

PROTECTING AN AMERICAN'S RIGHT TO HATE

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I'll say this for Matthew Hale . He lets you know what's on his mind. That's about all I'll say for him, since Hale's mind is so small and narrow.

Hale, 27, of East Peoria, Ill., is an avowed racist.

He refers to Jews and non-whites as "mud races." He says the idea of "the equality of the races" is "patently absurd." He decorates the walls of his office in his parents' house with Nazi stickers and uses the flag of Israel as a doormat. He calls for the deportation of all non-whites as the solution to America's racial problems.

Troubled and misanthropic as this young bigot sounds, he does have friends. He has been the leader of a racist and anti-Jewish group called the World Church of the Creator since 1996.

Hale, a recent graduate of Southern Illinois University Law School who has passed the state bar exam, has come to the public's attention because he wants to be a lawyer. He also makes no secret of his intention to use the law to spread his hateful views around.

"I'd like to represent white racist people," Hale said. "People who are proud of their race and fight for it."

But an Illinois state panel that evaluates the character and fitness of prospective lawyers has other views. It does not appreciate Hale's candor. Two of the panel's three members rejected him, which bars him from practicing law in the state.

Their evaluation said in part, "Under any civilized standards of decency, the incitement of racial hatred for the ultimate purpose of depriving selected groups of their legal rights shows a gross deficiency in moral character, particularly for lawyers who have a special responsibility to uphold the rule of law for all persons."

But here's the rub: Hale has not renounced his responsibility to uphold the law; quite the contrary. When asked if he would obey a rule that prohibits discriminatory treatment of "litigants, jurors, witnesses, lawyers and others, based on race, sex, religion or national origin," Hale said he would, until such time as he "could have it changed by peaceful means."

As Harvard University law professor Alan Dershowitz, who is Jewish and is considering defending Hale in his upcoming appeal, said, "It's hard to imagine a clearer case of free speech."

As a fellow "mud person," in Hale's view, although of the African-American variety, I must agree with Dershowitz, although it pains both of us to side with the likes of Hale. The 1st Amendment does swing both ways and so does every effort to restrict it. Attempts to silence unpopular minority views at one extreme inevitably swing back to squash minority views on the other side. Before you know it, just about every view in between feels the squeeze, too.

For that reason, the courts have a long history of siding with bar applicants who have been rejected for holding unpopular beliefs. In cases involving communists in the 1950s, the courts ruled that membership in an unpopular movement (absent proof that the person's conduct was dangerous) did not constitute grounds for exclusion from the

bar. As recently as 1971 the Supreme Court overturned the rejection of a two prospective lawyers who had refused to reveal their political beliefs.

Although some other members of his organization have been indicted or convicted of hate crimes, Hale has not been accused of committing violent crimes or of inciting others to do so. It was only his "active advocacy" of racist goals that was immoral enough to render him unfit to be a lawyer, his review panel said.

"If the civilized world had no experience with Hitler, Matthew Hale might be dismissed as a harmless 'crackpot,' " the panel wrote. "However, history teaches a different lesson."

True, but history also teaches us the folly of trying to suppress unpopular movements by silencing speech or denying access to equal justice.

Let Hale practice law. He has earned the privilege. His colleagues, already a mixed bag, should simply accept the fact that the bar sometimes must admit members who are too despicable to be invited to dinner.

The 1st Amendment presumes the public is intelligent enough over time to distinguish between those views that will help us to prosper as a diverse society and those that will rip us apart. That's why the civil rights movement has won victory after victory and the pinheaded bigots have been pushed to the margins of society.

In that spirit, now that the bar review panel has pinned the tail of public notoriety on Hale, let's see what kind of cases he comes up with.

Then let's see what kind of clients, if any, want a hater like him to represent them.

That should be a real eye-opener. That's the genius of the 1st Amendment. It helps us to find out the truth, even when the truth is ugly.

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Page: 15

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