

PHILA. LAWYER SEEKS JUSTICE IN THE WALLENBERG CASE

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Source: Philadelphia Inquirer, The (PA);

Published: 1984-02-02

Section: NATIONAL | Page A02 | Edition: FINAL | Memo: REPORT ON A LEGAL EFFORT

This morning, Chestnut Hill lawyer and law professor Morris Wolff, buoyed by his mission and confident of its timing, plans to sue the Soviet Union.

At 10 a.m., he will enter US District Court in Washington to file the suit on behalf of the family of Raoul Wallenberg, the Swedish diplomat credited with saving thousands of Hungarian Jews from extermination by the Nazis during World War II.

The suit seeks either Wallenberg's release from the Soviet Union - where he was taken under "protective custody" in 1945 and where the Soviets say he died that same year - or the return of his remains for a hero's burial. The suit also asks for a declaration of illegal action on the part of the Soviets, all pertinent information concerning Wallenberg's detention and a judgment of \$39,000,000 - \$1,000,000 for each year since his captivity.

"If possible, I want his freedom; if not, an honest accounting of his life," Wolff said last week, pacing the floor of the sun porch that serves as his office. "It's time now for the truth."

Having said that, Wolff and his colleagues - lawyers drawn from two prestigious law firms and three universities - are well aware that theirs may be an impossible mission.

The attorneys agree that the thorniest legal problem they face is jurisdiction - whether the court has the authority to adjudicate a case against a foreign government. At issue, Wolff explained, is the Act of State Doctrine, which holds that an US court cannot examine the merits of a case when it is alleged that a foreign government acted illegally within its own borders and under its own laws.

Wolff and his colleagues say they think their case falls outside the definition of the doctrine, because they believe that the Soviet action violated international law. Not only was Wallenberg protected by his diplomatic status, they contend, but at least part of the money that funded his humanitarian work came from the United States.

Two recent developments also have encouraged them to seize the moment: the honorary US citizenship bestowed upon Wallenberg by President Reagan in 1981 and the emergence of a letter written in 1957 by then-Soviet Deputy Foreign Minister Andrei A. Gromyko, acknowledging that Wallenberg's detention amounted to "criminal activity."

“This is a dynamite brief,” Wolff said, slapping his palm with a copy of the rough draft. “We’re saying (to Gromyko), ‘You wrote this letter, you acknowledged you committed a crime. . . . Well, we’d like to ask you a few questions.’”

Until May, Wolff had not heard of Raoul Wallenberg.

That was hardly surprising because until 1979, when Wallenberg’s sister visited the United States to organize a Wallenberg Committee, few Americans knew of the events that had long before become a cause celebre in Sweden.

The Raoul Wallenberg Committee of the United States, headed by Sens. Frank Church, Claiborne Pell, Daniel Patrick Moynihan and Rudy Boschwitz, soon embarked on a massive educational campaign designed, according to its literature, “to make the name of Raoul Wallenberg a household name.”

Through documentaries, news programs and brochures, the story began to circulate.

Wallenberg was 32, the scion of an influential Swedish family, when he was dispatched by the Swedish government to Budapest. By the time he arrived, on July 9, 1944, all the Jews outside the capital - 437,000 men, women and children - already had been deported to concentration camps. Wallenberg’s mission was to save as many of the Jews of Budapest as he could.

The impetus for his assignment came from the War Refugee Board, established by President Franklin D. Roosevelt in the hope of saving Jews and others targeted by the Nazis. After the partial Nazi occupation of Hungary in June 1944, the board made Hungary its primary focus.

It approached Sweden, a neutral country with an embassy in Budapest, asking for someone to undertake the mission. That someone was Wallenberg.

Once in Budapest, he redesigned the Swedish protective passport, the “Schutzpass,” into a more impressive and readily identifiable document; he established shelters, hospitals and soup kitchens, all flying the Swedish flag, and he and other volunteers even distributed blankets, food and clothing to Jews already marching toward death camps.

According to the lawsuit on his behalf, “From July 1944 until January 1945, Wallenberg is credited with having saved up to 100,000 lives.”

In January 1945, the Soviet army liberated Budapest. On or about the 17th of that month, Wallenberg was taken into “protective custody” by Soviet secret police, transported to Moscow and placed in Lubianka prison. The Soviet ambassador to Sweden notified Wallenberg’s family of his arrival in Russia and assured them of his safe return.

In February 1957, the Soviet government informed the Swedish government that Wallenberg had died “in his cell . . . probably as a result of a heart attack” in July 1947 at the age of 35. His remains, the communique said, had been cremated.

Wolff says he has “an intuitive belief” that Wallenberg is alive. His belief, he says, goes beyond the family history of longevity, beyond the fact that “the man had a tremendous perseverance in life.”

“One of my favorite poems is Emily Dickinson’s,” he said, “the one that goes, ‘I never spoke with God, nor visited in Heaven, yet certain am I of the spot, as if the Checks were given.’ “

Wolff’s introduction to Raoul Wallenberg came via a colleague, Northwestern University law professor Thomas D’Amato, who had been contacted by Wallenberg’s half-brother, Guy von Dardel.

Von Dardel had learned about D’Amato’s success in suing the Soviet Union on behalf of a Chicago woman who, while on a student visa in 1981, married a Russian citizen, but the Soviets refused to let him leave the country and join her in the United States.

The case, Frolova vs. U.S.S.R., was resolved when the Soviets, presumably to avoid the publicity and hassle, released Lois Frolova’s husband in June 1982, only two months after D’Amato filed suit.

Von Dardel asked D’Amato’s advice regarding his half-brother, and D’Amato recommended Morris Wolff, a former assistant district attorney in Philadelphia and a teacher of international law at the Delaware Law School of Widener University.

Wolff immediately bought and read Righteous Gentile, a book by John Bierman, which includes recollections by Jews whom Wallenberg rescued and eyewitness accounts by others who say they met him in prison in the Soviet Union years after the time when the Soviets say he died.

D’Amato and Wolff discussed the case, talked strategy and decided to file suit, using Frolova vs. U.S.S.R. for a model.

“The family is very realistic,” Wolff said last week. “They realize (Wallenberg) may be dead, but they want the final chapter of his life written with dignity. They feel it is a political case in part, but they feel it must be heard in a court with a tradition of freedom.”

As for the Soviets’ response, Wolff mentions the possibility of a grand gesture, a prelude to peace talks, by the Soviets. If that does not happen, he said, he offers “two face-saving ways in which they can release him: they can say that their hospital system is so vast, he apparently was listed under another name, a bureaucratic oversight. Second, they can say that the man has been in such a condition . . . that he has been unable to communicate with them.

“They may even see it as a diplomatic accomplishment to locate and free him.”

Murray Levin, of the Philadelphia law firm of Pepper, Hamilton & Scheetz, another lawyer attached to the Wallenberg case, also talked about the possibility of a "gesture."

"I think it's fair to say the odds are long," he said, "and, in the long run, an American court can't force the Russians to release him, but it can do things that are damaging."

The attorneys say they may ask the court for injunctions - perhaps more restrictions on Soviet air travel here and embassy bank accounts - aimed at forcing the Soviets' hand. The timing of the injunctions has not been determined, they say.

A State Department spokeswoman said she was not aware of the pending lawsuit and would be reluctant to comment even if she were familiar with it "for fear of prejudicing the case." She did say that it would be unlikely for a suit filed by an individual to affect US-Soviet relations because the Soviets would not view it as an official action.

A spokesman for the Soviet Embassy in Washington declined to comment, saying he was not familiar with the case.

Wolff talked about the one clear moment years ago when he knew what his future would be. He was 17, working on a high school project, sitting in a magistrate's court in Philadelphia absorbing the litany of complaints and miseries that unfolded there, when he decided he would be a lawyer.

"The law was to be for me an instrument for the accomplishment of social justice," he said, brandishing the papers from the Wallenberg lawsuit, "and this is the most wonderful privilege, to be the custodian of this man's human rights."

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