
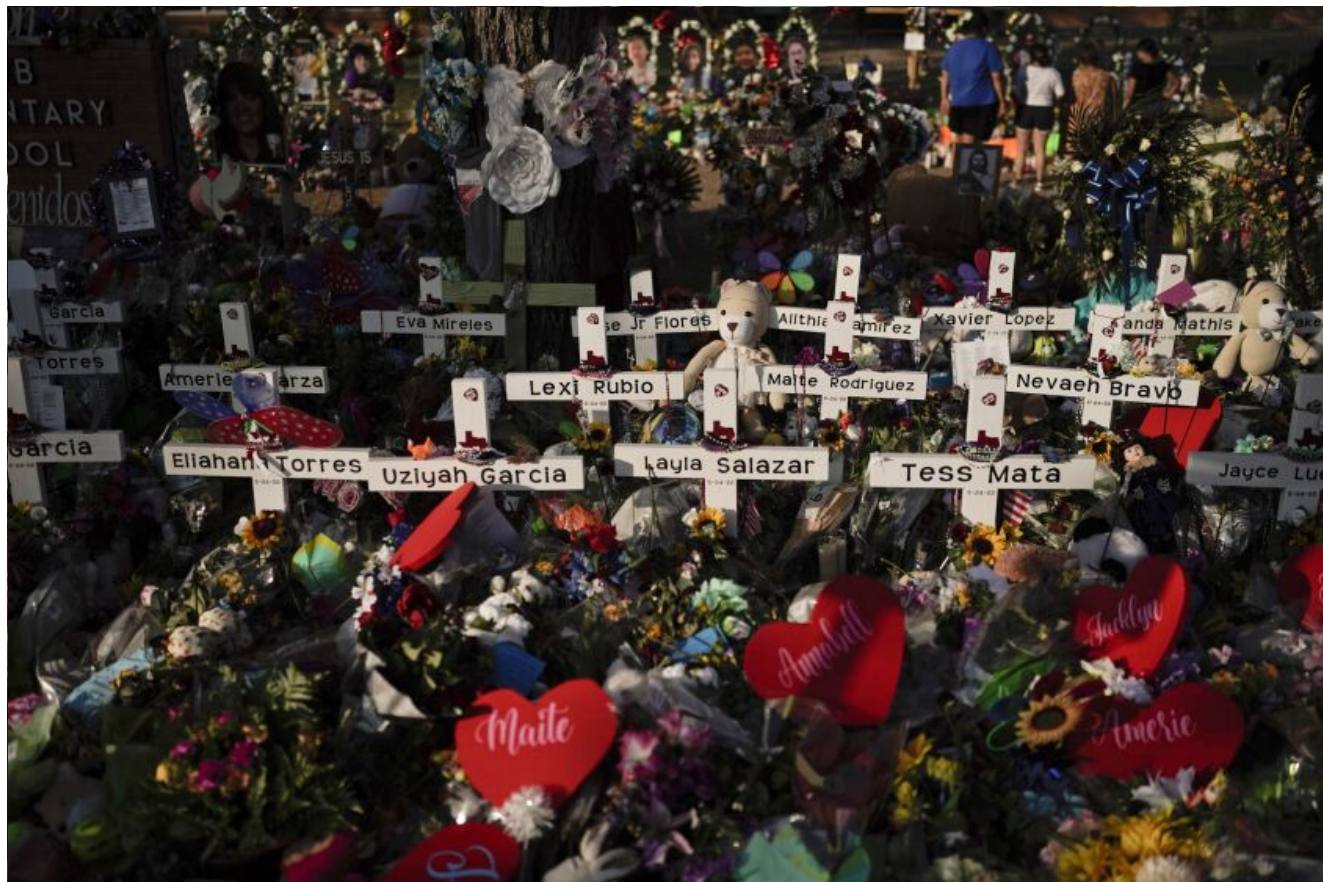


Abortion foe denies stepping over the line

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Robin Abcarian

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By Robin Abcarian

OAKLAND —

Just a few blocks off Oakland's busy Jack London Square, Walter Hoye, a soft-spoken Baptist minister, was standing outside an abortion clinic, doing his best not to get arrested.

Dressed in black and wearing his "Got Jesus?" ball cap, Hoye, 52, of Union City, Calif., held the hand-lettered sign he always brings: "God loves you and your baby. Let us help you." His black wire-rimmed sunglasses, perched halfway down his nose, gave him a faintly Hollywood air. In fact, he looked more like actor Don Cheadle than a public menace.

This was in May, but a few months earlier, Hoye became the first person convicted of breaking a 2008 Oakland law that creates an 8-foot buffer zone, or "bubble," around people entering abortion clinics.

His January conviction stemmed from his presence at a clinic, Family Planning Specialists

Medical Group, on two Tuesdays in the spring of last year, when he tried to talk women out of ending their pregnancies. In the parlance of abortion foes, this is “sidewalk counseling.” Those who support abortion rights call it harassment.

Until the May 31 slaying of Kansas abortion provider Dr. George Tiller, this sort of clash seemed an artifact of the 1990s, when a spate of violence against abortion providers prompted federal and state laws protecting access to clinics. But the conflict between unimpeded access to medical treatment and freedom of speech has never gone away.

“Prior to this ordinance,” said Jackie Barbic, executive director of Family Planning Specialists, “the protesters would actually put their heads in patients’ cars and get very close to them. You would have mom and dad bringing their teenage daughter in, and these people would follow them along the sidewalk to the front door of the office.” Some women, she said, were coming in for procedures after miscarriages. “Our patients were shocked and upset, and some of the partners would get very angry.”

Hoye and his attorneys, who work with the antiabortion Life Legal Defense Foundation, are challenging the buffer-zone law in federal court.

U.S. District Court Judge Charles R. Breyer heard arguments from the city and Hoye’s attorneys June 26. At the hearing, Breyer said the law appeared constitutional on its face, but Hoye’s attorneys pressed him to consider their claim that it’s unconstitutional as applied because it singles out abortion foes.

In the meantime, the judge in Hoye’s criminal case is considering a request by the city that Hoye be ordered to stay 100 yards away from the clinic permanently.

Hoye, a slender marathoner who is also a chaplain for the Golden State Warriors, was recruited three years ago by white Roman Catholic antiabortion activists who felt an African American man would have an easier time approaching the clinic’s many African American patients.

Executive elder of Progressive Missionary Baptist Church in Berkeley, he is usually accompanied by two black churchwomen, who are 83 and 90. “May I talk to you about alternatives?” he asks.

Hoye, a father of two who often says the birth of his first child -- tiny and premature -- gave him a visceral opposition to abortion, came to social activism late. In 2005, he said, he grew tired of his church “ignoring current, everyday issues,” and with the permission of his church’s elders and pastor, he put together a conference called “Issues that Matter,” which launched him into activism.

“We can hear a preacher preach or a teacher teach, and we won’t know how to vote, how to apply Scripture to our everyday life,” Hoye said. “We will know that David slayed Goliath and God will give you a great victory in your life. Well, how do you apply this to abortion?”

At the clinic, patients mostly ignore him. “We’ve had days when we are cussed out, but there are times when they do stop,” he said during an interview at a Berkeley cafe. His wife of 20 years, Lori Hoye, a statistician for the Golden State Warriors, sat beside him. She gets so angry about abortion, she said, that she can’t trust herself to be calm on the sidewalk.

“We try to put ourselves in the position of the child,” Lori Hoye said. “Would you want someone to try to save your life even at the very last moment? I would want someone to try to save me.”

In January, Hoye, who had no criminal record, was found guilty of two counts of breaking the Oakland law. The victims, said Deputy Dist. Atty. Robert Graff, were patients, although none complained to police and none testified against him. Police were called to the clinic by Barbic.

What Hoye did next made him an instant celebrity in the antiabortion movement. Instead of agreeing to community service and three years’ probation, which would have required him to stay 100 yards away from the clinic, he chose jail.

“I did not see how I could maintain my moral convictions, how I could give up my constitutionally guaranteed 1st Amendment rights,” Hoye said. “The only option left to me was -- just go to jail.”

Graff asked the judge to put him away for two years, but to Hoye’s relief, Alameda County Superior Court Judge Stuart Hing sentenced him to 30 days. He ended up serving 18.

In jail, he received a visit from Salvatore Joseph Cordileone, the new Catholic bishop of Oakland.

In March, Hoye was a featured speaker at the California Students for Life conference at UC Berkeley. He was lauded by the Rev. Clenard Childress, a national figure who founded blackgenocide.org and coined the phrase “womb lynching” to describe the disproportionate number of abortions in the black community.

(At 12.4% of the U.S. female population, black women have 37% of the country’s abortions, according to the Guttmacher Institute, whose statistics are widely cited by both sides of the abortion debate.)

On May 7, for the first time since his release April 7, Hoye was back on the sidewalk.

Since the law prohibits him from approaching patients, he decided to stand still and hold out a leaflet. He called this his “potted plant strategy.” Would that break the law? He hoped not.

But Hoye’s attorneys argued in federal court that the law discriminates against abortion foes in general, and against Hoye in particular.

“This is the ‘all about Walter’ ordinance,” said one of Hoye’s attorneys, Michael Millen. “You have police officers arresting people for no good reason on the sidewalk. The problem is, Walter is really effective. He is a really nice guy and that really bugs them because they want people to believe that pro-life people are thoughtless and boorish.”

Not so, Barbic said. Barbic and three escorts testified that by approaching them, Hoye was “intimidating” and “aggressive,” though he never said anything unkind.

Volunteer escort Sandra Coleman testified that when she would move alongside Hoye on the sidewalk to block him from patients’ view, he would say “things like: ‘And now I’m moving to the right a little bit, and now I’m moving to the left, watch your step, don’t fall.’ ” She said his soft voice “implied intimacy” and was “inappropriate.”

“And Mr. Hoye is always friendly to you?” asked another Hoye attorney, Allison Aranda. “He never says anything rude?”

“No, no,” replied Coleman. “He does not.”

Earlier, the jury watched a videotape of Barbic, the executive director, confronting Hoye and crisply marking off 8 feet with a tape measure.

“I said, ‘Mr. Hoye, maybe you aren’t so good at math, but this is 8 feet, and I need you to stay 8 feet from the patients and staff,’ ” Barbic testified. She said he approached her, and she told him, “You’re frightening me. You’re scaring me. Please move away from me.”

Jurors, according to the prosecutor and the defense attorneys, said the tapes persuaded them that Hoye had indeed broken the law -- ironic, since Hoye had made the tapes to show the escorts harassing him.

Meanwhile, Oakland officials say they are confident the ordinance will stand.

Oakland Supervising Deputy City Atty. Vicki Laden, who helped draft the law, said it was patterned on a Colorado statute that was upheld by the Supreme Court in 2000.

In that case, *Hill vs. Colorado*, the court reiterated its long-held position that any restrictions on speech must meet a high standard: they must be “content-neutral” and further an

important government interest -- in this case, allowing patients unfettered access to medical care.

And so Hoye pursues his potted plant strategy, most recently on June 16. No one has called the cops on him. Yet.

He is trying to comply with the law, he said. "But on the inside, it's tearing me up. The law is unjust, and I have a real frustration about that."

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