

# THE CHRISTIAN POST

Thursday, Jan 16, 2014

## Supreme Court Critical of Abortion Clinic Buffer Zone Law

By Morgan Lee

January 15, 2014|4:15 pm

The Supreme Court's conservative and liberal judges alike expressed skepticism over a Massachusetts law that has sought to keep protesters 35 feet away from abortion clinics.

In the *McCullen vs. Coakley* hearing Wednesday morning, Obama appointee Justice Elena Kagan suggested that the 35-foot-length ban was overly broad.

"Thirty-five feet is a ways," she said. "It's pretty much this courtroom, kind of. That's a lot of space."

Her colleague Stephen Breyer asked the respondent's lawyer how she would delineate protesters seeking "calm conversations" from disruptive ones, reported Reuters.

One of three justices, including Clarence Thomas and Anthony Kennedy, who in 2000 made up the trio of dissenters in a 6-3 buffer zone case that ruled a similar law in Colorado law was constitutional, Antonin Scalia remained unconvinced.

This "is a counseling case, not a protest case," Scalia said. "You could have a law against screaming .... These people want to speak quietly in a friendly manner."

Kennedy, who has long played the role of a swing vote in Supreme Court decisions, said it was important to distinguish between individuals who barred clients and staff from entering abortion clinics and those who only wanted to discuss the decision with a patient.

"Justice Holmes said, 'Even a dog knows the difference in being stumbled over and being kicked,'" he said.

Justice Ruth Bader Ginsburg brought up the history of violence at abortion clinics, saying that the buffer zones were in place because there was no way for the clinics to "know in advance" the behavior of the people that would cross them.

Chief Justice John Roberts did not ask any questions during the hearing.

The current law prohibits any individual from standing within 35 feet of any abortion clinic, a length roughly equivalent to how long it takes the average person seven seconds to walk. Individuals are only permitted to enter the space if they intend to enter the facility or are crossing to the other side.

Supporters of the law point believe it detours protesters from harassing staff and patients and see it as a means to fight against clinic violence. They claim that since 1977 they have documented "8 murders, 17 attempted murders, 42 bombings and 181 arson."

Massachusetts Attorney General said she left pleased with the outcome of the morning session.

"I thought the justices asked insightful questions about the constitutional balance that this law must, and we believe does, strike," Coakley said after the oral argument. "I am hopeful that they will conclude that the buffer zone statute appropriately protects speech, health care access and public safety, and should remain law."

Lila Rose, president of pro-life group Live Action, said she hoped the Supreme Court recognized that it had a "crucial opportunity today to defend our nation's foundational commitment to freedom of speech" in its decision on the law.

"The importance of sidewalk-counseling — of brave, compassionate people standing as a last chance for women who often feel as if they have no choice — cannot be overstated. Too many times, we've seen the Supreme Court pass a death sentence on voiceless children in the womb; it would be yet another injustice to silence any person who speaks out on behalf of these children," Rose wrote in an email to the Christian Post.

More than 30 groups have filed amicus curie briefs in *McCullen v. Coakley*. Among those supporting the petitioners were the Cato Institute, National Hispanic Christian Leadership Conference, Democrats for Life of America, and the AFL-CIO.

The American Civil Liberties Union also filed a friend of the court brief but did not back either party.

The Supreme Court's decision is expected to be handed down in June later this year.