

Pro-Life Protester Avoids Jail Time for 'Disturbing the Peace'

A pro-life protester faced up to 60 days in jail and fines of up to \$750 for violating an Oklahoma ordinance that makes it a crime to "play or create loud and unusual sounds" before prosecutors dropped their case against him on the eve of trial.

The Rutherford Institute came to Toby Harmon's defense after he was charged with disturbing the peace while protesting outside the Abortion Surgery Center in Norman, Okla., last March. Two to three times a week over the course of several months, he situated himself outside the abortion clinic to "preach the Christian gospel to the public and urge women entering the center not to terminate their pregnancy."

Harmon, a member of the Abolitionist Society of Norman, routinely used a small amplification device without incident in order to be heard without having to shout or scream. But, on March 4, while assembled with about 50 other protesters—some of whom were gathering signatures relating to state legislation—police cited him for disturbing the peace.

"Although the City of Norman has an ordinance that regulates noise by setting specific decibel limits for sound, the officers did not measure the decibel level of Harmon's protest activities and did not charge him for exceeding those levels," his attorneys with The Rutherford Institute, which took up his case, stated. "City law defines the offense of 'disturbing the peace' as 'playing or creating loud or unusual sounds[.]'"

In defending Harmon, Institute attorneys argued that the ordinance violates the First Amendment by granting police "unbridled discretion" to enforce the law against unpopular

persons or speech. They also argued the local ordinance was “unconstitutionally vague” and didn’t “provide fair warning of prohibited conduct or explicit standards for enforcement.”

“Free speech is not for those who are easily offended, readily intimidated or who need everything wrapped in a neat and tidy bow,” Rutherford Institute President John W. Whitehead said. “Free speech is often messy, foul-mouthed, obscene, intolerant, undignified, insensitive, cantankerous, bawdy and volatile.

“While free speech can also be tender, tolerant, soft-spoken, sensitive and sweet, it is free speech’s hot-blooded alter ego—the wretched, brutal, beastly Mr. Hyde to its restrained, dignified and civil Dr. Jekyll—that tests the limits of our so-called egalitarian commitment to its broad-minded principles. Americans would do well to remember that free societies cherish free speech, relish open debates and controversy and, in turn, produce a robust citizenry who will stand against authoritarian government.

“Indeed, oppressive regimes of the past have understood the value of closed-mouthed, closed-minded citizens and the power inherent in controlling speech and, thus, controlling how a people view their society and government.”