

Rochester Halts Improper Enforcement of Abortion Facility Access Restrictions

The Thomas More Society has received notice from the City of Rochester, New York, that it will no longer hold pro-life advocates to restrictions on abortion facility access that were improperly enforced against them by Rochester Police.

Since October 2017, Jim Havens and other members of ROC Sidewalk Advocates for Life have been offering alternatives to abortion with women going to a Planned Parenthood abortion facility on University Avenue in Rochester. Havens and the ROC group did this on the public sidewalk without restriction until June 2018 when Planned Parenthood prevailed upon the Rochester Police to instruct them that a federal injunction prohibited them from approaching within fifteen feet of the entrance.

The 2005 injunction is in place at the location as a result of a previous lawsuit and sets a buffer zone preventing those bound by the injunction from coming closer than 15 feet from the Planned Parenthood entrance on the public sidewalk. The zone is marked by yellow lines painted across the sidewalk on either side of the Planned Parenthood facility entrance.

The City of Rochester law enforcement officers invoked the injunction and ordered Havens and his group to obey the buffer zone imposed by it. Thomas More Society attorneys took the position that Havens and the ROC Sidewalk Advocates for Life were not bound by the 2005 injunction.

Accordingly, Thomas More Society attorneys sent a letter to the City of Rochester explaining that the Rochester Police were illegally denying the pro-life advocates their First Amendment rights. The letter pointed out that Havens and

members of ROC Sidewalk Advocates for Life were not defendants in the 2005 legal matter, and were not acting in concert with anyone who was violating the injunction.

For that reason, they are not subject to it and could not violate it. In answer to the letter, Patrick Beath, deputy corporate counsel, said that “[t]he City of Rochester agrees.”

Thomas Olp, Thomas More Society vce president and seniorcounsel, explained the significance of the victory.

“The practical effect of the City of Rochester’s agreement is that Mr. Havens and the ROC Sidewalk Advocates for Life can ignore the yellow lines on the sidewalk that mark the injunction’s 15-foot buffer zone around the Planned Parenthood entrance in Rochester,” Olp said. “The injunction arising out of a court case almost 20 years ago can be enforced only against those who were parties to the case, and not against the world at large, as the police tried to do here.

“Jim Havens and his group may not be threatened with contempt simply because Planned Parenthood doesn’t want them on the public sidewalk outside their abortion clinic, when Havens and his group were not parties to the original lawsuit, and are not acting in concert with any party violating the injunction. The injunction is not a ‘free pass’ allowing police to restrict free speech rights of pro-life advocates who did not prompt the issuance of the injunction, were given no due process ‘say’ in the proceeding that gave rise to it, and have never assisted those bound by the injunction to violate it. We appreciate the City of Rochester’s acknowledgment of these well-established legal principles.”

Read the Thomas More Society’s Aug. 7, 2018, letter to the City of Rochester’s Corporation Counsel [here](#) and the City of Rochester’s September 6, 2018, reply [here](#). {eoa}