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LAW OF THE LAND

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Pastor awaits prison for saying 'Jesus loves you' Court convicts man for peaceful protest outside abortion clinic

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By Drew Zahn

WorldNetDaily

For holding up a poster that reads, "Jesus loves you and your baby. Let us help you," outside an Oakland abortion clinic, a pastor in California now awaits a judge's sentencing that could send him to prison for harassment.

In May of 2008, Rev. Walter B. Hoye II of the Progressive Missionary Baptist Church of Berkeley, Calif., filed a lawsuit in U.S. District Court, arguing that an Oakland city ordinance banning counselors or protesters from approaching within eight feet of people entering an abortion clinic is a violation of constitutional free speech rights.

Twelve days later, Hoye was arrested for allegedly violating the law he was seeking to overturn.

Hoye was charged with "unlawful approach" and "harassment."

In court, however, evidence showed that as Hoye stood outside the clinic with his "Jesus loves you" poster, rather than approaching or harassing women seeking to enter the facility, Hoye was hounded by clinic employees in orange jackets called "escorts." The escorts followed Hoye's quiet march along the sidewalk with large blank cards to block the view of his "Jesus loves you" poster.

Court proceedings further discredited clinic employee testimony when hidden camera footage showed their accusations to be highly suspect. The escorts in the case even admitted that Hoye neither threatened nor physically intimidated them.

Dana Cody, executive director of Life Legal Defense Foundation, a non-profit organization composed of attorneys and other concerned citizens committed to the sanctity of human life, told WND that the video tape evidence should have clearly exonerated Hoye of the charges against him.



Rev. Walter Hoye

"I sat in the courtroom when the videotape was shown," Cody told WND. "And pastor Hoye wasn't blocking; he was being blocked. He wasn't harassing, he was being harassed."

Nonetheless, Hoye was found guilty and on Thursday could be sentenced with up to 2 years in prison and a \$4,000 fine.

(Story continues below)

"This is a miscarriage of justice and we will appeal this verdict," said Allison Aranda, an LLDF staff attorney who is representing Hoye. "After speaking with several jurors after the verdict was read, it is clear that the court's failure and outright refusal to instruct the jury regarding the key elements of the crime led to the erroneous conviction of Rev. Hoye."

Witnesses in the trial claimed Hoye harassed and threatened patients, the escorts and even the clinic director.

According to an LLDF statement, clinic director Jackie Barbic testified that she saw Hoye hounding patients and went out to the street to confront him. With a tape measure, Barbic claimed, she demonstrated the distance of the 8-foot barrier, only be physically intimidated by Hoye until she was compelled to defend herself, shouting, "Stay away from me! Back down! Back away!"

Unbeknownst to witnesses and the district attorney, however, an associate of Rev. Hoye had been videotaping him from across the street on both the days on which the pastor was accused of violating the law.

A sample clip of Hoye carrying his sign and being shadowed by the clinic's escorts can be seen below:

Cody told WND that the video is an accurate representation of Hoye's demeanor, and that while some abortion protesters may scream and threaten, Hoye is not a man to use intimidation or "harassment."

"I have never met a man whose character and demeanor is so perfect for him to stand out in front of these clinics," Cody said. "He is the consummate gentleman. He's not intimidating at all. In fact, on the record there's witness testimony that part of the reason they're afraid of him is that he is so 'nice.'

"The man, he will tell you, 'I am an ambassador for Christ,'" Cody said.

On cross-examination, the court watched the video of two confrontations between Barbic and Hoye on the days in question. According to the LLDF, the video includes the tape measure and Barbic approaching Hoye. The video also showed, however, that the pastor calmly walked *away* from Barbic and showed no evidence of her fending him off and screaming.

Barbic then testified that the surprise videos must have been taken earlier in the day and that the intimidating confrontation happened later. Hoye's attorneys dismiss the testimony as bogus.

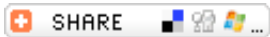
The jury nonetheless convicted Hoye of "unlawful approach."

"We think his conviction," Cody told WND, "was a failure of the judge to give instructions to the jury on what 'approach' meant."

The LLDF now intends to appeal Hoye's case as well as resume his original lawsuit – put on hold during Hoye's trial – within the next few months.

Cody told WND that Hoye filed the original lawsuit because the wording of city's ordinance prohibits even street counseling, a law that goes beyond protecting people from harassment to the point of censoring free speech.

"We live in America," Cody said. "The fact that this can happen because someone has the audacity to stand out on the street and try to help women is just unbelievable to me."



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