

Godfather of the Pro-Life Movement: Scalia Made My Day

In the wake of the sudden death of United States Supreme Court Justice Antonin Scalia, many are paying tribute to this iconic defender of constitutional conservatism. The “Godfather” of the pro-life movement, Joe Scheidler – an iconic defender in his own right – recalls his interactions with Scalia, both as a defendant in the epic NOW v. Scheidler case, and during a conversation in the 1990s when Scheidler introduced Justice Scalia to the pro-life activity of “sidewalk counseling” outside abortion clinics.

This lengthy and high-profile lawsuit attempted to apply the federal Racketeer Influenced and Corrupt Organizations Act (RICO) – a law drafted to combat the mafia and organized crime – to pro-life advocates seeking to prevent abortion vendors from taking advantage of women and their unborn babies. The National Organization for Women sued Scheidler, claiming he and other activists were guilty of “coercion” for protesting abortion and offering women abortion alternatives. After nearly three decades of suits and counter suits, including three trips to the Supreme Court, the matter was resolved in Scheidler’s favor. Details and the history are available [here](#).

Joe Scheidler recalled his interactions with Scalia, as he sadly marked the passing on the 79-year-old Supreme Court Justice:

I am deeply saddened by the death of Supreme Court Justice Antonin Scalia. He was a brilliant mind and a champion of the United States Constitution and a friend to pro-life.

On December 4, 2002, I sat in the Supreme Court chamber as attorneys for me and for the National Organization for Women

argued the details of RICO case, *Scheidler v. NOW*. At one point Justice Scalia interrupted NOW's attorney, Fay Clayton, with a pointed question about her definition of blockading. "As your argument to the jury indicated, it was enough if they obstructed the entrance and failed to part like the Red Sea if somebody wanted to go in ... You told the jury that you could find an offense here under the Hobbs Act by the mere blockade."

Clayton answered, "Not true, Your Honor."

At that point Justice Scalia signaled to a clerk, who brought him a copy of the transcript from the 1998 trial. Scalia read verbatim from the transcript the exact words he had just used: "part like the red sea."

Clayton was momentarily speechless. And I leaned over and said to my attorney Tom Brejcha, "I think we've won."

And we did in an 8-1 opinion released February 26, 2003.

On another occasion I had an interesting conversation with Justice Scalia on the subject of sidewalk counseling and the bubble zones. The Supreme Court had recently upheld an injunction in New York, establishing a buffer zone around an abortion clinic. I told Justice Scalia that bubble zones violate our First Amendment rights. I then explained that trying to have a reasonable conversation from an awkward distance away inhibited our ability to offer women a real choice.

A number of years later, when the sidewalk counseling and bubble zone case, *Hill v. Colorado* reached the Supreme Court, although the Court upheld the Colorado bubble zone, Justice Scalia wrote a dissenting opinion, citing First Amendment concerns. More recently, Justice Scalia distinguished sidewalk counseling from protesting in a strong concurring opinion in the 2014 *McCullen v. Coakley* case that struck down anti-speech buffer zones at abortion clinics.

Justice Scalia's death is a great loss to the Court and to the nation. I urge pro-lifers to pray fervently for our country. The future is uncertain and it is scary. The Court will be hearing some cases in the next few weeks that are critical to the moral and constitutional future of the United States. At this point prayer is our only recourse. May God welcome this good man to his eternal reward. I pray for his family and I pray for this nation.