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Lifetime ban sought for Oakland anti-abortion activist

By John Simerman
Oakland Tribune

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An Alameda County prosecutor is seeking a lifetime ban on an anti-abortion activist coming within 100 yards of an Oakland clinic, arguing that Walter Hoye is bound to again break a city law designed to protect women.

Whether a judge has that authority, however, remains uncertain.

Hoye, 52, a Berkeley church elder who lives in Union City, spent his Tuesday mornings on the sidewalk in front of the Family Planning Specialists Medical Group clinic near Jack London Square, urging women entering the clinic to reconsider. Early this year, a jury convicted him on two misdemeanor counts of violating Oakland's "bubble ordinance," a 2008 law that bans approaching within eight feet of anyone entering an abortion clinic.

He took a 30-day jail sentence instead of community service, refusing a three-year probation term that would force him to steer clear of the clinic. Superior Court Judge Stuart Hing ordered the probation anyway. Hoye has appealed.

Since leaving jail in April, Deputy District Attorney Masanao Morimoto said, Hoye has ignored the judge's probation order, returning to the clinic at

least three times with his "Got Jesus" cap and a sign reading, "Jesus loves you and your baby. Let us help."

Morimoto said he expects Hoye to succeed in overturning the probation order, since he never agreed to it. So last month, Morimoto sought to replace it with a three-year injunction under another section of the bubble law. Hoye has not appeared to violate the ordinance again, but Morimoto said details and pictures of Hoye's return visits, seeking to approach women and hand them literature, justified a more severe, permanent ban.

"He's doing what he was doing before. Basically, it's clear to us that he has not been deterred by his conviction," he said. "As happened before, his legal activities will escalate to illegal ones."

Hoye, who describes abortion in the black community as genocide, last appeared outside the clinic Tuesday. He said he now stands rigid on a sidewalk square with his sign and says, "Good morning, may I talk to you about alternatives to the clinic?" as women enter. Hoye said that he has been told that bending an elbow may be considered "approaching" under the law.

He called the bid for a permanent injunction a scare tactic.

"They have no basis, no reason. I'm "... standing still like a potted plant," he said. "This is truly wicked. For the sake of killing a child, they're willing to trash the constitution of the United States of America."

His attorney suggested undue influence from the clinic's leaders on the district attorney's office.

"Whatever the hallmarks are of a political prosecution, you can start ticking each one off. This

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is it," said Michael Millen, an attorney for the Life Legal Defense Foundation.

Morimoto argued in legal papers that Hoye "underestimates the impact of his activities," which can cause "significant psychological distress" to women seeking help.

Hoye argued that his appeal took the case out of Hing's hands, and that the prosecutor's bid for an injunction misuses the city law. Hing has not set a date for a ruling. In the meantime, Hoye is challenging the constitutionality of the bubble law in federal court, saying it violates his free speech rights.

The city argues that it modeled its ordinance on a Colorado law that the U.S. Supreme Court has upheld as constitutional.

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