

No. 98-1856

In the Supreme Court of the United States

LEILA JEANNE HILL, ET AL., PETITIONERS

v.

STATE OF COLORADO, ET AL.

*ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF COLORADO*

BRIEF FOR THE UNITED STATES

QUESTION PRESENTED

Colorado Revised Statute § 18-9-122(3) prohibits a person, within 100 feet from any entrance door to a health care facility, from “knowingly approach[ing] another person within eight feet of such person, unless

Cases—Continued:

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person is, or has been, obtaining or providing reproductive health services, or to intimidate them from doing so in the future. 18 U.S.C. 248(a)(1). The Access Act pro-

legislature also learned that efforts to identify persons who committed physical assaults outside health care

inform and advise individuals about abortion and abortion alternatives,” including verbal communication, placards, leaflets, and other demonstrative devices.
Ibid.

In October 1993, petitioners filed a complaint in state court seeking a declaratory judgment that subsection (3) violates their federal constitutional rights to freedom of speech, press, peaceable assembly, due process,

Ibid. The court also rejected petitioners' claims that

oral persuasion, leafletting, and sign displays, within

and the distance is closed by the listener. And, even at eight feet, speech can be readily heard and placards clearly seen.

Even if subsection (3) is analyzed as a content-based limitation, it survives constitutional scrutiny in light of the compelling r ca

the clinics and protesters, measured by the distance

counseling, it becomes content-based and, thus, subject

a Denver ordinance that placed an eight-foot buffer between protesters and patients:

trances to medical facilities. The Court emphasized (*id.* at 381-382) that

the District Court was entitled to conclude that some of the defendants who were allowed within 5 to 10 feet of clinic entrances would not merely

(iv) When determining whether a statute is narrowly tailored, the Court does not “sift[] through all the available or imagined alternative means” of regulation, but instead finds that requirement satisfied “so long as the . . . regulation promotes a substantial government interest that would be achieved less effectively absent the regulation.” *Ward*, 491 U.S. at 797-799 The determination by the Colorado legislature that an eight-foot distance was the appropriate

Burson

permits the communication to be heard and seen by the intended audience.⁶

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(4) For the purposes of this section, “health care