Catholics United for Life

So we always have someone tell the mothers in trouble [at abortion clinics and hospitals]: "Come, we will take care of you, we will get a home for your child."

—Bl. Mother Teresa

Is Sidewalk Counseling Still Legal?

Catholics United for Life originally began counseling on the street and coined the term "Sidewalk Counseling" with a desire to help those people who were lured and seduced into believing that abortion is a quick fix to their personal difficulties. We did not march or carry signs. We simply approached the abortion-bound women quietly, one-on-one, with direct offers of help.

The abortion industry had no idea how to respond to this direct approach of compassion in truth. The legal battle over freedom of speech began almost immediately, with court-ordered injunctions and accusations of harassment. Merely thinking in a pro-life manner became "proof" of abusive intentions and behavior.

After a decade of buffer zones and injunctions, *Schenck v. Pro-choice* finally arrived at the Supreme Court, winning freedoms across the country for the growing number of Sidewalk Counselors.

With the very recent case of *McCullen v. Coakley,* once again the Supreme Court has upheld our freedom of speech in front of abortuaries. McCullen is a grandmother who peacefully sidewalk counsels and who challenged the injunction requiring a 35-foot buffer zone around the entryway to any abortion center, in order to "protect" the center's clients from pro-life minded people.

This is a huge victory that extends far beyond the doors of the Supreme Court. The media has spread the popular perception that Mrs. McCullen and all Sidewalk Counselors are dangerous protestors, harassing people who are already in a bad situation. Unfortunately, this idea even carries over into our Catholic and Christian communities. The recent ruling says otherwise.

(cont. on p. 2)

So the mother who is thinking of abortion should be helped to love, that is, to give until it hurts her plans, or her free time, to respect the life of her child. The father of that child, whoever he is, must also give until it hurts.

—Bl. Mother Teresa

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Because of generous friends like you, Catholics United for Life has been able to engage in and promote Sidewalk Counseling for over 30 years! But we can't go forward without you! Please send us your sacrificial contribution TODAY so that we may continue to teach and promote Sidewalk Counseling and the Church's teachings on life and family issues for many more years.

P.O. Box 10 • New Hope, Kentucky 40052
www.catholicsunitedforlife.org

I appeal everywhere – "Let us bring the child back."
The child is God's gift to the family.
—Bl. Mother Teresa

McCullen v. Coakley

The ruling reiterates what Catholics United for Life have held since the beginning in 1980—that Sidewalk Counseling's deepest intentions are conversion of heart and a personal, prayerful witness from one person to another. It encompasses a willingness to accept personal sacrifice in reaching out to another and offering them help and courage. While other efforts might address the masses with billboards or the moral fiber of our culture with laws, all good efforts, Sidewalk Counseling aims at personal encounter and commitment.


© Gianna Cesare

The recent 9 to 0 decision set Sidewalk Counseling apart. Chief Justice Roberts wrote:

> *[Sidewalk Counselors] are not protestors. They seek not merely to express their opposition to abortion, but to inform women of various alternatives and to provide help in pursuing them. [Sidewalk Counselors] believe that they can accomplish this objective only through personal, caring, consensual conversations…*

According to the Supreme Court, Sidewalk Counseling is rooted in the deeply-held American tradition of leafletting.

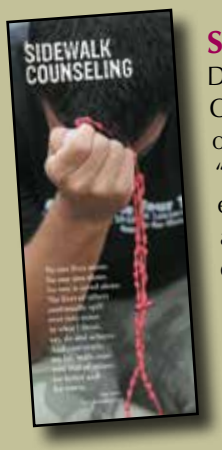
As the Chief Justice explained it, this places Sidewalk Counseling squarely in the tradition of what he called ***"the most important and characteristic writing of the American Revolution."***

Already Massachusetts has begun regrouping to keep the buffer zone standards in place despite the Supreme Court's decision that peaceful Sidewalk Counseling is a matter of free speech. There is a bill being prepared that would back police in dispersing "protestors." **However, even if this bill goes through, we still have the high court's opinion that *Sidewalk Counselors are not protestors.***

The Sidewalk Counselor faces many issues today that he or she has to adapt to. Mills do what they can to limit access—for example, finding layouts that conduct the women through back parking lots or hard-to-access entryways. Counselors often deal with a growing crowd of aggressive escorts. It is important that Sidewalk Counselors maintain focus on what the Court highlights as one-on-one communication.

For over 30 years, Catholics United for Life has developed and trained people in a non-protest style of presence that we call Sidewalk Counseling. However, litigation will begin to focus on identifying pro-life workers as "protestors" in order to eliminate their presence. As we plan for the future, there is a great need to keep in mind the difference between protesting and Sidewalk Counseling. ●

Pamphlets on Sidewalk Counseling



Sidewalk Counseling

Do you wonder what Sidewalk Counseling is? Is whatever people do on the sidewalk near abortion centers "Sidewalk Counseling"? This pamphlet explains what Sidewalk Counseling is and how it is more important now than ever.

#0391 *25/$7* *100/$15*

Sidewalk Counseling: Still A Constitutional Right

Pamphlet by Walter Weber. The latest on the First Amendment right to pray and distribute information at abortuaries. Discusses *FACE, Madsen* and *Schenck, RICO,* and *McCullen*. 5-page pamphlet.

#0326 *25/$8.00*
100/$17.00

Pro-Life Victories in Supreme Court

by Walter M. Weber, Senior Litigation Counsel, American Center for Law & Justice

The U.S. Supreme Court issued two important decisions at the end of June 2014 that represent victories for the defenders of the lives of preborn babies. In *McCullen v. Coakley*, the Court overturned a state statute banning sidewalk counseling outside abortion businesses, and in *Burwell v. Hobby Lobby* (decided along with *Conestoga Wood Specialties v. Burwell*) the Court upheld the conscience rights of business owners who object to subsidizing insurance coverage for abortifacient drugs and devices.

1. *McCullen*: victory for sidewalk counselors

In *McCullen*, pro-life sidewalk counselors in Massachusetts challenged a state law that created no-speech zones within 35 feet of any entrance or driveway of an abortion facility.

The zones made it a crime to "enter or stand" on public sidewalks, but made exceptions for passersby, abortion staff or clientele, and government workers.

In effect, the law prohibited speaking, leafletting, or protesting in the zones while otherwise allowing normal sidewalk activity. Sidewalk counselor Eleanor McCullen,

along with other pro-life sidewalk counselors, challenged the law in federal court, arguing that the state's creation of speech-free buffer zones violated the First Amendment right to free speech.

The lower federal courts rejected Eleanor McCullen's challenge to the buffer zones, but the Supreme Court unanimously reversed those decisions. Describing the sidewalk counseling activities of McCullen and others (the "petitioners"), the Court explained:

> *McCullen and the other petitioners consider it essential to maintain a caring demeanor, a calm tone of voice, and direct eye contact during these exchanges. Such interactions, petitioners believe, are a much more effective means of dissuading women from having abortions than confrontational methods such as shouting or brandishing signs, which in petitioners' view tend only to antagonize their intended audience. In unrefuted testimony, petitioners say they have collectively persuaded hundreds of women to forgo abortions.*

Walter Weber (at far left) with ACLJ associates

The Supreme Court reaffirmed past decisions declaring that

leafletting and one-on-one communications "lie at the heart of the First Amendment" and that public sidewalks are historically associated with discussions of important topics by the citizenry.

Making such communication difficult, the Court ruled, "imposes an especially significant First Amendment burden." Here, the Court concluded, Massachusetts violated the Constitution "by the extreme step of closing a substantial portion of a traditional public forum to all speakers."

The *McCullen* decision stands as a resounding reaffirmation of the free speech rights of pro-life sidewalk counselors. If individuals engage in misconduct, the First Amendment provides no shield. But any government that "categorically excludes … innocent individuals and their speech" from public sidewalks is open to serious constitutional challenge under the First Amendment.

2. *Hobby Lobby*: victory for freedom of conscience

In the *Hobby Lobby* case, the Supreme Court confronted a clash between the Obama Administration and pro-life business owners. Under the federal Affordable Care Act, popularly known as Obamacare, the federal government has the power to require certain "minimum coverage" in employee insurance policies. That is,

An important side note: defenders of this policy often redefine "conception" to mean "implantation" in the mother's womb, not "fertilization," and similarly redefine "pregnancy" to mean "gestation after implantation," not "gestation after fertilization." These new "definitions" are eccentric and also effectively secret, since they are not typically explained to the public. They allow the defenders of certain birth control methods which destroy newly-conceived humans shortly after fertilization to say, with straight faces, that such methods do not interrupt "pregnancy," do not operate after "conception," and thus do not cause abortions. The label does not matter, however: someone who objects to killing human beings will not change views just because some "expert panel" redefines what is happening.

For more information on these sleight-of-words tactics, see our pamphlet The Big Lie About Life *advertised on the right-hand lower corner of this page.*

with various exceptions, the insurance an employer provides for its workers has to include coverage of certain items and services. That included, according to the Obama Administration's Department of Health and Human Services (HHS), surgical sterilization and all prescription birth control, including methods that could act as abortifacients (i.e., destroying the newly conceived human being instead of preventing conception in the first place). This so-called "HHS mandate" triggered significant pro-life resistance.

Pro-life business owners across the country objected to the HHS mandate and challenged it in federal court. The lower federal courts were divided over the proper result, so the Supreme Court agreed to take two of the cases, namely, that brought by the Hobby Lobby store chain (owned by Evangelical Christians) and that bought by Conestoga Wood Specialties (owned by Mennonites). By a 5-4 vote, the Supreme Court struck down the HHS mandate as applied to closely-held businesses (i.e., those owned and run by a small set of individuals, as opposed to companies with millions of stockholders).

The Supreme Court ruled that the HHS mandate violated the federal Religious Freedom Restoration Act (RFRA). Under RFRA, the federal government cannot substantially burden the exercise of religion unless the burden represents a narrowly-tailored means of furthering some compelling government interest. Here, the companies faced a choice between providing insurance that covered abortifacients, contrary to their owners' religious consciences, or paying enormous penalties, which was a "substantial burden" on their owners' religious practice. Since the federal government could pursue its goal of universal birth control coverage (assuming such a goal is "compelling"!) without forcing businesses to be the instruments of that coverage, the HHS mandate did not pass the RFRA test.

Hobby Lobby is in some ways a fairly technical case about a federal statute. But the case is immensely important in that it shows the Supreme Court, at least by a tenuous 5-4 margin, is willing to recognize and protect the rights of believers who face government compulsion to violate their consciences, including in their daily professions. This precedent could be crucial as the abortion lobby seeks more and more to force doctors and nurses to participate in, and employers and insurers to cover, abortion. ●

Catholics United for Life

URGENT NEWS!

A Letter from Walter Weber

Senior Litigation Counsel,
American Center for Law & Justice

The Supreme Court of the United States is considering a case that may have a profound impact on Sidewalk Counseling throughout the country. In *McCullen v. Coakley*, pro-life Sidewalk Counselors are challenging a Massachusetts statute that bars virtually all speech within 35 feet of the entrances to abortion facilities. The pro-lifers challenge the restriction as a violation of the constitutional right to free speech protected by the First Amendment.

The pro-lifers have a strong legal team. They are represented by Mark Rienzi, a law professor at the Catholic University of America, and Michael DePrimo, a veteran pro-life attorney, with substantial help from the law firm of Pickering Hale & Dorr. **The attorneys for the pro-lifers are asking the Court to strike down the anti-speech statute and to overturn the prior decision of *Hill v. Colorado* (2000), which upheld a Colorado law virtually banning sidewalk counseling in that state.**

As Sidewalk Counselors know, the most effective approach is to converse in a non-threatening, low-key manner with women who may be open to deciding against abortion. The 35-foot buffer zone, however, keeps counselors at a distance and prevents them from accompanying even willing listeners as they walk into the zone. Obviously, shouting and waving signs from outside the zone is not the equivalent of speaking in a conversational tone. But stepping over the "magic line" would subject the counselor to arrest.

If the pro-lifers win this case, it could establish a strong precedent confirming the free-speech rights of Sidewalk Counselors. A loss, however, would equip state and local governments with one more tool for shutting down efforts to reach women with alternatives to abortion.

The Supreme Court heard oral arguments on January 15 and will likely issue a decision by the end of June. This is one to keep in prayer!

A Letter from the President

Dear friends,

Years ago, I can remember pacing back and forth as I tried to talk to a woman on the sidewalk of an abortion center. I was acutely aware that my movement back and forth in front of her appeared odd and assuredly distracting. There was an injunction that prevented me from standing still at this abortion mill, as there was at many mills across the country.

I had never had an injunction taken out against me personally, but I was still enjoined by the generic, overreaching injunction — put more on the place and on ideas than any one person. Despite a lack of evidence of abusive behavior, I and every other person who might some day stand on that sidewalk had to continue walking if we wanted to express our pro-life or even religious beliefs to others.

At least we were still allowed on the street. By the 1990s, many pro-lifers were excluded from the sidewalks near abortion centers at all. Others had to remain 15 feet away from anyone going into an abortuary. Sidewalk Counselors couldn't even approach people who might want help and alternatives.

When Catholics United for Life began to develop and spread the practice of Sidewalk Counseling, we quickly met opposition. The abortion industry had never seen anything like this through the 70s — people actually standing outside their business, offering alternatives on a daily basis. Women were leaving, rejecting the "solution" of abortion. They were losing business, and that meant they were losing money!

Throughout the 80s and 90s, injunctions were placed on pro-lifers until finally the Supreme Court ruled in favor of freedom of speech in the *Schenck v. Pro-Choice* case (read this amazing story in the enclosed article). Every injunction across the country ceased to exist. Sidewalk Counselors were once again able to exercise their free speech rights.

This year will be the block-buster for important issues in the Supreme Court, and the rulings will affect America deeply.

The cases that Mr. Weber mentions could be missed because there isn't as much media drama over it as there is with cases involving same-sex marriage or abortion restrictions. Despite the lack of coverage, this case is tremendously important.

Take a journey back in time with the enclosed article from Fr. Schenck and his historic case. His history could give us a glimpse of our future.

Sincerely,

Mrs. Tamara Cesare

Mrs. Tamara Cesare
President, Catholics United for Life

"Your Honor, I am not an attorney and I do not have a law degree, but I have read the First Amendment to the US Constitution, and this does not sound like the First Amendment to me."

Catholics United for Life

Supporting Catholic teaching, free speech and the dignity of the unborn for over 35 years