

## **Pastor Walter Hoye's Constitutional Rights Vindicated at the Ninth Circuit**

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**SAN FRANCISCO,**

**July 29, 2011 /Christian Newswire/ — Late yesterday the Ninth Circuit Court of Appeals issued its opinion in Hoye v. Oakland, the case in which Pastor Walter Hoye challenged Oakland's "bubble zone" ordinance as an unconstitutional infringement of free speech. In the 3-0 opinion authored by Circuit Judge Marsha S. Berzon, the court stated, "We agree with Hoye that there are grave constitutional problems with the manner in which the City has understood and enforced its Ordinance."**

**The court reversed the district court's determination that the ordinance is valid as the city applies it, because the City discriminates in enforcing the ordinance against Hoye but not other speakers. The City only prosecutes persons for "approaching" women within the "bubble zone" if they are trying to persuade the woman not to have the abortion. Clinic "escorts" and others "facilitating" the women entering the clinic can approach and give the women whatever message they want — often urging women to ignore Pastor Hoye. While Pastor Hoye has scrupulously followed the law, he has suffered arrest, prosecution and imprisonment due to the City's determination to shut out his message. On the other hand, clinic escorts routinely break the law as written, yet have never faced prosecution.**

**Based on these facts, the court concluded, "Oakland's enforcement policy is a constitutionally invalid, content-based regulation of speech."**

**While the opinion also stated "we do not find any relevant differences between the Ordinance's purpose and text and those of the Colorado statute that the Supreme Court held to be constitutional in Hill," the Court noted that the reasoning of the Hill decision "has been criticized by scholars of various stripes."**

**Pastor Hoye stands on the public sidewalk outside Oakland abortion clinics to offer hope to women. His sign reads, "Jesus loves you and your baby. Let us help." One of the problems Hoye**

has faced in reaching women stems from the activities of clinic "escorts." These clinic volunteers will surround Hoye, block his sign with blank posters, and drown out his voice, making it impossible for Hoye to reach his intended audience. The Ninth Circuit noted that the Supreme Court in Hill had not considered this scenario in upholding the Colorado statute. If, on further hearing, Pastor Hoye can show that the ordinance leaves him without ample alternatives for reaching his audience, this would be grounds for striking down the law, the Court said.

"This part of the decision points to a possible narrowing of the Supreme Court's awful decision in Hill," said LLDF Legal Director Katie Short. "In evaluating a constitutional challenge to a bubble law like this, courts will not turn a blind eye to the challenges facing pro-lifers in communicating their message, including when those challenges come from the bad behavior of clinic escorts."

*Life Legal Defense Foundation is a non-profit organization composed of attorneys and other concerned citizens, committed to giving helpless and innocent human beings of any age, and their advocates, a trained and committed voice in the courtrooms of our nation.*

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#### **About deaconjohn1987**

What's to say about me? Well, I'm 74 years old, semi-retired with my wife Marianne, and living in a condo in Central Florida. I was born in Manhattan (New York Hospital) but lived my childhood in Astoria, Queens. My wife lived one block away but we never met until I was about 21 years old. I enlisted in the US Navy in 1954 and served aboard 2 Aircraft Carriers, the Bennington and the Leyte. After 3 and a half years I was discharged and I worked in many different jobs. My favorite job was as a motorcycle courier for the local TV News Stations and U.P.I. I got paid to do something I loved, riding a Harley! I met my wife through her cousin and we married and had 6 children; 2 are in heaven. We now have 8 grandchildren! Most of them are living in New York and Pennsylvania, so we don't see them too much. In 1987 I was ordained a deacon for the Diocese of Brooklyn and served in four parishes until 2002, when we relocated to Florida. Mainly because we couldn't afford to live in NYC and for my wife's health, she needed a home of her own. She has 'end stage kidney failure' and is expected to go on dialysis soon. Our daughter helped us buy the condo and answered my prayers that we could have our own home. Blessed be God forever! I work a part-time job to help pay for the medications and doctor visits, but it's really tough making ends meet. I miss New York with all the excitement and places to go. And the beautiful churches! I also love the Old Latin Mass but can't get to one here. As a matter of

fact we don't even have a parish in our town of Tavares, so we travel to Eustis or Mt. Dora for Mass. Our life is a struggle and I hope to post some of these trials here for the glory of God!

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