Analysis of R.A.V. v. St. Paul

Int the case of Robert A. Viktora v. St. Paul, the charge brought up against him was burning a cross on the lawn of a Black family. This act of violence was both Subjective and Symbolic in nature. It was Subjective because it was a physical act on private property, where Viktora had to seek out the specific individuals. It was also symbolic, because his purpose was for it to serve as a message to other Black families in the community. The court, unfortunately found his actions to be protected under the First Amendment with a statement from Justice White, saying, “The mere fact that expressive activity caused hurt feelings, offense, or resentment, does not render the expression unprotected.” In the end, the court was divided in it’s opinions, which revealed the systemic violence, because it could lead to similar acts in the future.

The statement made by Justice White, displays another act of symbolic violence, because an act like burning a cross does not simply limit the reactions to “hurt feelings, offense, or resentment”, but can also incite fear, trauma, and distrust in both the family directly affected, and the community around them. It stole them of their safety and security.

The court repeatedly negated the idea that this act should have been considered “fighting words” which is, “conduct that itself inflicts injury or tends to incite immediate violence." This is simply because this injury, while not resulting in a physical or visible way, had full potential to injure the family’s psyche and could have led to further subjective violence from the community in retaliation. The “fighting words” used by Viktora, were not “on the basis of political affiliation, union membership, or homosexuality”, according to Justice Scalia, therefore, permissible. Citing Justica Scalia, racial discrimination is allowable.