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Anti-abortion pastor chooses jail

By Paul T. Rosynsky
Oakland Tribune
Posted: 03/24/2009 12:00:00 AM PDT

A pastor from Union City who was the first person convicted of violating an Oakland law created to prevent anti-abortion protesters from harassing patients visiting clinics, is spending a month in jail as punishment for his crime.

Less than a month after he was sentenced to three years probation and given the option of volunteering or using the jail's work-release program instead of jail time as punishment, the Rev. Walter Hoye told a judge he wanted to do "straight time."

Hoye, who was jailed Friday, was arrested last May after he approached two women and their escorts who were trying to enter the Family Planning Specialists Medical Group in Jack London Square. Hoye originally was charged with four counts of violating the city law but was found guilty in January of two counts.

At a sentencing hearing last month, Alameda County Superior Court judge Stuart Hing said Hoye, in addition to the jail time or community service, also would have to serve three years probation during which time he would have to stay 100 yards away from the clinic where he was arrested.

Hoye, who is a pastor in Berkeley, said at the time that he would not abide by the terms of the probation.

Hoye's attorneys, paid for by the Life Legal Defense Foundation, argued in court Friday that Hing could not force Hoye to stay away from the clinic because the order was more severe than the law Hoye violated.

Oakland's "bubble law" requires that anti-abortion

protesters stay 8 feet away from any patient and escort who are trying to enter a clinic.

"Mr. Hoye is not agreeing to the package," Michael Millen, Hoye's attorney said. "This man is not a threat to society and it is unclear how remanding him to jail is a benefit to society."

Millen said he had already filed an appeal to Hing's sentencing decision and asked the judge to postpone any punishment until that appeal is resolved.

But Hing refused, saying Hoye has to follow the law and accept the punishment for violating the law whether he agrees with it or not. Since a jury found Hoye guilty, Hing said the defendant must face the consequences.

"A jury of 12 always sees more than any one person," Hing said. "And I mean any one person."

Although Hoye said he would not abide by the judge's stay-away order, Hing continued to give the pastor the option of staying out of jail and using other programs as a method to serve his time.

But Hoye refused and was cheered by a packed courtroom of supporters as he was led out of the hearing by sheriff's deputies.

If Hoye is found within 100 yards of the clinic after he is released from jail, the Alameda County District Attorney's Office could charge him with a violation of probation and send him to jail again.

Hoye also has 60 days to pay \$1,130 in fines.

Reach Paul T. Rosynsky at prosynsky@bayareanewsgroup.com or 510-208-6455.

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