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Anti-Abortion Activist On Trial For 'Wanted' Posters

by Kathy Lohr, National Public Radio

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In North Carolina on Monday, anti-abortion activist Flip Benham, who is charged with stalking and violating a new state law against residential picketing, goes to court.

He and his group, Operation Save America, put up Old West-style "wanted" posters targeting doctors who perform abortions. The group calls it free speech. Abortion rights activists say it's a threat.

Targeted Picketing

Benham is a longtime anti-abortion activist. The posters he distributed earlier this year included the names, addresses and photos of four Charlotte, N.C., doctors who perform abortions.

Benham and his group took the posters to the doctors' offices and to their neighborhoods. They placed the posters on cars and tacked them up on doors.

Detective Milton Harris with the Charlotte Mecklenburg Police Department says this violated the state's new law against targeting an individual at his home.

"By them handing out the flyers with doctors' photos on it, it was an indication to us that they were actually singling those doctors out within that residential neighborhood to protest," Harris says.

He also says that this is the first prosecution under the new law.

"The purpose of the law is to protect that person's identity against basically a lone-wolf assailant coming in there and possibly doing harm to that individual or that family," Harris says.

A History Of Violence

One of the doctors targeted in the posters said he fears for his life. He did not want his name used because of what he has seen happen to other abortion providers. He cites the murder of Dr. George Tiller in Wichita, Kan., last year and says he is now taking extra security precautions.

Benham denies the posters are a threat and says they're a tool to inform the community about doctors who are performing abortions -- an act Benham considers murder.

"What we put on the poster were their pictures and then, 'Wanted by Jesus to stop killing babies,'" he says.

Benham says the city is just trying to silence those who oppose abortion.

"We still live in America, and we do have First Amendment rights and, as we call them, responsibilities to speak for those who cannot speak for themselves," he says.

But abortion rights advocates say there's a clear history of violence against doctors featured in "wanted" posters. They're concerned because they haven't seen these posters circulated since the late 1990s, when several doctors were murdered.

"This is not free speech," says Kathy Spillar, who is with the Feminist Majority Foundation -- a group that tracks violence against abortion providers. "This is the equivalent of yelling fire in a crowded theater. These wanted posters are communicating a threat to these abortion providers, and essentially they become targets of anti-abortion extremists willing to kill."

A 'Difficult Legal Case To Make'

In a similar case back in 2002, a federal appeals court found abortion protestors did violate a federal law that makes it a crime to use force or the threat of force to prevent people from accessing clinics. The court found that "wanted" posters were not free speech but a "true threat".

The U.S. Supreme Court declined to hear the case, which means the question is not resolved.

"Whether the historical context of [a] wanted poster and subsequent act of violence by someone else other than group putting out the wanted poster -- whether that is enough to meet the very strict legal test for a threat -- is a very difficult legal case to make," says Lucinda Finley, a law professor at the State University of New York at Buffalo.

In this case, Benham is on trial for violating state and city laws -- charges that are easier to prove. He faces just a couple of months in jail. But abortion-rights groups say they're pushing for federal criminal and civil charges that carry much stiffer penalties.

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