factual background, so we only summarize it here. Defendants' counsel recorded telephone conversations with various third party witnesses,without disclosing to those witnesses that they were being recorded. Counsel and his tape-recorder were both in New York. The witnesses, at least some of them, called from Illinois. Plaintiff moved to compel disclosure of these tapes, arguing that this conduct was unethical and therefore vitiated any attorney workproduct privilege that may have attached to these recordings, and sought a protective order prohibiting any further recordings. The magistrate judge granted both motions, finding defense counsel's conduct unethical under two separate rules: Local Rule 83.58.4(a)(4), prohibiting "dishonesty, fraud, deceit or misrepresentation;" and Local Rule 83.54.4, stating "a lawyer shall not ... use methods of obtaining evidence that violate the legal rights of [another] person."

At the outset, we briefly address the timeliness issue. Defendants did not file their objections within the prescribed period. Nonetheless, we have discretion to consider the objections because this deadline is not jurisdictional. *Kruger v. Apfel,* 214 F.3d 784 (7th Cir.2000).

We review the magistrate judge's findings to determine whether they are "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A). If the question requires an "unadulterated legal conclusion," we ordinarily perform a "more searching" review. *See McFarlane v. Life Ins. Co. of N. America,* 999 F.2d 266, 267 (7th Cir. 1993). Moreover, we have the discretion to conduct a *de novo* review. *See United States v. Frans,* 697 F.2d 188, 191 n. 3 (7th Cir.1983). Because this is a purely legal question, and one of tremendous importance, we will review this matter *de novo.*

The decisive question is whether recording a phone conversation without so disclosing is inherently deceitful. There is a split of authority. Plaintiff, and the magistrate judge, rely on an American Bar Association opinion and its progeny. *See* ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 337 (1974) (finding surreptitious recording by attorneys inherently deceitful); 202 F.R.D. at 555 (collecting ethics opinions and cases). A clear

majority of jurisdictions, and all the federal courts to consider this issue, agree with this view. Defendants counter with what they describe as "more recent" and "better reasoned" opinions reaching the opposite result. *See id.* Whether the minority opinions can properly be characterized as more recent is debatable, but largely beside the point. More importantly, the magistrate judge found the majority position better reasoned, and so do we.

Defendants' attacks on the magistrate judge's opinion are unpersuasive. They argue that the plain meaning of the rule does not prohibit surreptitious taping. But the law recognizes, in countless areas, that omitting material facts can be as misleading as affirmative misstatements. Attorneys, as officers of the court, are held to a particularly high standard of candor. This may include volunteering information that is not explicitly requested. That a conversation is being recorded is a material fact that must be disclosed by an attorney. Defendants also argue that modern technology and norms make the 1974 ABA opinion obsolete. The fact that recording conversations is much simpler and more pervasive now does not make it proper. If anything, it makes the need for this rule more compelling. The magistrate judge did not accept the ABA opinion blindly. He addressed each of these arguments, and his reasoning in rejecting them is thorough and logical. We agree with Magistrate Judge Ashman's reasoning in its entirety, and consequently need not repeat it here.

We also agree with the magistrate judge's reference to the Illinois Eavesdropping Act in applying Rule 83.54.4. Contrary to defendants' assertion, the magistrate judge did not apply the statute to counsel directly. Rather, he properly used it to construe the court's rules, to which counsel is indisputably subject.

The magistrate judge's reasoning, once again, is sound. By appearing *pro hoc vice,* counsel agrees to familiarize himself with and abide by local rules and local law, including substantive law. Regardless of whether this statute is directly applicable to out-of-state recordings, it provides a reference point for what rights must be respected by attorneys practicing here.[1] Illinois has conferred on its citizens a right not to be recorded without their consent. Because surreptitiously recording conversations violates a right recognized in this jurisdiction, attorneys appearing before this court may not do so. We also agree with Magistrate Judge Ashman's analysis of the importance of a level playing field. This court's rules must apply uniformly to all attorneys appearing here, regardless of their offices' location. To permit otherwise is

not only illogical, but would interfere with the fair administration of justice, in general, and undermine the purpose of the work product doctrine, in particular.

Given the rhetoric in the papers filed with respect to this difficult ethical question, we wish to clarify one last matter. We are applying rules here, not judging character. As the magistrate judge noted, although ultimately unsuccessful, defendants' arguments were reasonable. Defense counsel could have reasonably believed that his conduct was permissible. Although we find that his conduct did violate the rules, our rejection of his position does not equate to an indictment as an unethical person.

For the foregoing reasons, defendants' objections are overruled. Per the magistrate judge's order, they must cease the practice of recording witnesses without consent and disclose any recordings currently in their possession.

FOOTNOTES

1. The fact that counsel may be beyond the statute's reach for purposes of a civil suit is immaterial.

PEOPLE EX REL. RYAN v. WORLD CHURCH *NO. 89780.*
760 N.E.2d 953 (2001)
198 Ill. 2d 115
260 Ill. Dec. 180
The PEOPLE ex rel. James E. RYAN, Attorney General of Illinois, Appellant,
v.
The WORLD CHURCH OF THE CREATOR et al., Appellees.
Supreme Court of Illinois.
November 21, 2001.

James E. Ryan, Attorney General, Springfield (Joel D. Bertocchi, Solicitor General, and Mary E. Welsh, Assistant Attorney General, Chicago, of counsel), for the People.

Glenn Greenwald, *of Greenwald, Christoph & Holland, P.C., New York, New York (Gary L. Shilts, Naperville, of counsel), for appellees.*

Justice GARMAN delivered the opinion of the court:

The issue in this case is whether the Solicitation for Charity Act (Solicitation Act) (225 ILCS 460/0.01 through 23 (West 1998)) is unconstitutionally vague on its face, as violative of the first and fourteenth amendments to the United States Constitution (U.S. Const., amends. I, XIV). The circuit court of Cook County held the statute unconstitutional and dismissed the Attorney General's complaint against defendants for failure to register under the Solicitation Act. The Attorney General appealed directly to this court. 134 Ill. 2d R. 603. We now reverse the circuit court's judgment.

BACKGROUND

The Solicitation Act requires every "charitable organization," with exceptions not relevant here, that solicits or intends to solicit contributions from persons withinIllinois to file with the Attorney General a registration statement providing specified information. 225 ILCS 460/2(a) (West 1998). The Solicitation Act defines "[c]haritable organization" in pertinent part as:

"[A] benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such which solicits and collects funds for charitable purposes * * *." 225 ILCS 460/1(a) (West 1998).

The Solicitation Act defines "[c]haritable purpose" as "[a]ny charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose." 225 ILCS 460/1(f) (West 1998).

Annual reports must be filed with the Attorney General setting forth detailed information concerning receipts and expenses. 225 ILCS 460/4 (West 1998). When the Attorney General has reason to believe that a charitable organization is operating in violation of the Solicitation Act, he may seek an injunction prohibiting the organization from continuing to solicit or collect funds. 225 ILCS 460/9(c) (West 1998). In addition, any organization that violates the Solicitation Act shall, at the request of the Attorney General, forfeit any monies received through solicitation (225 ILCS 460/9(h) (West 1998)) and may be subject to punitive damages (225 ILCS 460/9(g) (West 1998)). Persons and organizations failing to register under the Solicitation Act or whose registration is canceled by the Attorney General for violation

of the Solicitation Act are subject "to injunction, to removal, to account, and to appropriate other relief before the circuit court exercising chancery jurisdiction." 225 ILCS 460/2(i) (West 1998). In addition, the court "shall" impose a civil penalty of not less than $500 and not more than $1,000 against such person or organization. 225 ILCS 460/2(i) (West 1998). The Solicitation Act also provides civil and criminal penalties for professional fund-raisers found to be in violation of the Solicitation Act. 225 ILCS 460/6(g), (h) (West 1998).

On July 14, 1999, the Attorney General filed a complaint against defendants, The World Church of the Creator (World Church) and Matthew Hale. The World Church is an organization that exists, according to a copy of its literature attached to the complaint, to promote the survival, expansion, and advancement of the white race. Count I sought a declaratory judgment that the World Church was a charitable organization subject to the Solicitation Act. It was alleged that the World Church held itself out to be a religious not-for-profit unincorporated association and that it was managed and controlled by Hale. The complaint alleged that defendants sought members and solicited payment of membership dues and money from the general public through an Internet website and through flyers offering for sale books, materials, and merchandise. In these solicitations, defendants suggested that purchases would benefit the not-for-profit cause of the World Church, thus giving it the appearance of a charitable organization as defined in the Solicitation Act and subjecting it to the statute's registration requirements. Count I requested that the World Church be declared to be engaged in charitable solicitation of the public and, therefore, subject to the Solicitation Act. Count II of the complaint requested a finding that defendants had violated the Solicitation Act and an injunction prohibiting defendants from further soliciting of funds and from disbursing or transferring any assets without court approval. The prayer for relief also requested that the court freeze the assets of defendants, order them to account for the funds collected from their solicitation on behalf of the World Church, and impose a $1,000 fine.

Defendants filed a motion to dismiss the complaint pursuant to section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 1998)), claiming that the Solicitation Act is unconstitutionally vague on its face, in that it fails to adequately define the terms "charitable organization" and "charitable purpose."

In a memorandum opinion filed on February 8, 2000, the circuit court granted defendants' motion. Relying on federal cases, the court found that the definition of "charitable organization" in the Solicitation Act does not guide the Attorney General in determining which organizations are subject to the provisions of the Solicitation Act. The court stated that the terms "benevolent, philanthropic, patriotic, or eleemosynary" used to define "charitable organization" are themselves undefined and so generic as to fail to provide adequate notice as to which organizations may be subject to the Solicitation Act. The court also expressed concern as to the Attorney General's unbridled discretion in determining which organizations are subject to the Solicitation Act and the potential threat to protected first amendment activity. The court determined that the Solicitation Act does not meet the heightened standard of precision required of legislative enactments that regulate the first amendment right to freedom of speech. The circuit court denied the Attorney General's motion to reconsider and this direct appeal followed.

ANALYSIS

All statutes are presumed to be constitutionally valid. *People v. Sanders,* 182 Ill.2d 524, 528, 231 Ill.Dec. 573, 696 N.E.2d 1144 (1998). It is the court's duty to construe a statute in a manner upholding its constitutionality, if such a construction is reasonably possible. *City of Chicago v. Morales,* 177 Ill.2d 440, 448, 227 Ill.Dec. 130, 687 N.E.2d 53 (1997). We review *de novo* the circuit court's order granting defendants' section 2-615 motion to dismiss the Attorney General's complaint (*Neade v. Portes,* 193 Ill.2d 433, 439, 250 Ill.Dec. 733, 739 N.E.2d 496 (2000)), as well as the court's determination of the Act's unconstitutionality (*People v. Maness,* 191 Ill.2d 478, 483, 247 Ill.Dec. 490, 732 N.E.2d 545 (2000)).

It is well settled that the first amendment's guarantee of freedom of speech encompasses solicitation of funds. *Village of Schaumburg v. Citizens for a Better Environment,* 444 U.S. 620, 633, 63 L.Ed.2d 73, 85, 100 S.Ct. 826, 834 (1980). Defendants argue that, because the Solicitation Act regulates speech, it must meet a heightened standard of precision. See *National Ass'n for the Advancement of Colored People v. Button,* 371 U.S. 415, 432-33, 83 S.Ct. 328, 337-38, 9 L.Ed.2d 405, 417-18 (1963); *Hynes v. Mayor & Council,* 425 U.S. 610, 620, 96 S.Ct. 1755, 1760, 48 L.Ed.2d 243, 253 (1976) (stricter standards of permissible statutory vagueness may be applied to a statute that has a "`potentially inhibiting effect on speech,'"

quoting *Smith v. California,* 361 U.S. 147, 151, 80 S.Ct. 215, 217-18, 4 L.Ed.2d 205, 210 (1959)). However, not all laws that regulate speech are subject to this higher standard. "Content neutral regulation of protected speech is subject to `an intermediate level of scrutiny.'" *American Target Advertising, Inc. v. Giani,* 199 F.3d 1241, 1247 (10th Cir. 2000), quoting *Turner Broadcasting System, Inc. v. Federal Communications Comm'n,* 512 U.S. 622, 642, 114 S.Ct. 2445, 2459, 129 L.Ed.2d 497, 517 (1994). In determining whether a regulation is content neutral, the main inquiry is whether the state has adopted the regulation because of its disagreement with the content of the message sought to be conveyed.*Ward v. Rock Against Racism,* 491 U.S. 781, 791, 105 L.Ed.2d 661, 675, 109 S.Ct. 2746, 2754 (1989). Government regulation of expressive activity is content neutral so long as it is "`*justified* without reference to the content of the regulated speech.'" (Emphasis in original.) *City of Renton v. Playtime Theatres, Inc.,*475 U.S. 41, 48, 106 S.Ct. 925, 929, 89 L.Ed.2d 29, 38 (1986), quoting *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.,* 425 U.S. 748, 771, 96 S.Ct. 1817, 1830, 48 L.Ed.2d 346, 364 (1976).

In *American Target,* a professional fund-raising corporation sought to have Utah's Charitable Solicitations Act declared unconstitutional. Among other requirements, that law required all professional fund-raising consultants to register with the state and obtain permits. To obtain such a permit, the consultant must complete a written application, pay an annual fee and post a bond or letter of credit. Plaintiff did not comply with the registration requirements and was consequently barred from assisting Judicial Watch, a nonprofit organization, with its mailing campaign in Utah. *American Target,* 199 F.3d at 1246. The court of appeals found that the law was a content-neutral regulation of protected speech and was, therefore, subject to an intermediate level of scrutiny. The law was designed to control the secondary effects of professional solicitations, *i.e.,* increased fraud and misrepresentation. It simply facilitated oversight of the mailers' backgrounds and methods. The court noted that subjecting the law to intermediate scrutiny required the state to show that the law "(1) serves a substantial governmental interest and (2) is `narrowly drawn' to serve that interest `without unnecessarily interfering with First Amendment freedoms.'" *American Target,*199 F.3d at 1247, quoting *Schaumburg,* 444 U.S. at 637, 100 S.Ct. at 836, 63 L.Ed.2d at 87-88.

The court of appeals further found that the mandatory registration and disclosure requirements were narrowly tailored to serve Utah's substantial interest in combating fraud, in that the law allowed Utah citizens to make informed decisions about making charitable donations, and the requirements directly promoted Utah's legitimate interest, while not unnecessarily burdening speech. *American Target,* 199 F.3d at 1248.

Here, the Solicitation Act's registration provisions apply to all entities that solicit funds for purposes defined in the Solicitation Act, except those specifically exempted. They do not in any way control the content of speech. We, therefore, conclude that the registration and reporting requirements are content neutral and the law is therefore subject to an intermediate level of scrutiny, rather than the more exacting standard urged by defendants.

Intermediate scrutiny first requires that the regulation at issue serve a substantial governmental interest. A state or municipality undoubtedly has the power to protect its citizens from fraud by regulating solicitation of funds. *Hynes,* 425 U.S. at 616-17, 96 S.Ct. at 1758-59, 48 L.Ed.2d at 251. The Solicitation Act seeks to prevent frauds on Illinois citizens in the solicitation and use of charitable funds. *People ex rel. Scott v. Gorman,* 96 Ill.App.3d 289, 290, 51 Ill.Dec. 720, 421 N.E.2d 228 (1981). To that end, violators may be subject to a prohibition on future solicitation of funds (225 ILCS 460/9(c) (West 1998)), forfeiture of any monies received through solicitation (225 ILCS 460/9(h) (West 1998)), civil penalties (225 ILCS 460/2(i) (West 1998)), punitive damages (225 ILCS 460/9(g) (West 1998)) and, in some instances, criminal penalties (225 ILCS 460/6(g) (West 1998)). The registration and reporting requirements may serveas a deterrent to fraudulent solicitation of funds, since those intent on defrauding the public will be less likely to do so if required to disclose identifying information to the Attorney General. The additional deterrence provided by the registration and reporting provisions of the Solicitation Act promote Illinois' interest in protecting its citizens from fraud. Without such provisions, the State's ability to detect fraudulent solicitations would be undermined. Thus, we conclude that the registration and reporting requirements of the Solicitation Act serve a substantial governmental interest.

We now turn to the question of whether the challenged provisions of the Solicitation Act are narrowly tailored to serve this interest. Defendants claim that the Solicitation Act is not narrowly drawn and that its definitions of

"charitable organization" and "charitable purpose" are unconstitutionally vague. In *Grayned v. City of Rockford,* 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d 222 (1972), the United States Supreme Court explained the dangers posed by unconstitutionally vague laws:

"It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory application. Third, but related, where a vague statute `abut[s] upon sensitive areas of basic First Amendment freedoms,' [citation] it `operates to inhibit the exercise of [those] freedoms.' [Citation.] Uncertain meanings inevitably lead citizens to `"steer far wider of the unlawful zone" ... than if the boundaries of the forbidden areas were clearly marked.' [Citations.]" *Grayned,*408 U.S. at 108-09, 92 S.Ct. at 2298-99, 33 L.Ed.2d at 227-28.

A law is unconstitutionally vague, and therefore violative of due process, when it lacks "`terms susceptible of objective measurement'" (*Keyishian v. Board of Regents of the University of the State of New York,* 385 U.S. 589, 604, 87 S.Ct. 675, 684, 17 L.Ed.2d 629, 641 (1967), quoting *Cramp v. Board of Public Instruction,* 368 U.S. 278, 286, 82 S.Ct. 275, 280, 7 L.Ed.2d 285, 291 (1961)) and when persons of "`common intelligence must necessarily guess at its meaning and differ as to its application'" (*Keyishian,*385 U.S. at 604, 87 S.Ct. at 684, 17 L.Ed.2d at 641, quoting *Baggett v. Bullitt,* 377 U.S. 360, 367, 84 S.Ct. 1316, 1320, 12 L.Ed.2d 377, 382 (1964)).

The Attorney General argues that the Solicitation Act may not be declared facially invalid because it is capable of at least one valid application. He notes that during oral argument in the circuit court, counsel for defendants conceded that the Solicitation Act could validly be applied to the United Way. However, a party must establish that a statute is impermissibly vague

in all of its applications only where the statute does not implicate constitutionally protected conduct. *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.,* 455 U.S. 489, 494-95, 102 S.Ct. 1186, 1191, 71 L.Ed.2d 362, 369 (1982); see *City of Chicago v. Morales,* 527 U.S. 41, 55, 119 S.Ct. 1849,1858, 144 L.Ed.2d 67, 79 (1999) (noting that where vagueness permeates the text of a law that infringes on constitutionally protected rights, the law is subject to a facial challenge).

The circuit court relied on three federal cases in concluding that the Solicitation Act is unconstitutionally vague. The first case, *Association of Community Organizations for Reform Now v. Municipality of Golden,*744 F.2d 739 (10th Cir.1984), involved a city ordinance prohibiting uninvited door-to-door solicitation unless the city manager granted an exemption. Such an exemption would be granted only if the city council determined that the solicitation was for a "charitable, religious, patriotic or philanthropic purpose or otherwise provides a service or product so necessary for the general welfare of the residents of the city that such activity does not constitute a nuisance." *Golden,* 744 F.2d at 741. The court of appeals reversed the district court's judgment in favor of the city, finding that the ordinance vested unguided discretion in the city council to grant exemptions. The court noted that the definition of the types of organizations eligible for an exemption was not specific. It found the words "charitable, religious, patriotic or philanthropic purpose" to be vague and indefinite. Such terms did not provide sufficient guidance to the city council in exercising its authority under the ordinance. The court also noted that no regulations or written interpretations of the ordinance existed. *Golden,* 744 F.2d at 748.

In *Association of Community Organizations for Reform Now v. City of Chicago,* No. 84-C-10536, 1986 WL 2746 (N.D.Ill. February 24, 1986) (unpublished decision), plaintiffs challenged two city ordinances that regulated solicitation activities through an application process. The city filed a motion to dismiss the complaint.

The original ordinance required that an organization, for a period of one year prior to application, must have been engaged in charitable and philanthropic work. Churches were excepted from this requirement. The grant or denial of an application was left to the sole discretion of a committee of the city council.*Association of Community Organizations for Reform Now,* slip op. at 6. After suit was filed, the city replaced this

ordinance with a new one that required an organization to obtain a permit prior to engaging in solicitation activities. Only those organizations that intended to solicit for "charitable purposes" were required to apply for a permit. The ordinance did not purport to regulate political, religious, or other activities. *Association of Community Organizations for Reform Now,* slip op. at 8.

Plaintiffs challenged the facial validity of the ordinance, arguing that the language was unconstitutionally vague, particularly with respect to the scope of the ordinance's application. The district court noted that the ordinance did not define "charitable purposes." The court rejected the city's argument that the ordinance's requirement that an organization applying for a permit must be a "benevolent, philanthropic, patriotic, or eleemosynary organization" registered under the Charitable Solicitation Act (Ill.Rev.Stat.1983, ch. 23, par. 5102), or be exempt from such registration, served to narrow the scope of the ordinance. The court noted that this requirement merely compelled organizations to be in compliance with state law. *Association of Community Organizations for Reform Now,* slip op. at 21-22. The court found that the term "charitable purposes" was unconstitutionally vague and required police to make decisions on the street as to whether a particular organization was soliciting for charitable purposes, as opposed to some other purpose. Thus, the ordinance vested unbridled discretion in thepolice to decide what organizations were violating the ordinance when they solicited without a permit. The court noted that the term "charitable purposes" is "generic, malleable, and difficult to apply." *Association of Community Organizations for Reform Now,* slip op. at 23.

The third federal decision relied on by the circuit court in this case is *Carolina Action v. Pickard,* 465 F.Supp. 576 (W.D.N.C.1979). There, the district court struck down an ordinance that imposed a requirement that expenses of soliciting not exceed 25% of contributions and required a permit for organizations soliciting for "charitable, patriotic, educational or philanthropic purposes." These terms were not defined in the ordinance. *Carolina Action,* 465 F.Supp. at 577. Plaintiff was denied a permit on the ground that the cost of its fund-raising effort would exceed the 25% ceiling set forth in the ordinance.*Carolina Action,* 465 F.Supp. at 578. The district court held the ordinance unconstitutionally vague, noting the inconsistency with which defendants applied the permit and expense percentage requirements. Some organizations were allowed to solicit

without any investigation into the accuracy of the statements on their permit applications. Other applications were approved despite incomplete information. At times, organizations whose reported costs exceeded the 25% limitation were issued permits. *Carolina Action,* 465 F.Supp. at 579-80. The court also noted that while defendants had construed the term "charitable" to exclude political organizations, it had included as charitable some organizations that were in fact political.*Carolina Action,* 465 F.Supp. at 581-82.

We note that lower federal court decisions are not binding on Illinois courts, but may be considered persuasive authority. *People v. Stansberry,* 47 Ill.2d 541, 545, 268 N.E.2d 431 (1971). However, this court has the final word on interpretation of Illinois statutes.

We find that the cited cases are distinguishable from the case before us. In *Golden,* the phrase "charitable, religious, patriotic or philanthropic purpose or otherwise provides a service or product so necessary for the general welfare of the residents of the city that such activity does not constitute a nuisance" was not defined in the ordinance, nor were there any regulations or directions to guide the city council's discretion. The record indicated that the council had applied the ordinance inconsistently. We disagree with the district court's conclusion in *Association of Community Organizations for Reform Now* that reference in the ordinance to the Solicitation Act did not provide a definition of the term "charitable purposes." In *Carolina Action,* the terms "charitable," "patriotic," "educational," and "philanthropic" were not defined in the ordinance. Although defendants had interpreted those terms so as not to include political organizations, the ordinance had been applied inconsistently.

In all three cases, the regulatory schemes required either a permit to solicit or the obtaining of an exemption to a general prohibition on solicitation. In the instant case, the Solicitation Act merely requires that entities subject to its provisions register and report certain specified information. In addition, the Solicitation Act contains definitions of the terms "[c]haritable organization" and "charitable purpose." 225 ILCS 460/1(a), (f) (West 1998).

In fact, the terms "charity" and "charitable" have a settled meaning in Illinois case law. For example, in*Congregational Sunday School & Publishing Society v. Board of Review,* 290 Ill. 108, 125 N.E. 7 (1919), the appellant's claimed exemption from personal property taxation for religiousbooks and

Sunday school supplies was denied. See *Congregational Sunday School,* 290 Ill. at 109, 113, 125 N.E. 7. This court, in construing the statutory term "beneficent and charitable organizations," noted that charity is a gift to be applied for the benefit of an indefinite number of persons, by bringing their "`minds and hearts under the influence of education or religion, * * * by assisting them to establish themselves in life * * * or by otherwise lessening the burdens of government.'" *Congregational Sunday School,* 290 Ill. at 112-13, 125 N.E. 7, quoting *Crerar v. Williams,* 145 Ill. 625, 643, 34 N.E. 467 (1893).

The Solicitation Act was construed in *People ex rel. Hartigan v. National Anti-Drug Coalition,* 124 Ill.App.3d 269, 79 Ill.Dec. 786, 464 N.E.2d 690 (1984). There, the State sought injunctive relief against defendant and an accounting of donations solicited by it without first registering under the Solicitation Act as a charitable organization. The circuit court granted the State's motion to strike defendant's affirmative defenses that the Solicitation Act was unconstitutionally overbroad and vague and that it violated the first amendment to the United States Constitution. *Hartigan,* 124 Ill. App.3d at 270, 79 Ill. Dec. 786, 464 N.E.2d 690. The circuit court granted the relief requested on the ground that defendant was a charitable organization and required to register. *Hartigan,* 124 Ill.App.3d at 271, 79 Ill. Dec. 786, 464 N.E.2d 690.

On appeal, the appellate court found defendant's constitutional claims waived. *Hartigan,* 124 Ill.App.3d at 272, 79 Ill.Dec. 786, 464 N.E.2d 690. In addressing the question of whether defendant was in fact a charitable organization, the appellate court noted that:

"The courts in this State are in accord in applying a broad legal definition of `charity' to include almost anything that tends to promote the improvement, well[-]doing and well[-]being of social man. [Citation.] Moreover, charitable organizations may include organizations whose primary purpose is *not* to provide money or services for the poor, the needy or other worthy objects of charity, but *to gather and disseminate information about and to advocate positions on matters of public concern."* (Emphases in original.) *Hartigan,*124 Ill.App.3d at 274, 79 Ill.Dec. 786, 464 N.E.2d 690.

The court held that, based upon the evidence before the circuit court, defendant had a charitable purpose.*Hartigan,* 124 Ill.App.3d at 274-75, 79 Ill.Dec. 786, 464 N.E.2d 690.

Thus, the term "charity" has a broad legal meaning. This court has stated:

"`A charity, in a legal sense, may be more fully defined as a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works, or otherwise lessening the burthens of government.'" *Crerar v. Williams,* 145 Ill. 625, 643, 34 N.E. 467 (1893), quoting *Jackson v. Phillips,* 96 Mass. 539, 14 Allen 556.

The Solicitation Act's definition of "charitable organization" is so well understood that it has been incorporated into other Illinois statutes. For example, the statute defining the offense of international terrorism provides that the terms "[c]haritable organization," "professional fund raiser," and "professional solicitor" have the meanings ascribed to them by the Solicitation Act. 720 ILCS 5/29C-5 (West 1998). Likewise, the Good Samaritan Food Donor Act (745 ILCS 50/1 *et seq.* (West 1998))provides that the term "[c]haritable organization" is to be defined as set forth in the Solicitation Act. 745 ILCS 50/2.02 (West 1998). Some Illinois statutes provide even broader definitions of "charitable organization" than does the Solicitation Act. The Illinois Pull Tabs and Jar Games Act (230 ILCS 20/1 *et seq.* (West 1998)) defines "[c]haritable organization" as "an organization or institution organized and operated to benefit an indefinite number of the public." 230 ILCS 20/1.1 (West 1998). The same definition applies to the Bingo License and Tax Act (230 ILCS 25/1 (West 1998)).

Other states have rejected vagueness challenges to broad definitions of "charitable" or similar terms. In*State v. Watson,* 433 N.W.2d 110 (Minn.App.1988), defendant was convicted of, *inter alia,* diversion of charitable gambling funds. He challenged Minnesota's charitable gambling statute, arguing that it was unconstitutionally vague. *Watson,* 433 N.W.2d at 111. He claimed that use of the term "lawful purposes" as defined in the statute did not give a person of ordinary intelligence fair notice of what conduct was proscribed. *Watson,* 433 N.W.2d at 112. The statute provided that profits from lawful gambling could be used only for lawful purposes or expenses related to the gambling operation. In upholding the statute's constitutionality, the court of appeals noted that

"Statutes regulating charities must be inclusive so as to cover many varied organizations. The fact that a statute is inclusive does not make it vague. Definitions of charitable or lawful purposes, therefore, are by nature general and more inclusive." *Watson,* 433 N.W.2d at 113.

The court found the definition of "lawful purposes" to be similar to the generally accepted legal definition of "charitable." *Watson,* 433 N.W.2d at 113-14.

In *Holloway v. Brown,* 62 Ohio St.2d 65, 403 N.E.2d 191 (1980), an ordinance prohibited a person from soliciting for a charitable organization unless the organization registered with a commission. Professional promoters and solicitors were required to obtain a license. "Professional promoter" was defined in the ordinance as a person who for compensation plans, promotes, or carries on any drive or campaign for the purpose of soliciting contributions on behalf of any charitable person or engages in the business of soliciting contributions for charitable purposes. *Holloway,* 62 Ohio St.2d at 67-68, 403 N.E.2d at 193. The term "charitable" was defined as "meaning and including `the words patriotic, philanthropic, religious, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.'" *Holloway,* 62 Ohio St.2d at 70, 403 N.E.2d at 195. One of plaintiffs' arguments was that the definition of "charitable" was unconstitutionally vague. *Holloway,* 62 Ohio St.2d at 70, 403 N.E.2d at 195. The Ohio Supreme Court rejected this argument, finding that the term "charitable" has a meaning that persons of ordinary intelligence can discern, and that this is especially true when the ordinance itself defines the term more specifically. *Holloway,* 62 Ohio St.2d at 75, 403 N.E.2d at 198.

Although the terms at issue in this case are broad in scope, we fail to see how they could be more precisely defined. Given the wide variety of organizations subject to the Solicitation Act, an all-inclusive definition must be used. The terms defendants challenge have well-settled definitions in Illinois jurisprudence. Judicial interpretations of the same or similar terms in other states also support our conclusion that the terms "charitable organization" and "charitable purpose" are not unconstitutionally vague.

We conclude that the Solicitation Act's registration and reporting requirements are narrowly tailored to serve the state's substantial governmental interest in protecting its citizens from fraud and do not unnecessarily burden first amendment speech. Therefore, the terms

"charitable organization" and "charitable purpose" are not unconstitutionally vague.

CONCLUSION

For the reasons stated, we reverse the circuit court's judgment and remand to that court for further proceedings.

Reversed and remanded.