

JEWISH TIMES

SERVING THE GREATER NORTHEAST, LOWER BUCKS AND EASTERN MONTGOMERY COUNTIES

VOL. 9, NO. 31

OCTOBER 18, 1984 / THURSDAY / 22 TISHREI, 5745

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Holocaust Survivors Protest Reversal in Kowalchuk Case

By Alan Jaffe

Jewish Times Associate Editor

The recent decision of the U.S. Court of Appeals to allow Serge Kowalchuk to retain his American citizenship was the cause of an emotional protest demonstration outside Kowalchuk's East Oak Lane home on Sunday afternoon.

Joining a dozen Northeast Jewish residents in the protest were three survivors of the Ukrainian village where Kowalchuk served in the militia organized by the Nazi occupation forces in the 1940s. Esther Pachter, 64, who now lives in Brooklyn, collapsed while challenging Kowalchuk through a megaphone to come outside to confront her. Kowalchuk was not at home during the demonstration.

PACHTER QUICKLY RECOVERED and later took up the megaphone again to accuse Kowalchuk of atrocities against the Jewish population of Lubomyl, where more than 5000 Jews were annihilated by the Nazis and the Ukrainian militia in October 1942.

Following Kowalchuk's 1981 denaturalization trial, Third District Court Judge John P. Fullam had ordered the 64-year-old tailor stripped of his citizenship for concealing his wartime activities when he applied for a visa to come to the U.S. in 1950 and when he became a citizen in 1960. A 2-1 decision by a Federal Appeals Court in September reversed Fullam's findings. In the opinion written by Chief Judge Ruggero J. Aldisert, the court said the Justice Department "failed to prove its charges... by the requisite degree of certainty."

Had Judge Fullam's decision been upheld, Kowalchuk would have faced deportation proceedings.

Continued on page 8



WHILE SPEAKING THROUGH a megaphone at the demonstration in front of Serge Kowalchuk's home, Esther Pachter, 64, a survivor of the Jewish ghetto in Lubomyl, collapsed on the street. Mrs. Pachter quickly recovered and took up the meg-

aphone again, accusing Kowalchuk of war crimes against the Jews during the Nazi occupation of the Ukrainian village in the 1940s.

Holocaust Survivors Protest Reversal in Kowalchuk Case

Continued from page 1

NATHAN SOBEL, ANOTHER JEWISH survivor of Lubomyl now living in New York, said the protestors "hope to accomplish justice. We want him kicked out of this country."

The demonstration was organized by a group calling itself the Holocaust Remembrance Committee, which member Norman Yanoff said "will make sure the government doesn't relent in its persecution of Kowalchuk." Yanoff said the organization would press the Justice Department to appeal the Kowalchuk case to the Supreme Court.

The recent Appeals Court decision, Yanoff continued, "sets an unfortunate precedent" for other war criminal trials. "Kowalchuk was found innocent by two judges sitting in Washington, D.C., while 5000 Jews lie in the dust of Lubomyl," he said.

(A spokesman for the Office of Special Investigations of the Department of Justice said Monday that his office has filed a motion for an extension of time for the Solicitor General to review the September decision by a panel of three judges. The extension would give the Solicitor General the opportunity to decide if the "full U.S. Court of Appeals" should reconsider the recent reversal, the spokesman said.)

ANOTHER SURVIVOR OF LUBOMYL who attended the rally Sunday, Abraham Getman, had testified against Kowalchuk in the 1981 trial. Wearing the black mourner's ribbon, Getman wept for several minutes when he first arrived at the demonstration in front of Kowalchuk's white wood and stucco home. Later Getman took the megaphone and, addressing Kowalchuk, said, "I made witness that you took my father out of our house. You said you were taking him to work, but we never saw him again.

During the 1981 trial in the Federal Courthouse here, Kowalchuk testified that he served in the Ukrainian militia, or police force, only in a clerical position. He said he organized the distribution of food supplies and made out duty rosters for the militiamen who guarded the Jewish ghetto of Lubomyl.

GETMAN, WHO WAS PRESENT in the courtroom, and two other Jewish witnesses who testified via videotapes made in Israel, said that Kowalchuk was more than a clerk in the Ukrainian militia. They testified that he was a militia commander who participated in the beatings and executions of individual Jews and Ukrainian nationals and in the final mass murder outside the town in 1942.

Three members of Americans Against Defamation of Ukrainians, Inc., attended the demonstration Sunday in Ko-



Photos by Cliff Hince

LED BY FORMER PHILADELPHIA Jewish Defense League leader Bonnie Pechter Kassof (with megaphone), a group of Northeast residents picketed and chanted in front of Kowalchuk's home on Sunday, calling for his denaturalization and

deportation. Among the demonstrators was Abraham Geman (center, in light suit), a Jewish survivor of Lubomyl, who testified against Kowalchuk in the 1981 trial.

THE ONE-HOUR PROTEST ENDED with the lighting of yearzeit candles and the recitation of the Mourner's Kaddish by the demonstrators. The group then sang "Hatikvah" and "The Star Spangled Banner." Before

they dispersed, they also burned a Nazi flag which Yanoff had carried during the protest, "because Kowalchuk is a known collaborator. That is the purpose of a Nazi flag at a Jewish demonstration," he said.

Excerpts From the U.S. Appeals Court Decision

On Sept. 11, the U.S. Court of Appeals for the Third Circuit reversed the decision to strip Serge Kowalchuk of his citizenship. (The appeal case was argued on April 23 by defense attorney John Rogers Carroll and Justice Department prosecutor Jeffrey N. Mausner.) Chief Judge Ruggero J. Aldisert and Circuit Judge Joseph F. Weis formed the majority opinion, and Circuit Judge Max Rosenn dissented. The following are excerpts from the 56-page opinion issued

Lubomyl were persecuted, abused, degraded and eventually killed. During the time in which the Jewish population in Lubomyl was exterminated, however, appellant was receiving special training at a school away from the town at German expense. Further, there was no evidence that appellant performed any militia patrol duties himself or that he was otherwise engaged directly in persecuting the Jewish people."

"Under this type of relentless pressure (by the Nazis), and

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VOL. 9, NO. 40

DECEMBER 20, 1984 / THURSDAY / 26 KISLEV, 5745

4C

'I Guarantee There Will Be Others'

OSI Director Says Courts Are Reviewing Kowalchuk Case

By Alan Jaffe

Jewish Times Associate Editor

The U.S. Court of Appeals has decided to review a previous Third Circuit court decision to allow alleged Nazi collaborator Serge Kowalchuk to retain his American citizenship. The Appeals Court has withdrawn the earlier decision which had overturned the denaturalization of Kowalchuk, according to Neal Sher, director of the Office of Special Investigations of the U.S. Department of Justice.

Speaking at a public meeting at Congregation Ner Zedek-Ezra Israel, Bustleton Ave. and Oakmont St., on Dec. 12, Sher said the full Court of Appeals would "hopefully uphold" Judge John P. Fullam's 1983 ruling to strip Kowalchuk of his citizenship.

KOWALCHUK, A 64-YEAR-OLD East Oak Lane tailor, had been accused in his 1981 denaturalization hearing of participating in the murder of 5000 Jews in the Ukrainian village of Lyubomyl in October 1942. Kowalchuk was described by the Justice Department as a commander in the Ukrainian militia, which cooperated with the Nazis in

the persecution of the Jews. Judge Fullam determined after the lengthy proceedings that Kowalchuk had lied about his wartime activities when he applied for a visa to come to the U.S. in 1950 and when he obtained his citizenship in 1960.

But a three-judge panel of the Third Circuit Court of Appeals overturned the decision last September, a ruling "I thought completely erroneous," Sher said. The OSI asked the full Court of Appeals to review the case, and in an unusual move, Sher said, the court decided recently to reconsider the decision.

Sher said he did not know when the court would issue its decision on Kowalchuk's denaturalization. If it upholds Judge Fullam's original ruling, Kowalchuk could face deportation proceedings.

IN HIS ADDRESS BEFORE approximately 130 people at Ner Zedek, Sher, who became the head of OSI in March 1983, said his office is currently investigating over 300 individuals and "in the next several months we will file several" other cases.

Sher explained that the OSI was formed in the late 1970s,

with the support of the former U.S. Congressman Josh Eilberg and former Congresswoman Elizabeth Holtzman who ensured that the Justice Department would receive funding for the prosecution of suspected Nazi war criminals living in the U.S. In 1979, the OSI began gathering evidence from other countries, although witnesses were "not always accessible" in the East European Soviet-bloc states.

"THE FIRST TIME WE HAD an opportunity to test the strength of the evidence they accumulated came in the 1980 prosecution of Wolodymir Osidach in a Federal court in Philadelphia," Sher said. Osidach, like Kowalchuk, had been accused of committing atrocities against Jews while he was a member of the Ukrainian militia. In the OSI's first "big victory," Osidach was stripped of his citizenship. He died shortly after the decision was issued.

Since then, the OSI has secured more than 15 orders of denaturalization and 12 orders of deportation. Sher said adding that five people have been expelled from the U.S. thus far. "I guarantee you there will be others... and it will happen pretty soon."

THE FIRST WAR CRIMINAL to be deported by the OSI, Sher said, was Hans Lipschis, a Chicago man who had been a guard at Auschwitz concentration camp. Two days before his denaturalization hearing

Continued on page 1

16 THE JEWISH TIMES / DECEMBER 20, 1984

OSI Director Says Courts Are Reviewing Kowalchuk Case

Continued from page 1

was to start, Lipschis' lawyer called the OSI to inform them that his client had admitted to all the allegations against him. On the day of the American Gathering of Holocaust Survivors in Washington, D.C. in 1983, Sher said, Lipschis was on a plane to West Germany.

Asked by his audience what becomes of those who are deported to West Germany, Sher offered little hope for further justice. "You want to know what Germany will do with him? Nothing." Unless the German courts can prove a war criminal committed first-degree murder, "they can't do anything under their statute of limitations." Sher said that because the Holocaust was perpetrated by "every segment of German society," that country has tried to prevent reminders "of that part of their history."

IN THE U.S., SHER SAID the prosecution of Nazis war criminals has received bipartisan support in Congress and from recent executive administrations. But he said his office "comes under increasing attack" from the Ukrainian, Estonian, Latvian, Lithuanian and White Russian communities for "dealing with the USSR."

"They accuse us of collaborating with the KGB and being in bed with the Russians" because the OSI gathers evidence and witnesses with the Soviet Union's cooperation. Sher stressed that all documentation received from the Soviets is scientifically tested for authenticity, and "none have been found to be forgeries."

"The more successful we are," Sher said, "the more heat we're going to take."

HAVE BEEN ACCUSED OF SLURRING enmities... but every survivor who testifies "credits a Righteous Gentile for helping him," Sher continued. "But we can't overlook what the others did during the war."

Prominent cases the OSI has investigated resulted in the



Photo by Rita Mastroni

NEAL SHER, director of the Office of Special Investigations, U.S. Department of Justice, offered an update on the status of Nazi war criminal prosecutions in this country to a gathering of 100 people at Congregation Ner Zedek-Ezra Israel last Wednesday evening.

recent extradition of Andrija Artukovic, known as the Himmler of Yugoslavia, and the deportation of Arthur Rudolph, who had been brought to the U.S. by the government

to help in the American space program.

ARTUKOVIC, SHER SAID, was the highest ranking Nazi criminal to enter the U.S. after the war. When he first arrived in 1950, deportation proceedings were started immediately. But Artukovic took advantage of a provision in U.S. law that prevented the deportation of someone who would be persecuted in his own country.

An amendment to the law introduced by Elizabeth Holtzman lifted Artukovic's stay of deportation because he himself had persecuted people in his homeland. In the first round of deportation proceedings, Artukovic was ordered to leave, but an appeals court allowed him to remain in the U.S. A recent extradition request from Yugoslavia resulted in his arrest. He is currently incarcerated in the U.S. and his extradition hearing will begin in February.

ARTHUR RUDOLPH, DESCRIBED AS the father of the U.S. Saturn V space program, oversaw the creation of the V-2 rockets in Nazi Germany. The factories that manufactured the V-2 were built with slave labor, which was under the control of Rudolph, Sher said.

Threatened with a law suit, Rudolph agreed to give up his American citizenship and has returned to West Germany.

Asked after his address by two Holocaust survivors how so many Nazi criminals managed to emigrate successfully to the U.S., Sher acknowledged that the process was very difficult for most displaced persons after the war. Some, like Rudolph, entered the U.S. with American assistance, and others received the immigration officials during that period.

"For every Nazi collaborator who came in," Sher noted, "there was a survivor who was denied."

The program at Ner Zedek was sponsored by the Jewish Community Relations Council of Greater Philadelphia.



Staff Photography by G. Lole Grossmann

Marcel Pachter attends to his mother Esther after she collapsed at rally in East Oak Lane; Lynne Feldman assists

She Rallied to Confront a 40-Year Memory

By FRANK DOUGHERTY
Daily News Staff Writer

A Holocaust survivor from Brooklyn who stands 5 feet tall and can speak six languages led a coalition of Jewish activists in a raucous demonstration yesterday outside the home of a man she says she has dreamed of confronting for the past 40 years.

"But after all this time," said Esther Pachter, "he didn't come out to face me."

She was among three dozen Holo-

caust Memorial Committee members who gathered before Serge Kowalchuk's home to protest a federal court decision that returned to the East Oak Lane resident the naturalized American citizenship taken away from him by a lower court for allegedly lying about his past.

"Why don't you come out and face me? Look me straight in the eye. I'll look you straight in the face," screamed Pachter, seconds before collapsing into the street, emotional-

ly spent.

Pachter spent World War II in the village of Lyubomyl, where Kowalchuk served with the Ukrainian National Police Force. Kowalchuk was accused of being involved in the killings of some 5,000 Jewish residents of the village in October 1942 by Nazi troops aided by Ukrainian police.

"It was American justice, but it wasn't true justice," bellowed Bonnie Kassof as she stood in front of Kowalchuk's single stucco home on 67th

Avenue near 3rd Street. "Serge Kowalchuk organized and participated in the murder of 5,000 Jews. We want him out of his house! Out of Philadelphia! Out of the United States!"

The U.S. Court of Appeals for the 3rd Circuit last month reversed a July 1983 ruling by U.S. District Court Judge John P. Fullam that stripped Kowalchuk of his naturalized U.S. citizenship. The U.S. Justice

See CONFRONT Page 12

Confront

Continued from Page 3

Department's Office of Special Investigations charged Kowalchuk concealed facts about his police background when he entered the U.S. in 1950, and when he became a citizen in 1960.

At his 1981 denaturalization trial, Kowalchuk, 64, admitted to being a member of the Ukrainian National Police but swore he was just a clerk,

distributing food rations and making up the duty roster. When the Jews were killed, Kowalchuk said, he was away from Lyubomyl.

"When all evidence is considered, a cloud continues to hang over this case," wrote the appeals court, ruling the Justice Department failed to prove Kowalchuk "voluntarily" helped the Nazis.

None of the demonstrators yesterday saw the East Oak Lane tailor. His blinds were tightly drawn. His driveway was empty. The only sign of life was a cocoa-colored cat sitting on

Kowalchuk's front steps that bolted when the demonstrators turned on their bullhorn.

"We question the motives of this demonstration, and its reason, since Mr. Kowalchuk has been found innocent by the 3rd District Court of Appeals," said a woman who would only identify herself as a member of Americans Against Defamation of Ukrainians.

"He had his day in court, and was found not guilty," added her companion. "He now should be left alone in peace."

From bitter memories, a protest

By David Lieber
Inquirer Staff Writer

For Ester Pachter, a tiny Jewish woman who escaped death during World War II by dyeing her hair blond and fleeing her homeland with forged identification papers, her shouts yesterday through a bullhorn at an Oak Lane house were an act of catharsis for which she had waited more than 40 years.

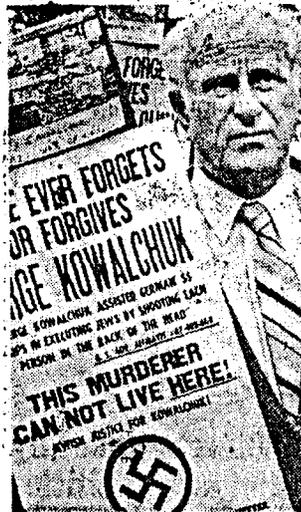
With two other survivors from the Ukrainian village of Lyubomi, she traveled to Philadelphia from Brooklyn in the hopes of confronting Serge Kowalchuk, 64, a tailor who lives in a two-story white stucco house on the 200 block of 67th Avenue.

Kowalchuk, accused of being a deputy commandant of the Nazi police in Lyubomi during the early 1940s, was allowed to keep his U.S. citizenship in a September court ruling. A three-judge federal appeals panel reversed a lower court's finding that Kowal-

(See PROTEST on 2-B)



Abraham Getman
Holocaust survivor



Paul Zafrin
One of the protesters



The Philadelphia Inquirer / GERALD S. WILLIAMS

Ester Pachter, 64, collapses during demonstration outside Oak Lane house of Serge Kowalchuk

A protest born of bitter memories

PROTEST, from 1-B
chuk should lose his citizenship on the ground that he had lied about links to Nazi occupiers of his native land.

Quietly watching the 25 demonstrators who gathered for an hour yesterday in front of Kowalchuk's home, Nila Polock, vice president of Americans Against Defamation of Ukrainians, said she disapproved of the protest.

"He was found innocent," she said of Kowalchuk. "We can't judge him with a lynch mob."

"Come out. Why don't you face me? I'm speaking from my heart," said Pachter, 64, a guest of the new Philadelphia-based Holocaust Remem-

berance Society. Police said no one was home during the demonstration.

The protesters said they still believed Kowalchuk was involved with the murders of about 5,300 Jewish residents of the village in October 1942 by German troops who were aided by the Ukrainian militia. There are about 30 known Jewish survivors, committee members said.

In his 1981 denaturalization trial, Kowalchuk admitted being a member of the Ukrainian police force, but he said he was only a clerk who filled out the duty roster and distributed food. When the Jews were slaughtered, Kowalchuk testified, he was on a trip away from the village.

evidence is considered here, a cloud of doubt continues to hang over the government's case."

The appeals court decision nullified a 1983 ruling by U.S. District Judge John P. Fullam ordering Kowalchuk to surrender his American citizenship.

Under the watchful gaze of Philadelphia police civil affairs officers, Pachter, who gave a deposition at Kowalchuk's trial, took the bullhorn and began to shout at the house.

"Look, I lost everybody," she said in Ukrainian, as Nathan Sobel, 53, translated her remarks. "Why don't you want to come out and face me? I'll look you straight in the eye."

Abraham Getman, 58, also broke down and cried nearby.

"It just built up," said Pachter's son, Marcel, 28, of his mother's collapse. "This was like letting out years of emotion."

As other protestors spoke, Pachter rose and glared at the unoccupied house. A brown cat sat on Kowalchuk's front steps and watched the crowd.

"I'm sure he remembers me," she said of Kowalchuk. "Now he lives in such a beautiful house. He's not here. But he sends the cat outside."

As the protest concluded with the singing of the Israeli and U.S. national anthems, Pachter said she felt much better.