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Walter Hoye wins again

Judge orders “evenhanded application” of Oakland ‘bubble ordinance’

(Editor’s Note: The following news release from Life Legal Defense Foundation came in to *California Catholic* over the Christmas holidays. It is an important follow-up to the story “Finding ways to eliminate his voice,” which we previously published on Dec. 14.)

The case involving Pastor Walter Hoye’s right to free speech was back in court Dec. 16 for a determination of a proper remedy after the Ninth U.S. Circuit Court of Appeals ruled in July that Oakland’s enforcement of its “bubble zone” ordinance “is a constitutionally invalid, content-based regulation of speech.”



The hearing resulted in an order requiring Oakland to follow a policy containing no exceptions or qualifications about who is covered by the ordinance.

Leading up to the order, Oakland argued that there should be an exception to the ordinance for all abortion clinic workers. As LLDF pointed out in its briefs, the city’s argument would eviscerate any notion of evenhanded enforcement, since all speakers in the pay of the abortion clinic (from the doctor to the clinic-paid escort) would be free to present their message outside the clinic while those presenting a pro-life message would still be subject to the ordinance.

Shortly before the hearing, the city abandoned its argument, and, in fact, denied ever having made it.

The judge rejected the city’s argument that police officers should be instructed not to enforce the ordinance against escorts and workers at Family Planning Specialists because they would have “advance consent” to approach women. According to a new clinic policy, women would not be allowed to make an appointment unless they first gave consent to be approached by abortion clinic personnel on the sidewalk outside the abortion clinic. The court declined to view this non-binding abortion clinic policy as a basis for creating an exception in the city’s enforcement policy.

“The city’s last -- or at least latest -- attempt to give favored status to pro-abortion speakers failed,” said Dana Cody, Life Legal Defense Foundation’s president and executive director. “LLDF will continue to watch how Oakland’s enforcement policy plays out, and will do everything in its power to see that pro-life speakers are not shut out of Oakland’s public forums.”

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