

PROTECTING CONSTITUTIONAL RIGHTS:

Justice Stanley Mosk

BY RICHARD M. MOSK

From: "The Storied Third Branch: Stories about judges, by judges," Duke Law Center for Judicial Studies (December 2012).¹

My father, Justice Stanley Mosk, is well known for being the longest serving member of the California Supreme Court and for rendering landmark decisions, many of which are in law school textbooks. But prior to his appointment to the Supreme Court, he rendered decisions as a trial judge and as California attorney general that did much to advance civil rights.

Stanley Mosk, a top aide to the governor of California at age 26, was, at the age of 31, one of the youngest, if not the youngest, superior court judge in California history. A few years later, after having won a bruising campaign for reelection, he was faced with a significant case.

In 1947, Frank Drye, a decorated black veteran of two world wars, brought his family from Alabama to Los Angeles, where he purchased a house in an upscale community. Within several months of the Drye family moving into their house, the white neighbors began agitating about a Black family living in the neighborhood.

¹ Posted as "Protecting Constitutional Rights? Supreme Court of California Associate Justice Stanley Mosk" (Dec. 2012) at <http://law.duke.edu/judicialstudies/thirdbranch/>.

The pastor of the local Presbyterian Church, who lived across the street from the Dryes, led eight other white neighbors in filing an action to enforce a Caucasian-only deed restriction. Drye filed a demurrer to the complaint, and the matter came before the young Judge Stanley Mosk. This was before the United States Supreme Court held the enforcement of racially restrictive covenants unconstitutional and when California Supreme Court authority seemed to approve them.

Nevertheless, Judge Mosk sustained the demurrer without leave to amend. In his minute order, he wrote:

There is no allegation, and no suggestion, that any of these defendants would not be law-abiding neighbors and citizens of the community. The only objection to them is their color and race. . . . We read in columns in the press each day about un-American activities. This court feels there is no more reprehensible un-American activity than to attempt to deprive persons of their own homes on a master race theory. . . . Our nation just fought against the Nazi race superiority doctrines. One of these defendants was in that war and is a Purple Heart veteran. This court would indeed be callous to his constitutional rights if it were now to permit him to be ousted from his own home by using 'race' as the measure of his worth as a citizen and a neighbor. . . . The alleged cause of action here is . . . inconsistent with the guarantees of the Fourteenth Amendment to the Constitution.²

A few years ago, one of the Drye children, a respected Los Angeles teacher, successfully supported the naming of a new Los Angeles elementary school after Stanley Mosk.

After Stanley Mosk won election as State attorney general by the largest margin of any contested election in the United States that year, he was introduced to a black golfer named Charlie Sifford. Mosk asked Sifford how he expected to do at a major Professional Golfers' Association (PGA) tournament in Los Angeles. When Sifford said that Blacks were not allowed to compete, General Mosk threatened to use existing laws to preclude PGA tournaments in California unless it dropped its racial exclusion bylaws. When the PGA indicated it would simply operate in other states,

² *Los Angeles Sentinel*, Oct. 30, 1947: 1; *California Eagle*, Oct. 30, 1947: 6.

General Mosk contacted attorneys general of those states, who then similarly threatened the PGA. Accordingly, the PGA dropped its exclusionary policy. A few years later, when Charlie Sifford won the Los Angeles Open, he recognized the support he had received from a courageous Attorney General Stanley Mosk.

Also as Attorney General, Stanley Mosk opined that a local realty board could not exclude a qualified applicant on the basis of race; worked with state and federal agencies and private organizations to end discrimination on housing, lending and public accommodations; took steps to prevent voter suppression in Latino areas; precluded a public school district from segregating Blacks and Whites on a swim team even though the teams could have no place to train other than at a private club that barred Blacks; and actively recruited minorities and women for the California Department of Justice.

Stanley Mosk showed that appellate decisions are not the exclusive way to advance constitutional rights. He demonstrated that a trial judge and a law enforcement officer can be at the frontline of protecting the rights of the people.

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