

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action 98-1446 (G.K.)
	)	
OLIVIA A. ALAW, et al.,	)	
	)	
Defendants.	)	
_____	)	

**FILED**

FEB 07 2002

**NANCY MAYER WHITTINGTON, CLERK**  
U.S. DISTRICT COURT

CONSENT DECREE

I. INTRODUCTION

On June 9, 1998, the United States of America, Plaintiff, instituted this civil action for violations of the Freedom of Access to Clinic Entrances Act of 1994, 42 U.S.C. § 248 (the "Access Act"). In this suit, the United States alleged that Defendant Ester Tyree, among other individuals, engaged in conduct prohibited by the Access Act at Capitol Women's Center ("CWC"). On January 21, 2000, this Court found that Defendant Tyree and other individuals had violated the Access Act and issued a permanent injunction against them. On May 1, 2001, the U.S. Court of Appeals for the D.C. Circuit concluded that there was a genuine dispute about whether Defendant Tyree had entered into a settlement with the United States, vacated the judgment against her, and remanded with instructions to determine whether a valid settlement had been reached; the D.C. Circuit ruled that it would affirm the judgment against Tyree to the extent that she

did not enter into such a settlement.

The Parties now enter into this Consent Decree knowingly, voluntarily, and without coercion, in order to resolve the above-captioned matter. Any violation of the provisions of this Consent Decree does not create a private right of action. All references to Defendant Tyree in this Consent Decree include any person acting as her agent or employee, as required by Federal Rule of Civil Procedure 65(d).

II. OBLIGATIONS AND RESPONSIBILITIES

A. Defendant Ester Tyree is permanently enjoined from committing any or all of the following acts:

1. Intentionally standing, sitting, lying, or kneeling in front of entrances to any facility where abortions are performed, or otherwise physically blockading or obstructing access to such facilities, located within the boundaries of Interstate 495, popularly known as the Capital Beltway;
2. Attempting, inducing, directing, aiding, or abetting in any manner, others to take any of the actions described in paragraph II.A.1 above;
3. Intentionally coming within a twenty-foot radius of any facility where abortions are performed which is located within the boundaries of Interstate 495.

- B. If an office where abortions are performed is located in a building housing one or more offices where abortions are not performed, Defendant Tyree's compliance with paragraph II.A.3 shall be determined with reference to her distance from the entrances and exits of the office where abortions are performed.

III. ENFORCEMENT

- A. This Court shall retain jurisdiction under this Consent Decree, and may order such relief as necessary to ensure full compliance by Defendant Ester Tyree.
- B. The United States Marshals Service, or any other duly authorized federal, state, or municipal law enforcement agency, is empowered to enforce this Consent Decree. Such law enforcement agency shall:
1. In circumstances where it appears the Consent Decree may be or is being violated, communicate any or all terms of the Consent Decree to Defendant Tyree and persons reasonably thought to be acting as employees or agents of Defendant Tyree at or near the facility where abortions are being performed;
  2. Immediately report to the United States Department of Justice Civil Rights Division, who will then immediately report to the Court and Defendant's counsel, the events and circumstances that show

good cause to believe that there have been violations of the terms of this Consent Decree;

3. Keep logs and records as necessary to document the events and circumstances that show good cause to believe that this Consent Decree has been violated; and
  4. If ordered by the Court or authorized by law, detain those persons determined to have violated any term of this Consent Decree, for purposes of identification and/or investigation.
- C. The United States may seek enforcement of this Consent Decree or any other appropriate legal remedy from the Court, at any time, in the event that the United States determines that Defendant Tyree has failed to comply with any provision of the Consent Decree.
- D. The Parties reserve the right to withdraw their consent to this agreement in the event that this Consent Decree is not approved by the Court in its entirety.
- E. The United States reserves the right to seek to modify the Consent Decree if the CWC, which closed in August 1998, reopens in Washington, D.C.
- F. If Defendant Tyree does not violate any term of this Consent Decree for two years after it is signed by the Parties, the Parties may move jointly to terminate this Consent Decree.

AGREED TO BY PLAINTIFF THE UNITED STATES OF AMERICA:

Date: February 6, 2002

ROSCOE C. HOWARD, JR.  
United States Attorney  
for the District of Columbia  
D.C. Bar No. 246470

RALPH F. BOYD, JR.  
Assistant Attorney General  
Civil Rights Division

MEREDITH MANNING  
Assistant United States  
Attorney  
555 4<sup>th</sup> St., NW, Rm. 10-443  
D.C. Bar No. 449063

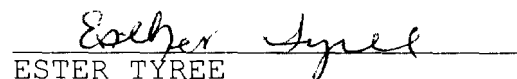
STEVEN H. ROSENBAUM  
Chief  
Special Litigation Section  
D.C. Bar No. 417585

MELLIE H. NELSON  
Deputy Chief  
Special Litigation Section  
D.C. Bar No. 15206



SANDHYA L. SUBRAMANIAN  
Trial Attorney  
Special Litigation Section  
D.C. Bar No. 461313  
Civil Rights Division  
United States Department  
of Justice  
P.O. Box 66400  
Washington, DC 20035  
(202) 616-9017

AGREED TO BY DEFENDANT ESTER TYREE:

  
ESTER TYREE

Date: Jan 28, 2002

