

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL MARCAVAGE

Plaintiff

v.

BOROUGH OF LANSDOWNE,  
NORMAN COUNCIL, FORMER  
PRESIDENT, GENE WAYNE,  
WILLIAM SMITH, LAURA FRYER,  
ELLIOTT BORGMAN, ANN HILL,  
AND KEVIN LEE, MEMBERS OF  
COUNCIL, IN THEIR OFFICIAL  
AND INDIVIDUAL CAPACITIES  
And  
DANIEL KORTAN, IN HIS OFFICIAL  
AND INDIVIDUAL CAPACITIES

Defendants

CIVIL ACTION

No. 05-4747

JURY TRIAL DEMANDED

FILED FEB 02 2006

CONSENT ORDER


AND NOW, this *2nd* day of *February*, 2006, the parties hereby agree as follows:

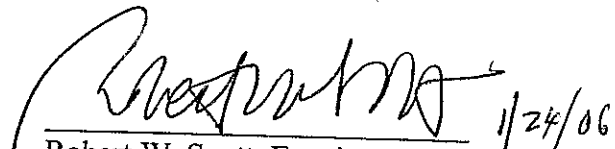
1. On July 21, 2004, Plaintiff, Michael Marcavage, a resident of the Borough of Lansdowne, attended the regularly scheduled Borough Council Meeting.
2. While speaking during the open comment period, Mr. Marcavage began to read a passage from the Bible to help explain his opposition to what he believed to be efforts in the Borough to encourage homosexuality. At that point, Mr. Marcavage was told that he would not be permitted to continue to speak even though he had not exceeded any set time limits.
3. Mr. Marcavage subsequently filed a lawsuit alleging, among other things, that his right to free speech protected by the First Amendment to the United States Constitution as well as protected under the Pennsylvania Constitution had been violated. The Borough denies these claims.
4. The Borough Council acknowledges that the actions of its former Council President

in stopping Mr. Marcavage from speaking denied him a full and fair opportunity to address Council.

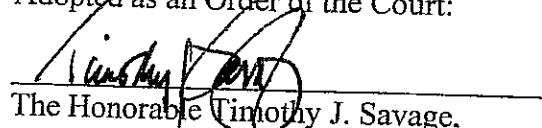
5. The parties have agreed to the entry of this Order to ensure that the rights of all citizens to freely address the Borough Council at Council meetings are protected.

The parties therefore agree, and it is hereby ORDERED and DECREED, that the Borough of Lansdowne and its Council members, individually and collectively, will allow any speech during the Public Comment portion of the Lansdowne Borough Council Meetings which is within the purview of 65 Pa.C.S.A. §1710.1, meaning that it is speech on matters of concern, official action or deliberation which are or may be before the Board or Council prior to taking official action, provided the speaker complies with any lawful rules for the public comment time set by the Council. At no time will the Borough of Lansdowne or its Council Members restrict constitutionally protected speech based upon the content or viewpoint expressed by the speaker.

  
I. Theodore Hoppe, Jr.  
Attorney for Plaintiff

  
Robert W. Scott, Esquire  
Solicitor for the Borough of Lansdowne

Adopted as an Order of the Court:

  
The Honorable Timothy J. Savage,  
United States District Judge