

New York AG Appeal Against Pro-Lifers Becomes Desperate

The New York attorney general has filed an appeal in the case against 13 pro-life Christians who counsel women and share the gospel on the public sidewalks outside New York's largest abortion business.

The District Judge Carol Bagley Amon denied an injunction sought by the Office of the Attorney General (OAG) in which Scott Fitchett Jr., represented by Liberty Counsel, was sued with the other defendants in June 2017 by former New York Attorney General Eric Schneiderman. The OAG wanted to shut down the Christian and pro-life speech of the defendants outside Choices Women's Medical Center in Jamaica, New York.

Judge Amon's 103-page order denying the OAG's injunction specifically noted the "biased and unreliable" testimony of the OAG's main witnesses and the OAG's false claims of harassment and intimidation against Fitchett and the other defendants. Judge Amon found the OAG's witnesses, including four abortion clinic "escorts," lacked credibility, and found the OAG's video evidence fell far short of the OAG's burden of proof. At the outset of her substantial factual findings, Judge Amon explained, "The most problematic of the credibility issues discussed below is the tendency for the ... OAG witness testimony to exaggerate the impropriety of the defendants' conduct and to omit mitigating circumstances. In this regard, it is notable that, despite the availability of hundreds of hours of video evidence, the OAG has not cited a single video that corroborates the witness testimony. ... Instead, the video evidence contradicts the escorts' accounts of protestor conduct on specific occasions."

Schneiderman filed the lawsuit in June 2017 based on the federal Freedom of Access to Clinic Entrances Act (FACE) and

similar New York laws. Schneiderman intended to silence the pro-life and Christian messages he despised. Making his animus clear, he launched the lawsuit against Fitchett and the other defendants with a press conference outside Choices, where he touted his pro-abortion credentials while shockingly berating pro-life Christians who he said “run their mouths” with “unlawful, un-American rhetoric.” Flanked by the millionaire abortionist and Choices owner Merle Hoffman, Schneiderman smugly declared, “We are not a nation where you can choose your point of view,” and denigrated Christians’ efforts to counsel women and advocate for the life of the unborn as “horrifying” and “illegal.” In a sad twist of irony, Schneiderman would resign in disgrace less than a year later after serious allegations that he physically abused four women.

“Judge Amon’s order exposed the Office of the Attorney General’s case as a sham, painstakingly exposing the exaggeration and unreliability of each of the attorney general’s witnesses,” said Horatio Mihet, Liberty Counsel’s Vice President of Legal Affairs and Chief Litigation Counsel.

“It is inconceivable that the attorney general would appeal this case knowing that the lower district court issued a detailed opinion detailing the false and unreliable witnesses of the state,” says Mat Staver, Founder and Chairman of Liberty Counsel. “The appellate court will not retry this case and will give deference to the factual findings of the lower court judge who is in the best position to determine the lack of credibility of the state’s witnesses. This appeal by the attorney general is just another frivolous harassment by the state of New York against our pro-life client. Frivolous litigation and abuse of the legal system is sanctionable.”

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