

How the war on terrorism has gone way too far

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Matthew Hale sits in solitary confinement in a holding cell on the 11th floor of the Metropolitan Correctional Center in Chicago. At 31, he is a despicable soul. And yet today I write on behalf of Hale. How is that possible?

Because the war on terrorism has gone too far in chewing up the U.S. Constitution and as contemptible as Hale is, his case helps make that observation clear.

A self-proclaimed white supremacist and Pontifex Maximus of the World Church of the Creator in East Peoria, Hale preaches a venomous gospel that declares open season on Jews and people of color.

He is a hater, a race baiter.

Worst of all, in 1999 his teachings helped inspire one of his followers, Benjamin Smith, to go on a hunting expedition, targeting Orthodox Jews, blacks and Asians. When he was done, basketball coach Ricky Byrdsong had been gunned down in Skokie, Won-Joon Yoon, a 26-year-old doctoral student, was dead in Indiana and nine others were wounded in Chicago. In the end, Smith died too by his own hand rather than be taken by police who had him surrounded.

If Hale didn't force Smith to do what he did, does anyone doubt Hale's indecent diatribes helped pull the trigger against decent, innocent people?

On Jan. 9, federal agents arrested and charged Hale with plotting to kill U.S. District Court Judge Joan Humphrey Lefkow. There are secretly recorded conversations between Hale and a federal government informant in which Hale describes Lefkow as a "probable Jew" and a "corrupt judge." Hale says he never asked anyone to kill her.

Here's where the war on terrorism comes in.

Horrible as an alleged plot to kill a federal judge might be, the government is not charging Hale with terrorism. What it is doing is using the war on terrorism to cut away some of those inconvenient little constitutional rights you and I and even Matt Hale are entitled to.

When lawyers Thomas A. Durkin and Patrick W. Blegen were hired by Hale's parents to defend him, Hale's lawyers expected to be able to talk to their client. They didn't expect to get a memorandum signed by U.S. Atty. Gen. John Ashcroft. That document is 14 pages and outlines severe restrictions called Special Administrative Measures (SAMS), not just on Hale but on them too. Not to mention media restrictions as well.

What did Ashcroft say? I wish I knew. The SAMS memo said the government, is "sensitive," so it has been sealed. That's not all.

U.S. Atty. Patrick Fitzgerald, in a letter to Durkin and Blegen, said that unless they signed a document promising to abide by the SAMS memo, they would not be permitted the privileged conversations attorneys have with their clients.

In other words, Hale's attorneys couldn't talk to their client to prepare his defense unless they promised to abide by government demands they considered to be indefensible. Things, they said, like not being able to tell anyone what Hale says unless it is specifically for his defense, not being able to communicate to Hale

anything the government deems "inflammatory," not being able to communicate Hale's point of view to the press.

They refused to sign.

SAMS have been around since 1996. Fitzgerald used the measures when he was in New York as a way of stopping terrorism suspects from sending "coded" messages to their disciples.

The measures have been used against convicted street gang members to prevent them from ordering hits from their prison cells.

Nobody, however, can point to SAMS being used against a pre-trial detainee in a non-terrorism case where a person is still presumed innocent until proven otherwise. Until now.

SAMS, functionally, is a chilling message to lawyers who defend unpopular clients.

Consider what's happening in New York right now. Radical attorney Lynne Stewart was the court-appointed lawyer for Sheik Omar Abdel Rahman, convicted in the 1993 bombing of the World Trade Center. Unlike Hale's attorneys, she signed the SAMS loyalty oath, which the government, in turn, used to indict her claiming she violated its secret terms, therefore aiding and abetting terrorism.

The truth is the government doesn't need to pull new, Draconian measures out of a constitutional cocked hat to indict lawyers who break the law. Existing laws do that already.

U.S. District Court Judge James T. Moody must think so too. He's ruled Durkin and Blegen don't have to sign SAMS.

Signing oaths.

Sealing documents.

The late Wisconsin Sen. Joseph McCarthy comes to mind.

Just this week, 50-year-old transcripts of McCarthy's closed-door sessions were opened. He capitalized on the public's fear of the Cold War and communism to cow U.S. citizens into ratting on suspected members of the Communist Party, USA.

If Hale did in fact plot to kill a federal judge, it is undeniably an assault on the judicial system.

But cynically using the war on terrorism to compromise the Constitution is as well.

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PHOTO: Matthew Hale .

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