

### **High Court Case: Abortion Clinic Protest-Free Zone**

#### **News**

Posted by : Randy

Posted on : 2014/1/13 7:43:14

BOSTON (AP) -- Eleanor McCullen clutches a baby's hat knit in pink and blue as she patrols a yellow semicircle painted on the sidewalk outside a Planned Parenthood health clinic on a frigid December morning with snow in the forecast.



The painted line marks 35 feet from the clinic's entrance and that's where the 77-year-old McCullen and all other abortion protesters and supporters must stay under a Massachusetts law that is being challenged at the U.S. Supreme Court as an unconstitutional infringement on free speech. Arguments are set for Wednesday.

Outside the line, McCullen and others are free to approach anyone with any message they wish. They risk arrest if they get closer to the door.

With her pleasant demeanor and grandmotherly mien, McCullen has become the new face of a decades-old fight between abortion opponents asserting their right to try to change the minds of women seeking abortions and abortion providers claiming that patients should be able to enter their facilities without being impeded or harassed.

In 2000, the Supreme Court upheld a different buffer zone in Colorado in a decision that some free speech advocates, who also support abortion rights, heavily criticized. Noted First Amendment lawyer Floyd Abrams recently called the decision in *Hill v. Colorado* "what may well be the most indefensible First Amendment ruling so far this century."

The three dissenters in that case - Justices Anthony Kennedy, Antonin Scalia and Clarence Thomas - remain on the court. They have been joined by Chief Justice John Roberts and Justice Samuel Alito, who may be willing to provide the two additional votes in support of the protesters.

McCullen and other abortion opponents sued over the limits on their activities at Planned Parenthood health centers in Boston, Springfield and Worcester. At the latter two sites, the protesters say they have little chance of reaching patients arriving by car because they must stay 35 feet from the entrance to those buildings' parking lots.

Planned Parenthood provides health exams for women, cancer screenings, tests for sexually transmitted diseases, birth control and abortions at the clinic, although on this day Boston clinic employees said no abortions were performed.

McCullen doesn't know which services arriving patients are seeking, but she said that women arriving with someone else usually are about to have an abortion because they need a ride home.

Sometimes McCullen is able to start a conversation before a woman reaches the yellow line. Protesters can usually be close by when people emerge from taxicabs.

But when a couple approached from the opposite way, McCullen could only call out to them. "There's so much help available. Can we just talk for five minutes?" she said.

The man and woman showed no reaction and entered the clinic unimpeded.

"This is what we have to deal with," McCullen said, on the first of two days in mid-December on which she spoke with an Associated Press reporter outside the Planned Parenthood facility.

Planned Parenthood workers and state officials said that the buffer zone has reduced significantly the harassment of patients and clinic employees. Before the 35-foot zone went into effect in 2007, protesters could stand next to the entrance and force patients to squeeze by, said Marty Walz, president and CEO of Planned Parenthood League of Massachusetts. While in the state House, Walz was the lead sponsor of the law.

Walz said safety is paramount for patients and her staff. Other than Walz, people at the clinic refused to have their faces photographed because they fear anti-abortion activists would post the pictures online. Clinic director Cheryl Sacks said she is granted a special registration status for her car to keep the information private.

The concern about safety is not theoretical. In 1994, a gunman killed two receptionists and wounded five employees and volunteers at a Planned Parenthood facility and another abortion clinic in nearby Brookline. The most recent killing was in 2009, when Dr. George Tiller, who performed abortions, was shot in a church in Wichita, Kan.

"We're concerned for patient and staff safety if the current law is overturned," Walz said.

Mark Rienzi, the Catholic University law professor who represents the protesters, said there has not been a documented case of violence at a Massachusetts clinic since the 1994 killings.

"The idea that someone like that will be deterred by a painted line on the ground is nonsensical," he said. "In the meantime, you shouldn't be able to use that to stop women from being offered these other options. As a practical matter, that's what happens."

Other state and federal laws already protect health center workers and patients, as well as access to clinics, Rienzi said.

Before 2007, a floating buffer zone kept protesters from approaching unwilling listeners any closer than 6 feet if they were within 18 feet of the clinic. The floating zone was modeled after the Colorado law that the Supreme Court upheld.

Massachusetts Attorney General Martha Coakley said the old law was confusing to both sides, and essentially unenforceable. "It was not as easy to effect the calm, orderly" entrance to the facility for patients, or their exit.

Walz said opponents can make their case to arriving patients. "It's the last 7 seconds of your walk into the doorway," she said, explaining that it takes her that long to walk from the perimeter to the entrance.

But the protesters said the new law limits their ability to be on a public sidewalk with a message - though disagreeable, even distasteful, to some - that they have a right to express.

"The public sidewalk has effectively been made private property," said Bill Cotter of the anti-abortion group Operation Rescue. "Unless I'm quick enough to make it around the perimeter of the buffer zone, I don't have the opportunity to talk to people face to face or put a leaflet in their hand."

One cold morning, after 6 inches of snow had fallen overnight, McCullen and a few other protesters were back, handing out roses.

"Every child deserves a birthday. Save a child today," one man said whenever people entered the clinic.

McCullen said she sometimes goes weeks without deterring a woman from having an abortion. "Then I'll have two in one week," she said.

She said she'll drive a willing listener for an ultrasound exam and support her for the duration of the pregnancy.

"I'll go to the hospital and then have the baby christened, if they want," she said.

There is steady foot traffic along Commonwealth Avenue in front of Planned Parenthood, including many students from nearby Boston University. People who are just passing through may cross the buffer zone.

Among the pedestrians were two young women who accepted roses and talked to McCullen for several minutes before they entered the clinic.

When the women emerged 45 minutes later, they went with McCullen into the nearby market, came out with diapers and groceries and drove off with her in her blue Mercedes-Benz.

The women had declined to talk to a reporter, but Operation Rescue: Boston later described the encounter on its website as the 58th baby spared from abortion in the Boston area as a result of the work of McCullen and others who regularly show up at the clinics.