

Federal judge hears case against Baltimore City pregnancy center sign law

A Baltimore City law that requires pro-life pregnancy centers to post signs stating they don't provide abortion and birth control remains on the books while a federal judge weighs its constitutionality.

U.S. District Judge Marvin J. Garbis heard arguments for and against the ordinance during an Aug. 4 hearing that was part of a lawsuit filed by the Archdiocese of Baltimore against the city. The suit seeks to strike down the law as a violation of free speech.

Garbis did not make a ruling, nor did he indicate when he would reach a conclusion. Several times during the three-hour hearing in Baltimore, he said it was clear that whatever he did would be challenged in a higher court.

Representing Archbishop Edwin F. O'Brien, David W. Kinkopf said the ordinance targets for speech regulation "only one side of a contentious public, political and religious debate based on the speakers' views on abortion and birth control."

It violates the First Amendment by mandating the content and viewpoint of private speech, said Kinkopf, an attorney with Gallagher, Evelius and Jones.

Asserting that the signs do not say anything inconsistent with Catholic beliefs, Garbis asked Kinkopf how they violate the church's right to free speech. Kinkopf responded by arguing in favor of the archbishop's right to say what is posted on his walls. One of the pregnancy centers affected by the law is located on the campus of St. Brigid in Baltimore, owned by the archdiocese.

"The sign is not completely consistent with his (the archbishop's) beliefs," said Kinkopf, noting that by highlighting what services are not provided, there is an implication that pro-life pregnancy centers are not equipped to help women. The signs imply that women can go elsewhere for abortions, Kinkopf said.

The plaintiff pointed out that the signs inaccurately assert that pro-life pregnancy centers do not offer birth control when they do, in fact, offer information on abstinence and natural family planning.

Even if the signs are completely truthful, Kinkopf argued, “the government doesn’t get to choose what’s the first thing we have to say and how we say it.”

Garbis said he was “intrigued by the scope of the statute” and posed numerous hypothetical situations to Baltimore Chief Solicitor Suzanne Sangree about who would have to abide by the law. Sangree said a doctor who did not provide or refer for abortion would have to post signs. She said the measure was needed to prevent “consumer confusion” about what is offered at the centers.

While he agreed that women need to know if a center does not offer or refer for abortion, Garbis said the signs are “not exactly neutral.” He compared them to a BMW dealership that hypothetically would be required to post signs saying its cars were not built in the United States.

“The BMW dealer would be handicapped to see the sign,” Garbis said.

The ordinance imposes a \$150 daily fine for pregnancy centers that do not post signs. While the issue is in litigation, the city is not enforcing the measure.