

**DENVER COURT, IN DENVER AND COUNTY OF DENVER, COLORADO**

1437 Bannock Street  
Denver, CO 80202

THE PEOPLE OF THE STATE OF COLORADO  
AND THE CITY OF DENVER

Plaintiffs.

Vs.

JO ANN SCOTT, Pro Se,  
Defendant.

**\_ COURT USE ONLY \_**

Case No.: 07M09269 and  
Case No.: 07M10757 and  
Case No.: 07M10758  
Courtroom 100K

**MOTION TO DISMISS WITH SUPPORTING AUTHORITY**

COMES NOW, JO ANN SCOTT pro se, a Christian Missionary for the Unborn Child, now requesting the following cases to be **DISMISSED WITH SUPPORTING AUTHORITY** and with support of facts behind these cases:

- I. The issues of these cases are bigger in scope and need to be addressed.
  - A. The case law from a number of rulings needs to be discussed and put into context with the U.S. SUPREME COURT ruling, Leila Jeanne HILL, Audrey Himmelmann, and Everitt W. Simpson, Jr., Petitioners, v. COLORADO, et. al. No. 98-1856, argued Jan. 19, 2000, Decided June 28, 2000.
  - B. The Bubble Law under Colorado House Bill 93-1209 and Enacted with Section 1. No. 18-9-122 from 1993.
  
- II. The surrounding facts of these cases need to be addressed before starting any of these trials.
  - A. Planned Parenthood has provided not all Discoveries and this need to be addressed.

B. Not all Discoveries have been provided by the District Attorney's Office and this needs to be addressed.

I. In *Hill v. Colorado*, the Supreme Court in 973 P.2d 1246, Justice Stevens held that: (1) statute was narrowly tailored content time, place and manner regulation; (2) was not overbroad or unconstitutionally vague; (3) statute did not impose unconstitutional prior restraint on speech. There was a wide range of argument on these particular points still for this case.

In addition it is interesting that further discussion of the above case will go to quite a different court considering that Justice Rehnquist and Justice O'Connor are gone from the Supreme Court and the Justices that dissented still remain.

A. In all of the Dissenting opinions by Justice Scalia, Justice Thomas and even Justice Kennedy there is concern about the abusive restrictions against the First Amendment Issues of the United States Constitution. (Please see exhibit # 1 of the entire Supreme Court Ruling.)

The past Case Law before this particular Supreme Court ruling is over whelmingly opposite, to guarantee individuals right to have freedom of speech, freedom to protest, freedom of expression and freedom to hand out literature in a public places. This type of case has never had such restrictions like this put upon it before, to the defendants knowledge and it has never been challenged when a person has been charged with this crime or found guilty of this type of crime.

a. This type of case wasn't even possibly addressed within the opinion. The reason to say such a thing is because both complainants signing the complaints against the defendant have a conflict of interest. The persons were employees of Planned Parenthood and were coming to the Abortion Clinic with a possible agenda. These complainants would know that there are ample parking spaces inside of the property of Planned Parenthood abortion mill for customers. A motive exists for the complainants to enter Planned Parenthood abortion clinic outside on the sidewalk for reasons other than would be expected.

This point that is being made would fall into the area of overbroad and unconstitutionally vague dealing with persons that have a conflict of interest. Planned Parenthood has a financial interest in prohibiting sidewalk counselors from educating and leafleting on the public sidewalk. Each abortion raises large sums of money from not only the abortion, but the money they receive from the reclamation fees that they charge for the baby's body parts. The defendant is a sidewalk counselor that persuades on average 2 women a week to keep their babies. Money Planned Parenthood sees as theirs.

This could also be considered entrapment, conspiracy and a fraudulent complaint, if they didn't inform the Denver Police to being a Planned Parenthood employee.

The issue is a viewpoint-based setup for discrimination against someone that holds the opposite view as Planned Parenthood. The defendant has the

right to hand out literature, to educate and counsel about where the women can get help. The issue **is not a content-neutral regulation**. In the Supreme Court case there was never any evidence that a “sidewalk counselors” was ever abusive or confrontational”. See page 9 of the ruling in the second column and last sentence. This is another issue to be brought forth on appeal.

- b. In the Exhibit #1 of the Supreme Court Ruling on page 18, end of the next to last paragraph it points out that, “Additionally, the statue allows the speaker to remain in one place, and the other individuals can past within eight feet of the protester without causing the protester to violate the statue. Finally, here there is a ‘knowing’ requirement that protects speakers ‘who thought they were keeping pace with the targeted individual’ at the proscribed distance from inadvertently violating the statue. *Id.*, at 378, n. 9, 117 S.Ct.855”

This brings up some questions that have to be answered by the Court or the District Attorney Office to start with.

1. Does the videotape show conclusively that the defendant was ever within the eight-foot bubble zone, within the 100 ft. area?
2. Was there any lines drawn outside of the fenced area of Planned Parenthood to show where any sidewalk counselor would be violating such 100 ft. ordinance? Where were these painted lines by the police department or by Planned Parenthood to show such boundaries? How would any person that comes to sidewalk counselor at this Planned Parenthood know the supposed 100 ft. zone’s exact area, if it is not painted or marked to show where it beings or ends?

B. In Exhibit #1, Justice SCALIA, with whom Justice THOMAS joins, dissenting from pages 26 through pages 38 shows the many good arguments against this law. On page 30, the first paragraph shows several good points to look at.

- a. “In sum, it blinks reality to regard this statute, in its application to oral communications, as anything other than content-based restrictions upon speech in the public forum..”
- b. “Suffice it to say that if protecting people from unwelcome communications (the governmental interest the Court posits) is a compelling state interest, the First Amendment is a dead letter.”
- c. “ neither the restrictions upon oral communications nor those upon handbilling can withstand a proper application of even the less demanding scrutiny we apply to truly content-neutral regulations of speech in traditional public forum.”

All these points and more show that sidewalk counselors should be able to hand out literature, advise the women about the specific help they need, and privately and quietly talk to them about alternatives to abortion. These are often confidential conversation that must take place at closer range for a young woman to discuss her private circumstances. Leafleting is addressed extensively by the dissenting Justices and on page 34.

- d. On page 37, Justice Scalia further states in the first paragraph, “So one can add to the casualties of whatever-it-takes proabortion jurisprudence the First Amendment

doctrine of narrow tailoring and overbreadth.R.I.P.” What has been pointed out here and elsewhere is that, Justice Scalia states that a proabortion bias has severely affected Supreme Court decisions.

e. On page 38, Justice Scalia concludes in the final paragraph, “Does the deck seem stacked? You bet. As I have suggested throughout this opinion, **today’s decision is not an isolated distortion of our traditional constitutional principles, but is one of many aggressively proabortion novelties announced by the Court in recent years.**” It continues with points against limitations now being imposed by the State on public sidewalks.

B. In Exhibit #1, Justice Kennedy shows his dissenting opinion on pages 38 through 51.

a. Lets look at the very first two sentences,

“The Court’s holding contradicts more than a half century of well-established First Amendment principles. For the first time, the Court approves a law which bars a private citizen from passing a message, in a peaceful manner and on a profound moral issue, to a fellow citizen on a public sidewalk.”

The three Supreme Court Justice all agree that 18-9-122 is unconstitutional. Then two sentence later in the opening paragraph Justice Kennedy states, “In my view, Justice SCALIA’s First Amendment analysis is correct and **mandates outright reversal.**”

b. Justice Kennedy states on page 39, last paragraph,

“The evenhandedness the Court finds so satisfying, however, is but a disguise for a glaring First Amendment violation.”

What is constantly being pointed out is that sidewalk counseling is content based and their decision says different. What Justices Scalia, Thomas and Kennedy show are contrary and the defendant wants to show how that they are correct.

c. Justice Kennedy further points out on page 40,

“Furthermore, if the speaker addresses a women who is considering an abortion and says, ‘Please take just a moment to read these brochures and call our support line to talk with women who have been in your situation,’ the speaker would face criminal charges.”

Justice Kennedy is pointing out how crazy the extreme of our legislature and courts have gone to protect the abortion industry to have the right to silence persons trying to save babies and help women to have a different choice from Planned Parenthood choice.

d. Justice Kennedy further states on page 41 in the last two sentence of the first paragraph,

“The **Ward** time, place and manner analysis is simply (2519) inapplicable to this law. I would hold the statute is invalid from the very start.”

e. Justice Kennedy continues to state in the next paragraph,

“The Fourteenth Amendment does not permit a State to make criminal the peaceful expression of unpopular views. *Edwards v South Carolina*, 372 U.S. 229, 237, 83 S.Ct. 680, 9 L Ed.2d 697 (1963).”

f. Justice Kennedy point out on page 43 just below \*776III that, “Even aside from erroneous, most disturbing assumptions that the statute is content-neutral, viewpoint neutral, neither vague nor overbroad, the Court falls into further serious error when it turns to the time, place and manner rules set forth in **Ward.**”

g. Justice Kennedy continues in the last sentence on page 43 and continues on page 44 with another point, “I have explained already how the statute is a failed attempt to make the enactment appear content neutral, a guise for real concern of the legislature. The legislature may well have enacted a statute subjecting ‘oral protest, education, or counseling near abortion clinics’ to criminal penalty. Both the State and the Court attempt to sidestep the enactment’s obvious content-based restriction \*\*2522 by praising the statute’s breath, by telling us all topics of conversation, not just discourse on abortion, are banned within the statutory proscription.”

h. Justice Kennedy says on page 46 starting in the beginning of the fourth paragraph, “ In addition to leaving petitioners without adequate means of communication, the law **forecloses peaceful leafletting**, a mode of speech with deep roots in our Nation’s history and \*781 traditions.”

II. The dissenting points made by the three Supreme Court Justices goes directly against the Colorado Bubble Law and Section 1. 18-9-122 and now two of the Supreme Court Justice that supported this unconstitutional decision are no longer Justices. The factors of having several Planned Parenthood employees making complainants against the defendant makes this an even bigger question of conflict of interest and conspiracy to address by this District Court.

The defendant has received no discovery from the second and third charges against the defendant. plus with Now having information that in the first case that the complaints are Planned Parenthood employees there is a compelling interest to know if the complainants in the other two cases are also Planned Parenthood employees. There seem to be a conflict of interest.

The facts of this case are supported by all the arguments of Justices Scalia, Thomas, and Kennedy!!!