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Published: August 11, 2008

## “Flagrant miscarriage of justice”

*Judge orders pro-lifer to stay away from Oakland abortion clinic after he’s arrested for allegedly violating city’s new “bubble law”*

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### News from the Trenches

Walter Hoye, the Baptist pastor from Berkeley who led an unsuccessful fight against Oakland’s “bubble law,” has become the first person arrested in violation of the ordinance.

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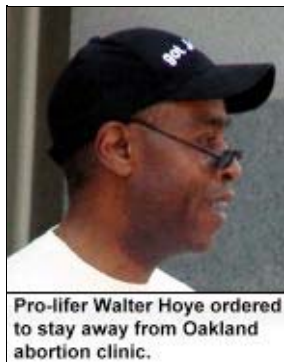
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Joan: Who is to say a person is sterile? I have seen childr... [Dai Yoshida - 8/11/2008 1:45:06 PM]  
“Suitable commemorative



Pro-lifer Walter Hoye ordered to stay away from Oakland abortion clinic.

On May 13, Hoye was arrested and cited outside the Family Planning Specialists Medical Group clinic on Webster Street after being accused of coming within 8 feet of patients and patient escorts. The ordinance prohibits approaching anyone closer than 8 feet for the purposes of “counseling, harassing or interfering” with someone without the person’s consent.

Hoye was arrested after a clinic staff member called police. He was carrying a 40-inch sign that read, “Jesus Loves You & Your Baby. Let Us Help You,” and attempting to hand out pro-life literature. His signs and literature were confiscated and he was charged with a total of four misdemeanor counts after complaints of similar behavior on April 29 were filed.

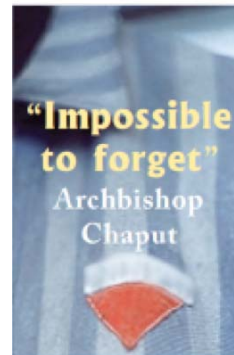
A regular fixture at the clinic and an outspoken opponent of the “bubble law,” Hoye was a top target for the clinic staff. Hoye’s attorney, Michael Millen of Life Legal Defense Foundation, said he plans to vigorously defend Hoye against the charges.

Even though the case has yet to go to trial, Alameda County Superior Court Judge Sandra Beane granted a restraining order against Hoye following a pre-trial hearing. The order requires Hoye to stay away from the clinic. The judge’s decision came even after his accusers admitted under oath that he had never threatened or harmed them in any way.

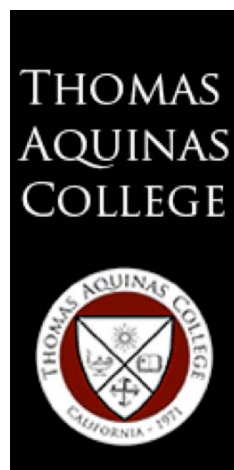


Judge Sandra Beane issued restraining order.

Hoye insists that he obeyed the bubble law, and was aggressively contained by two clinic escorts, who sandwiched him between them and tried to hide his sign. “We got testimony from the two escorts who claimed that I was intimidating them to the extent that they were afraid for their lives,” Hoye said. “Once they were on the stand, they testified that I never physically or verbally harmed them or used force in any way against them or anyone else. One escort even said that I was nice -- although he said it was nice in a ‘passive-aggressive way.’ Whenever I would walk left or right holding my sign, they would surround and block me, so while I was walking, I would say, ‘I’m going to move right now’ or ‘I’m moving left now’ or ‘don’t trip on the curb.’ They’re going to follow me anyway, so I try to stay calm and be polite and make sure they don’t hurt themselves while trying to cover me.



*His gaze goes into the most hidden recesses, and brings us strength and light.*



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[“Flagrant miscarriage of justice”](#) Carrie - I read the article you referenced. The author says... [Grisha - 8/11/2008 12:51:34 PM]

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“My attorney even asked the judge what I was supposed to do when the escorts come up to me, and she said told him that I had to back away!” Hoye continued.

“After hearing the escort say that I was ‘nice,’ I thought for sure that the restraining order would be lifted,” he said. “How could you keep a restraining order on a guy who is guilty of trying to be cooperative and nice? The escorts testified that they were not afraid of me. But after hearing all the testimony, the judge ruled that the restraining order would stay in place.”

When asked what the judge’s rationale was for the ruling, Hoye said, “It’s because I’m pro-life. It’s like, ‘You know how pro-lifers are!’ They say that pro-lifers are dangerous. It’s such an explosive issue that they say that they feel uncomfortable. But I’m going to appeal it.”

“It was probably the most flagrant miscarriage of justice that I’ve seen in at least 15 years,” said Katie Short, another attorney with the Life Legal Defense Foundation, who was also present at the hearing.

Short said she was especially concerned that no evidence was presented that justified a restraining order, and that the legal standard required for such an order was never met. “Its’ one thing when you have opponents who get up on the stand and lie, but we couldn’t have asked for a better factual record,” said Short. “They admitted that he did not threaten them, did not touch them. They admitted that he never used force or physically obstructed anyone, which is what he is charged with.”

The standard for such an order is, “Has this person threatened anyone?” said Short. “Restraining orders are for crime victims who have been threatened by defendants. You have the legal standard, you have the evidence, and then you have the outrage factor. These people admit that they are blocking him! Yet the court says that not only does he have to stay away from them, but he has to back off when they come toward him!”

Short said she would appeal the stay-away order.

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Posted Monday, August 11, 2008 5:30 AM By Fr. M.P.

What a travesty of justice and freedom. Keep praying and work through the legal system. Pray especially for this judge.

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Posted Monday, August 11, 2008 6:32 AM By Donald Casillo

If you think anti life laws are bad now, wait until Obama gets in the White House and appoints left wing Supreme Court Justices.

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Posted Monday, August 11, 2008 7:31 AM By Sick and Tired

This legislating from the bench must stop. Far too many judges have crowned themselves kings and queens. Our liberties are eroding all around us and the American sheeple just go on watching their televisions so they can stay comfortably oblivious.

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Posted Monday, August 11, 2008 8:03 AM By Eileen

Whose credentials sound more pleasing to God? Be not afraid Walter! On your Judgement Day, there will definitely be factual evidence to convict you as a faithful servant. Now, as far as Judge Sandra Beane is concerned.....unless she repents, there is definitely enough solid evidence to place a restraining order upon her entrance into heaven.

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Posted Monday, August 11, 2008 8:27 AM By John L. Sillasen

Beany is obviously violating Hoye’s civil rights, and Constitutional right to freedom of assembly and speech and religion. She is doing this under pretence of law, which means that she is using police force to usurp the US Constitution, an act of treason. Since, also, there is undoubtedly others who are her partners in conspiracy to commit crime against the United States, she is guilty of this further felony ... she needs to be arrested also on RICO laws.

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Posted Monday, August 11, 2008 9:06 AM By Laurette Elsberry

There is a great deal of information on this case in various Internet sites. Check on Google. Correct spelling of the judge’s last name however is BEAN - no “e” at the end.

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Posted Monday, August 11, 2008 9:50 AM By Synaxarion

Kudos to Katie Short for recommending that her client appeal the stay-away order. I am wondering whether, given the facts in this case, some inquiry might also be made into the matter of judicial misconduct. I realize that the authority of California's Commission on Judicial Performance is charged with the responsibility for investigating complaints of judicial conduct where that conduct appears to run contrary to California's Code of Judicial Ethics, not least conduct involving bias. At all events, certainly initially, this avenue of recourse is worth studying.

Posted Monday, August 11, 2008 9:54 AM By Elizabeth

I thought the 'bubble law' had been placed on hold a couple of months ago, since so many of us called/emailed/complained to the board of sups? Did the Cowards do a 'sneak attack' with the law?

Posted Monday, August 11, 2008 10:06 AM By Papamac

Judge Sandra does not uphold the law, she makes laws, she is a very powerful woman just like her ladyship the most powerful woman in America, you know her as Pelosi, the moron with the Canadian hate laws bill ready to introduce as soon as she and Hussien are running the Country. We ain't seen nothing yet. If CATHOLICS will get out and VOTE as they should we can put an end to all of this crap. IT IS TIME these warped souls are sent a clear message, we have had it. VOTE CATHOLIC. MAY GOD BLESS

Posted Monday, August 11, 2008 10:10 AM By John L. Sillasen

"Bubble" refers to the large empty space between the ears of many politician judges ... it's why they can't hear truth and instead simply make up their own reality.

Posted Monday, August 11, 2008 10:13 AM By Carrie

This is terrible! And I also found out that it has happened to others. There is a Catholic journalist who was restrained from going to HIS CHURCH because he was investigating the priest and I think the restraining order is still in place. Matt Abbott has a column about it here (read part 2 after Hannity): <http://www.renewamerica.us/columns/abbott/070309>

Posted Monday, August 11, 2008 10:25 AM By Jack P

We should demand bubble zones around Catholic churches, schools, universities, hospitals, orphanages, outreach centres, halfway houses, hostels, counselling centers, relief camps, group homes, palliative care centres, clinics, hospices, chapels, and shrines.

Posted Monday, August 11, 2008 12:41 PM By Idelette Debord

Synaxarion's post represents a reasonable response to Judge Sandra Bean's grant of a restraining order in this case; by contrast, John L. Sillasen's post of 8:27 AM is unhinged.

Posted Monday, August 11, 2008 12:47 PM By Grisha

There is a question of FACT as to whether Mr. Hoye violated the "8 foot" rule as contained in the statute. It's irrelevant whether he was polite and non-threatening, Bear in mind, however, that in California, peace officers cannot arrest for misdemeanors not committed in their presence. Unless the officers saw the alleged offense and believed they had probable cause, the clinic staff would have to have made a citizen's arrest. There is strict civil liability in doing so and as a result Mr. Hoye may have been handed a powerful tool to help put them out of business. The question of LAW is the constitutionality of Bubble Ordances. My own feeling is that they constitute a prior restraint on free expression. Someday down the road, the US Supreme Court will likely rule on it.

Posted Monday, August 11, 2008 12:51 PM By Grisha

Carrie - I read the article you referenced. The author says the journalist was denied his SECOND amendment rights. Was thier a gun involved?

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