

Court holds all abortion demonstrators equal under Oakland 'bubble ordinance'

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OAKLAND -- A city law aimed at protecting women from anti-abortion activists outside medical clinics was upheld Thursday by a federal court that ordered the law must also restrict the behavior of volunteer escorts who help guide women into those clinics.

Oakland's "bubble ordinance," passed in 2007, creates a 100-foot zone around entrances to the city's reproductive health clinics. Within that bubble, it is illegal to come within 8 feet of anyone trying to enter the clinic "for the purpose of counseling, harassing, or interfering with (him or her)." That restriction goes away if a demonstrator simply asks, "May I speak with you?" and the person says OK.

Walter Hoye, an anti-abortion Baptist minister from Union City convicted of violating the ordinance by persistently approaching women outside clinics, challenged the law as unfair. His conviction was later overturned on a technicality.

Hoye's attorney, Michael Millen, said the problem is that the law applies unevenly. He said volunteers working outside the clinics speak loudly or make "la la la" sounds to overwhelm Hoye's efforts to communicate. Sometimes, he said, they form a human wall between Hoye and women entering the clinic so that getting permission to speak to them is impossible.

Enforcement of the bubble ordinance, until now, didn't require that the escorts get permission to do all that, Millen said.

The 9th Circuit Court of Appeals upheld the ordinance

but agreed that enforcement must go both ways: Escorts must get permission to contact people entering the clinics before doing anything else.

Both sides called the decision a victory.

Millen called the decision a landmark in First Amendment rights. "No speaker, no matter how worthy their cause may be, is entitled to special privileges from the city," he said.

Oakland City Attorney Barbara Parker said the key issue in the case "is giving women the support and the access they need to reproductive health care services," especially in the face of protesters who have been known to attack, threaten or rush up to women approaching clinics.

The Oakland law and a similar one in Colorado have now both been upheld by federal appeals courts.

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