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A Politicized Justice Department Strikes Again
DOJ lawyers target a 79-year-old pro-lifer.

The Department of Justice is now prosecuting a 79-year-old grandfather. The reason: Richard Retta walks alongside women on the sidewalk outside a Planned Parenthood abortion facility and offers women hope that they can carry their babies to term.

“They go in and they’re kind of sullen in what they’re doing, and I’m sure there’s a lot of sorrow there,” Retta says in a short video by Pro-Life Unity. “But when they change their mind, most of the times they’re smiling, they’re happy. And they’re willing to talk to us,” he says.

This is the first time, in over a decade of sidewalk counseling, that anyone has sued him for obstruction. (Last month, however, he was pepper-sprayed for his efforts by a woman walking into the clinic who apparently didn’t want him talking to her.)

Retta estimates that he and other volunteers have helped more than 1,300 women change their minds about abortion. But that kind of success seems to be too much for this administration. It is so committed to the agenda of abortion groups that it threatened to shut down the entire government during the budget debate earlier this year to preserve more than \$300 million in federal funds for Planned Parenthood. It also has threatened to cut off Medicaid funds to states like Indiana that ban state grants to the organization.

Obama’s DOJ claims that Retta’s sidewalk counseling violates the Freedom of Access to Clinic Entrances (FACE) Act, enacted by Congress in 1994. In a July 2011 [complaint](#), the DOJ’s Civil Rights Division says that Retta violated federal law because he “walks very closely beside patients” as they enter the clinic. It also claims that Retta follows them when they leave.

But FACE permits Retta to walk beside patients, coming or going, on a public sidewalk. And the First Amendment protects his right to speak to them. In fact, the FACE Act (18 U.S.C. § 248) forbids only physical obstruction, intimidation, or the use or threat of force. The FACE Act protects the activity that Retta engaged in: The statute specifically states that it does not “prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration).”

DOJ’s allegation that Retta physically blocked patient access is dubious. On Jan. 8, 2011, he supposedly “physically obstructed a patient from entering the clinic” by standing in front of her. The DOJ complaint alleges that, as she then entered the building, Retta yelled, “Don’t go in there. Don’t let them kill your baby.”

Retta was not dressed in a black paramilitary uniform, he was not carrying a nightstick, and he was not yelling racial epithets or blocking the entrance to a polling place. Yet this is the same Justice Department that dismissed a voter-intimidation case against the New Black Panther party, whose members engaged in exactly that behavior. Somehow the behavior and speech of a 79-year-old sidewalk counselor violates federal law against intimidation, but the speech and behavior of the New Black Panthers in Philadelphia in 2008 was just fine, according to the skewed perspective of the liberals who inhabit the Civil Rights Division these days.

As a result, DOJ is demanding that Retta pay a \$10,000 civil penalty for violating FACE and \$15,000 in fines to his alleged victims. It also wants Retta — and everyone “acting in concert” with him — to be prohibited from standing within 20 feet of the Planned Parenthood gate.

Retta was shocked to learn that DOJ had brought charges against him. The department’s doubtful claim is also brought into question by Retta’s history. He doesn’t just counsel women on the sidewalks about the tragic consequences of abortion; he has also taught sidewalk-counseling classes for about a decade.

He prints a homemade, 22-page training manual that teaches volunteers how to conduct themselves. Item number two on his list of “don’ts”: “**DO NOT** block the woman’s path.”

Retta also instructs counselors to “[a]void being intimidating in any way.”

Nearly 350 women have kept their children because of conversations Retta personally had with them. He deserves thanks for saving hundreds of lives and making abortion rarer. Proponents of abortion claim that one of their goals is to reduce the number of abortions, yet Retta is being attacked by the Obama Justice Department because of his very success in persuading women to make life-giving choices.

The circumstances of this case cast great doubt on the legitimacy of the DOJ complaint, which describes Retta as “among the most vocal and aggressive anti-abortion protestors [*sic*] outside of the Clinic.” Of course, even “vocal and aggressive” speech is protected by the First Amendment — or so the Justice Department claimed when it dismissed the New Black Panther case. Retta’s real problem appears to be political: He offers women an authentic choice, in a one-option zone.

Thomas E. Perez, assistant attorney general for the Civil Rights Division, is unconcerned about the free-speech rights implicated here. Instead, he focuses on the questionable allegations of physical obstruction. “Individuals who seek to obtain or provide reproductive health services have the right to do so without encountering hazardous physical obstructions,” he said. An elderly man is apparently “hazardous” in the view of Perez, but two threatening, racist hate-mongers blocking a polling place are not.

The attorneys who filed this lawsuit — Aaron Zisser and Michelle Leung — were recently hired as career attorneys by the Obama administration. When Zisser worked for Human Rights First, he blogged from Guantanamo about his concern over America’s supposed denial of rights to terrorists. Leung has worked as co-counsel with the ACLU of Northern California and the ACLU of Texas. Her résumé describes her work, as an ACLU intern, in getting a school district to

eliminate an “unconstitutional dog-sniffing policy that discriminated against African-American students.”

Zisser and Leung seem more interested in protecting terrorists than citizens, and apparently consider Americans’ freedom from being sniffed by dogs to be more important than their freedom of speech.

From the Planned Parenthood office where Retta counsels women, the White House is visible down the street. The Obama administration offers extensive federal support to abortion advocates and organizations, while using federal resources to target pro-lifers. It should come as no surprise that this politicized Justice Department is willing to abuse federal law to suppress anti-abortion views.

It forgets that compassionate sidewalk counselors, too, have rights — including the right to be free from government intimidation when engaging in free speech.

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Actual website can be referenced at: <http://www.nationalreview.com/articles/274805/politicized-justice-department-strikes-again-hans-von-spakovsky?page=1>