SUPREME COURT OF THE UNITED STATES

No. 93–880

JUDY MADSEN, ET AL., PETITIONERS *v.* WOMEN'S HEALTH CENTER, INC., ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

[June 30, 1994]

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioners challenge the constitutionality of an injunction entered by a Florida state court which prohibits antiabortion protestors from demonstrating in certain places and in various ways outside of a health clinic that performs abortions. We hold that the establishment of a 36-foot buffer zone on a public street from which demonstrators are excluded passes muster under the First Amendment, but that several other provisions of the injunction do not.

Respondents operate abortion clinics throughout central Florida. Petitioners and other groups and individuals are engaged in activities near the site of one such clinic in Melbourne, Florida. They picketed and demonstrated where the public street gives access to the clinic. In September 1992, a Florida state court permanently enjoined petitioners from blocking or interfering with public access to the clinic, and from physically abusing persons entering or leaving the clinic. Six months later, respondents sought to broaden the injunction, complaining that access to the clinic was still impeded by petitioners' activities and that such activities had also discouraged some potential patients from entering

the clinic, and had deleterious physical effects on others. The trial court thereupon issued a broader injunction, which is challenged here.

The court found that, despite the initial injunction, protesters continued to impede access to the clinic by congregating on the paved portion of the street—Dixie Way—leading up to the clinic, and by marching in front of the clinic's driveways. It found that as vehicles heading toward the clinic slowed to allow the protesters to move out of the way, "sidewalk counselors" would approach and attempt to give the vehicle's occupants antiabortion literature. The number of people congregating varied from a handful to 400, and the noise varied from singing and chanting to the use of loudspeakers and bullhorns.

The protests, the court found, took their toll on the clinic's patients. A clinic doctor testified that, as a result of having to run such a gauntlet to enter the clinic, the patients "manifested a higher level of anxiety and hypertension causing those patients to need a higher level of sedation to undergo the surgical procedures, thereby increasing the risk associated with such procedures." App. 54. The noise produced by the protestors could be heard within the clinic, causing stress in the patients both during surgical procedures and while recuperating in the recovery rooms. And those patients who turned away because of the crowd to return at a later date, the doctor testified, increased their health risks by reason of the delay.

Doctors and clinic workers, in turn, were not immune even in their homes. Petitioners picketed in front of clinic employees' residences; shouted at passersby; rang the doorbells of neighbors and provided literature identifying the particular clinic employee as a "baby killer." Occasionally, the protestors would confront minor children of clinic employees who were home alone. This and similar testimony led the state court to conclude that its original injunction had proved insufficient "to protect the health, safety and rights of women in Brevard and Seminole County, Florida, and surround-

ing counties seeking access to [medical and counseling] services." *Id.*, at 5. The state court therefore amended its prior order, enjoining a broader array of activities. The amended injunction prohibits petitioners[1] from engaging in the following acts:

> "(1) At all times on all days, from entering the premises and property of the Aware Woman Center for Choice [the Melbourne clinic] . . . .
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> "(2) At all times on all days, from blocking, impeding, inhibiting, or in any other manner obstructing or interfering with access to, ingress into and egress from any building or parking lot of the Clinic.
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> "(3) At all times on all days, from congregating, picketing, patrolling, demonstrating or entering that portion of public right-of-way or private property within [36] feet of the property line of the Clinic . . . . An exception to the 36 foot buffer zone is the area immediately adjacent to the Clinic on the east . . . . The [petitioners] . . . must remain at least [5] feet from the Clinic's east line. Another exception to the 36 foot buffer zone relates to the record title owners of the property to the north and west of the Clinic. The prohibition against entry into the 36 foot buffer zones does not apply to such persons and their invitees. The other prohibitions contained herein do apply, if such owners and their invitees are acting in concert with the [petitioners]. . . .
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> "(4) During the hours of 7:30 a.m. through noon, on Mondays through Saturdays, during

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[1]In addition to petitioners, the state court's order was directed at "Operation Rescue, Operation Rescue America, Operation Goliath, their officers, agents, members, employees and servants, and . . . Bruce Cadle, Pat Mahoney, Randall Terry, . . . and all persons acting in concert or participation with them, or on their behalf." App. 56.

surgical procedures and recovery periods, from singing, chanting, whistling, shouting, yelling, use of bullhorns, auto horns, sound amplification equipment or other sounds or images observable to or within earshot of the patients inside the Clinic.

"(5) At all times on all days, in an area within [300] feet of the Clinic, from physically approaching any person seeking the services of the Clinic unless such person indicates a desire to communicate by approaching or by inquiring of the [petitioners]. . . .

"(6) At all times on all days, from approaching, congregating, picketing, patrolling, demonstrating or using bullhorns or other sound amplification equipment within [300] feet of the residence of any of the [respondents'] employees, staff, owners or agents, or blocking or attempting to block, barricade, or in any other manner, temporarily or otherwise, obstruct the entrances, exits or driveways of the residences of any of the [respondents'] employees, staff, owners or agents. The [petitioners] and those acting in concert with them are prohibited from inhibiting or impeding or attempting to impede, temporarily or otherwise, the free ingress or egress of persons to any street that provides the sole access to the street on which those residences are located.

"(7) At all times on all days, from physically abusing, grabbing, intimidating, harassing, touching, pushing, shoving, crowding or assaulting persons entering or leaving, working at or using services at the [respondents'] Clinic or trying to gain access to, or leave, any of the homes of owners, staff or patients of the Clinic.

"(8) At all times on all days, from harassing, intimidating or physically abusing, assaulting or threatening any present or former doctor, health care professional, or other staff member,

> employee or volunteer who assists in providing services at the [respondents'] Clinic.
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> "(9) At all times on all days, from encouraging, inciting, or securing other persons to commit any of the prohibited acts listed herein." *Operation Rescue* v. *Women's Health Center, Inc.*, 626 So. 2d 664, 679–680 (Fla. 1993).

The Florida Supreme Court upheld the constitutionality of the trial court's amended injunction. 626 So. 2d 664. That court recognized that the forum at issue, which consists of public streets, sidewalks, and rights-of-way, is a traditional public forum. *Id.*, at 671, citing *Frisby* v. *Schultz*, 487 U. S. 474, 480 (1988). It then determined that the restrictions are content neutral, and it accordingly refused to apply the heightened scrutiny dictated by *Perry Education Assn.* v. *Perry Local Educators' Assn.*, 460 U. S. 37, 45 (1983) (To enforce a content-based exclusion the State must show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end). Instead, the court analyzed the injunction to determine whether the restrictions are "narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication." *Id.,* at 45. It concluded that they were.

Shortly before the Florida Supreme Court's opinion was announced, the United States Court of Appeals for the Eleventh Circuit heard a separate challenge to the same injunction. The Court of Appeals struck down the injunction, characterizing the dispute as a clash "between an actual prohibition of speech and a potential hinderance to the free exercise of abortion rights." *Cheffer* v. *McGregor*, 6 F. 3d 705, 711 (1993). It stated that the asserted interests in public safety and order were already protected by other applicable laws and that these interests could be protected adequately without infringing upon the First

Amendment rights of others. *Ibid*. The Court of Appeals found the injunction to be content based and neither necessary to serve a compelling state interest nor narrowly drawn to achieve that end. *Ibid.*, citing *Carey* v. *Brown*, 447 U. S. 455, 461–462 (1980). We granted certiorari, 510 U. S. ___ (1994), to resolve the conflict between the Florida Supreme Court and the Court of Appeals over the constitutionality of the state court's injunction.

We begin by addressing petitioners' contention that the state court's order, because it is an injunction that restricts only the speech of antiabortion protesters, is necessarily content or viewpoint based. Accordingly, they argue, we should examine the entire injunction under the strictest standard of scrutiny. See *Perry Education Assn.*, *supra*, at 45. We disagree. To accept petitioners' claim would be to classify virtually every injunction as content or viewpoint based. An injunction, by its very nature, applies only to a particular group (or individuals) and regulates the activities, and perhaps the speech, of that group. It does so, however, because of the group's past actions in the context of a specific dispute between real parties. The parties seeking the injunction assert a violation of their rights; the court hearing the action is charged with fashioning a remedy for a specific deprivation, not with the drafting of a statute addressed to the general public.

The fact that the injunction in the present case did not prohibit activities of those demonstrating in favor of abortion is justly attributable to the lack of any similar demonstrations by those in favor of abortion, and of any consequent request that their demonstrations be regu-lated by injunction. There is no suggestion in this record that Florida law would not equally restrain similar conduct directed at a target having nothing to do with abortion; none of the

restrictions imposed by the court were directed at the contents of petitioner's message.

Our principal inquiry in determining content neutrality is whether the government has adopted a regulation of speech "without reference to the content of the regulated speech." *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791 (1989) (internal quotation marks omitted) (upholding noise regulations); *R. A. V.* v. *St. Paul,* 505 U. S. ___, ___ (1992) (slip op., at 8) ("The government may not regulate [speech] based on hostility—or favoritism—towards the underlying message expressed"); see also *Arkansas Writer's Project, Inc.* v. *Ragland,* 481 U. S. 221, 230 (1987); *Regan* v. *Time, Inc.,* 468 U. S. 641, 648–649 (1984); *Metromedia, Inc.* v. *San Diego,* 453 U. S. 490, 514–515 (1981) (plurality); *Carey* v. *Brown*, 447 U. S. 455, 466–468 (1980). We thus look to the government's purpose as the threshold consideration. Here, the state court imposed restrictions on petitioners incidental to their antiabortion message because they repeatedly violated the court's original order. That petitioners all share the same viewpoint regarding abortion does not in itself demonstrate that some invidious content- or viewpoint-based purpose motivated the issuance of the order. It suggests only that those in the group *whose conduct* violated the court's order happen to share the same opinion regarding abortions being performed at the clinic. In short, the fact that the injunction covered people with a particular viewpoint does not itself render the injunction content or viewpoint based. See *Boos* v. *Barry,* 485 U. S. 312 (1988).[2] Accordingly, the injunction issued in this

[2]We also decline to adopt the prior restraint analysis urged by petitioners. Prior restraints do often take the form of injunctions. See, *e.g.*, *New York Times Co*. v. *United States*, 403 U. S. 713 (1971) (refusing to enjoin publications of the "Pentagon Papers"); *Vance* v. *Universal*

case does not demand the level of heightened scrutiny set forth in *Perry Education Assn*., 460 U. S., at 45. And we proceed to discuss the standard which does govern.

If this were a content-neutral, generally applicable statute, instead of an injunctive order, its constitutionality would be assessed under the standard set forth in *Ward* v. *Rock Against Racism, supra*, at 791, and similar cases. Given that the forum around the clinic is a traditional public forum, see *Frisby* v. *Schultz*, 487 U. S., at 480, we would determine whether the time, place, and manner regulations were "narrowly tailored to serve a significant governmental interest." *Ward, supra,* at 791. See also *Perry Education Assn., supra,* at 45.

There are obvious differences, however, between an injunction and a generally applicable ordinance. Ordinances represent a legislative choice regarding the promotion of particular societal interests. Injunctions, by contrast, are remedies imposed for

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Amusement Co., 445 U. S. 308 (1980) *(per curiam)* (holding that Texas public nuisance statute which authorized state judges, on the basis of a showing that a theater had exhibited obscene films in the past, to enjoin its future exhibition of films not yet found to be obscene was unconstitutional as authorizing an invalid prior restraint.) Not all injunctions which may incidentally affect expression, however, are "prior restraints" in the sense that that term was used in *New York Times Co.*, *supra,* or *Vance*, *supra*. Here petitioners are not prevented from expressing their message in any one of several different ways; they are simply prohibited from expressing it within the 36-foot buffer zone. Moreover, the injunction was issued not because of the content of petitioners' expression, as was the case in *New York Times Co.* and *Vance*, but because of their prior unlawful conduct.

violations (or threatened violations) of a legislative or judicial decree. See *United States* v. *W. T. Grant Co.,* 345 U. S. 629, 632–633 (1953). Injunctions also carry greater risks of censorship and discriminatory application than do general ordinances. "[T]here is no more effective practical guaranty against arbitrary and unreasonable government than to require that the principles of law which officials would impose upon a minority must be imposed generally." *Railway Express Agency, Inc.* v. *New York*, 336 U. S. 106, 112–113 (1949). Injunctions, of course, have some advantages over generally applicable statutes in that they can be tailored by a trial judge to afford more precise relief than a statute where a violation of the law has already occurred. *United States* v. *Paradise*, 480 U. S. 149 (1987).

We believe that these differences require a somewhat more stringent application of general First Amendment principles in this context.[3] In past cases evaluating injunctions restricting speech, see, *e.g.*, *NAACP* v. *Claiborne Hardware Co.*, 458 U. S. 886 (1982), *Milk Wagon Drivers* v. *Meadowmoor Dairies, Inc.*, 312 U. S. 287 (1941), we have relied upon such general principles while also seeking to ensure that the injunction was no broader than necessary to achieve its desired goals. See *Carroll* v. *President and Comm'rs of Princess Anne*, 393 U. S. 175 (1968); *Claiborne Hardware, supra*, at 912, n. 47. Our close attention to the fit between the objectives of an injunction and the restrictions it imposes on speech is consistent with the general rule, quite apart from First Amendment considerations, "that injunctive relief

[3]Under general equity principles, an injunction issues only if there is a showing that the defendant has violated, or imminently will violate, some provision of statutory or common law, and that there is a "cognizable danger of recurrent violation." *United States* v. *W. T. Grant Co.*, 345 U. S. 629, 633 (1953).

should be no more burdensome to the defendants than necessary to provide complete relief to the plaintiffs." *Califano* v. *Yamasaki*, 442 U. S. 682, 702 (1979). See also *Dayton Bd. of Ed.* v. *Brinkman*, 433 U. S. 406, 418–420 (1977). Accordingly, when evaluating a content-neutral injunction, we think that our standard time, place, and manner analysis is not sufficiently rigorous. We must ask instead whether the challenged provisions of the injunction burden no more speech than necessary to serve a significant government interest. See, *e.g.*, *Claiborne Hardware, supra,* at 916 (when sanctionable "conduct occurs in the context of constitutionally protected activity . . . `precision of regulation' is demanded") (quoting *NAACP* v. *Button*, 371 U. S. 415, 438 (1963)); 458 U. S., at 916, n. 52 (citing *Carroll, supra,* and *Keyishian* v. *Board of Regents, State Univ. of N.Y.*, 385 U. S. 589, 604 (1967)); *Carroll, supra,* at 183–184.

Both JUSTICE STEVENS and JUSTICE SCALIA disagree with the standard we announce, for policy reasons. See *post*, at 2 (STEVENS, J.); *post*, at 8–14 (SCALIA, J.). JUSTICE STEVENS believes that "injunctive relief should be judged by a more lenient standard than legislation," because injunctions are imposed on individuals or groups who have engaged in illegal activity. *Post*, at 2. JUSTICE SCALIA, by contrast, believes that content-neutral injunctions are "*at least* as deserving of strict scrutiny as a statutory, content-based restriction." *Post*, at 9. JUSTICE SCALIA bases his belief on the danger that injunctions, even though they might not "attack content *as content*," may be used to suppress particular ideas; that individual judges should not be trusted to impose injunctions in this context; and that an injunction is procedurally more difficult to challenge than a statute. *Post*, at 9–11. We believe that consideration of *all* of the differences and similarities between statutes and injunctions supports, as a matter of policy, the standard we apply here.

JUSTICE SCALIA further contends that precedent compels the application of strict scrutiny in this case. Under that standard, we ask whether a restriction is "`necessary to serve a compelling state interest and [is] narrowly drawn to achieve that end.'" *Post*, at 7 (quoting *Perry Education Assn.*, 460 U. S., at 45). JUSTICE SCALIA fails to cite a single case, and we are aware of none, in which we have applied this standard to a content-neutral injunction. He cites a number of cases in which we have struck down, with little or no elaboration, prior restraints on free expression. See *post*, at 15 (citing cases). As we have explained, however, we do not believe that this injunction constitutes a prior restraint, and we therefore believe that the "heavy presumption" against its constitutionality does not obtain here. See n. 2, *supra*.

JUSTICE SCALIA also relies on *Claiborne Hardware* and *Carroll* for support of his contention that our precedent requires the application of strict scrutiny in this context. In *Claiborne Hardware*, we stated simply that "precision of regulation" is demanded. See 458 U. S., at 916 (internal quotation marks omitted). JUSTICE SCALIA reads this case to require "surgical precision" of regulation, *post*, at 16, but that was not the adjective chosen by the author of the Court's opinion, JUSTICE STEVENS. We think a standard requiring that an injunction "burden no more speech than necessary" exemplifies "precision of regulation."[4]

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[4]In stating that "precision of regulation" is required in *Claiborne Hardware*, moreover, we cited both to *Carroll* v. *President and Comm'rs of Princess Anne*, 393 U. S. 175 (1968), a case involving an injunction, and to *Keyishian* v. *Board of Regents, State Univ. of N.Y.*, 385 U. S. 589 (1967), a case involving a state statute and regulations. If our precedent demanded the different treatment of statutes and injunctions, as JUSTICE SCALIA claims, it is

As for *Carroll*, JUSTICE SCALIA believes that the "standard" adopted in that case "is strict scrutiny," which "does not remotely resemble the Court's new proposal." *Post*, at 17. Comparison of the language used in *Carroll* and the wording of the standard we adopt, however, belies JUSTICE SCALIA'S exaggerated contention. *Carroll*, for example, requires that an injunction be "couched in the narrowest terms that will accomplish the pin-pointed objective" of the injunction. 393 U. S., at 183. We require that the injunction "burden no more speech than necessary" to accomplish its objective. We fail to see a difference between the two standards.

The Florida Supreme Court concluded that numerous significant government interests are protected by the injunction. It noted that the State has a strong interest in protecting a woman's freedom to seek lawful medical or counseling services in connection with her pregnancy. See *Roe* v. *Wade*, 410 U. S. 113 (1973); *In re T. W.*, 551 So. 2d 1186, 1193 (Fla. 1989). The State also has a strong interest in ensuring the public safety and order, in promoting the free flow of traffic on public streets and sidewalks, and in protecting the property rights of all its citizens. 626 So. 2d, at 672. In addition, the court believed that the State's strong interest in residential privacy, acknowledged in *Frisby* v. *Schultz*, 487 U. S. 474 (1988), applied by analogy to medical privacy. 626 So. 2d, at 672. The court observed that while targeted picketing of the home threatens the psychological well-being of the "captive" resident, targeted picketing of a hospital or clinic threatens not only the psychological, but the physical well-being of the patient held "captive" by medical circumstance. *Id.*, at 673. We agree with the Supreme Court of Florida that the combination of these governmental interests is quite sufficient to justify an appropriately

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difficult to explain our reliance on *Keyishian* in *Claiborne*.

tailored injunction to protect them. We now examine each contested provision of the injunction to see if it burdens more speech than necessary to accomplish its goal.[5]

We begin with the 36-foot buffer zone. The state court prohibited petitioners from "congregating, picketing, patrolling, demonstrating or entering" any portion of the public right-of-way or private property within 36 feet of the property line of the clinic as a way of ensuring access to the clinic. This speech-free buffer zone requires that petitioners move to the other side of Dixie Way and away from the driveway of the clinic, where the state court found that they repeatedly had interfered with the free access of patients and staff. App to Pet. for Cert. B–2, B–3. See *Cameron* v. *Johnson*, 390 U. S. 611 (1968) (upholding statute which prohibited picketing that obstructed or unreasonably interfered with ingress or egress to or from public buildings, including courthouses, and with traffic on the adjacent street sidewalks). The buffer zone also applies to private property to the north and west of the clinic property. We examine each portion of the buffer zone separately.

We have noted a distinction between the type of focused picketing banned from the buffer zone and

[5]Petitioners do not challenge the first two provisions of the state court's 1993 order. Brief for Petitioners 9. The provisions composed what had been the state court's 1992 permanent injunction and they chiefly addressed blocking, impeding, and inhibiting access to the clinic and its parking lot. Nor do petitioners challenge the restrictions in paragraphs 7, 8, and 9, which prohibit them from harassing and physically abusing clinic doctors, staff, and patients trying to gain access to the clinic or their homes.

the type of generally disseminated communication that cannot be completely banned in public places, such as handbilling and solicitation. See *Frisby, supra*, at 486 ("The type of focused picketing prohibited by [the state court injunction] is fundamentally different from more generally directed means of communication that may not be completely banned in [public places]"). Here the picketing is directed primarily at patients and staff of the clinic.

The 36-foot buffer zone protecting the entrances to the clinic and the parking lot is a means of protecting unfettered ingress to and egress from the clinic, and ensuring that petitioners do not block traffic on Dixie Way. The state court seems to have had few other options to protect access given the narrow confines around the clinic. As the Florida Supreme Court noted, Dixie Way is only 21 feet wide in the area of the clinic. App. 260, 305. The state court was convinced that allowing the petitioners to remain on the clinic's sidewalk and driveway was not a viable option in view of the failure of the first injunction to protect access. And allowing the petitioners to stand in the middle of Dixie Way would obviously block vehicular traffic.

The need for a complete buffer zone near the clinic entrances and driveway may be debatable, but some deference must be given to the state court's familiarity with the facts and the background of the dispute between the parties even under our heightened review. *Milk Wagon Drivers*, 312 U. S., at 294. Moreover, one of petitioners' witnesses during the evidentiary hearing before the state court conceded that the buffer zone was narrow enough to place petitioners at a distance of no greater than 10 to 12 feet from cars approaching and leaving the clinic. App. 486. Protesters standing across the narrow street from the clinic can still be seen and heard from the clinic parking lots. *Id.,* at 260, 305. We also bear in mind the fact that the state court

originally issued a much narrower injunction, providing no buffer zone, and that this order did not succeed in protecting access to the clinic. The failure of the first order to accomplish its purpose may be taken into consideration in evaluating the constitutionality of the broader order. *National Society of Professional Engineers* v. *United States*, 435 U. S. 679, 697–698 (1978). On balance, we hold that the 36-foot buffer zone around the clinic entrances and driveway burdens no more speech than necessary to accomplish the governmental interest at stake.

JUSTICE SCALIA's dissent argues that a videotape made of demonstrations at the clinic represents "what one must presume to be the worst of the activity justifying the injunction." *Post*, at 2. This seems to us a gratuitous assumption. The videotape was indeed introduced by respondents, presumably because they thought it supported their request for the second injunction. But witnesses also testified as to relevant facts in a 3-day evidentiary hearing, and the state court was therefore not limited to JUSTICE SCALIA'S rendition of what he saw on the videotape to make its findings in support of the second injunction. Indeed, petitioners themselves studiously refrained from challenging the factual basis for the injunction both in the state courts and here. Before the Florida Supreme Court, petitioners stated that "the Amended Permanent Injunction contains fundamental error on its face. The sole question presented by this appeal is a question of law, and for purposes of this appeal [petitioners] are assuming, *arguendo*, that a factual basis exists to grant injunctive relief." Appellants' Motion in Response to Appellees' Motion to Require Full Transcript and Record of Proceedings in No. 93–0069 (Dist. Ct. App. Fla.), p. 2. Petitioners argued against including the factual record as an appendix in the Florida Supreme Court, and never certified a full record. We must therefore judge this case on the assumption that the evidence and testimony presented

to the state court supported its findings that the presence of protesters standing, marching, and demonstrating near the clinic's entrance interfered with ingress to and egress from the clinic despite the issuance of the earlier injunction.

The inclusion of private property on the back and side of the clinic in the 36-foot buffer zone raises different concerns. The accepted purpose of the buffer zone is to protect access to the clinic and to facilitate the orderly flow of traffic on Dixie Way. Patients and staff wishing to reach the clinic do not have to cross the private property abutting the clinic property on the north and west, and nothing in the record indicates that petitioners' activities on the private property have obstructed access to the clinic. Nor was evidence presented that protestors located on the private property blocked vehicular traffic on Dixie Way. Absent evidence that petitioners standing on the private property have obstructed access to the clinic, blocked vehicular traffic, or otherwise unlawfully interfered with the clinic's operation, this portion of the buffer zone fails to serve the significant government interests relied on by the Florida Supreme Court. We hold that on the record before us the 36-foot buffer zone as applied to the private property to the north and west of the clinic burdens more speech than necessary to protect access to the clinic.

In response to high noise levels outside the clinic, the state court restrained the petitioners from "singing, chanting, whistling, shouting, yelling, use of bullhorns, auto horns, sound amplification equipment or other sounds or images observable to or within earshot of the patients inside the [c]linic" during the hours of 7:30 a.m. through noon on Mondays through Saturdays. We must, of course, take account of the

place to which the regulations apply in determining whether these restrictions burden more speech than necessary. We have upheld similar noise restrictions in the past, and as we noted in upholding a local noise ordinance around public schools, "the nature of a place, `the pattern of its normal activities, dictate the kinds of regulations . . . that are reasonable.'" *Grayned* v. *City of Rockford*, 408 U. S. 104, 116 (1972). Noise control is particularly important around hospitals and medical facilities during surgery and recovery periods, and in evaluating another injunction involving a medical facility, we stated:

> "`Hospitals, after all are not factories or mines or assembly plants. They are hospitals, where human ailments are treated, where patients and relatives alike often are under emotional strain and worry, where pleasing and comforting patients are principal facets of the day's activity, and where the patient and his family . . . need a restful, uncluttered, relaxing, and helpful atmosphere.'" *NLRB* v. *Baptist Hospital, Inc.*, 442 U. S. 773, 783–784, n. 12 (1979), quoting *Beth Israel Hospital* v. *NLRB*, 437 U. S. 483, 509 (1978) (BLACKMUN, J., concurring in judgment).

We hold that the limited noise restrictions imposed by the state court order burden no more speech than necessary to ensure the health and well-being of the patients at the clinic. The First Amendment does not demand that patients at a medical facility undertake Herculean efforts to escape the cacophony of political protests. "If overamplified loudspeakers assault the citizenry, government may turn then down." *Grayned, supra,* at 116. That is what the state court did here, and we hold that its action was proper.

The same, however, cannot be said for the "images observable" provision of the state court's order. Clearly, threats to patients or their families, however

communicated, are proscribable under the First Amendment. But rather than prohibiting the display of signs that could be interpreted as threats or veiled threats, the state court issued a blanket ban on all "images observable." This broad prohibition on all "images observable" burdens more speech than necessary to achieve the purpose of limiting threats to clinic patients or their families. Similarly, if the blanket ban on "images observable" was intended to reduce the level of anxiety and hypertension suffered by the patients inside the clinic, it would still fail. The only plausible reason a patient would be bothered by "images observable" inside the clinic would be if the patient found the expression contained in such images disagreeable. But it is much easier for the clinic to pull its curtains than for a patient to stop up her ears, and no more is required to avoid seeing placards through the windows of the clinic. This provision of the injunction violates the First Amendment.

The state court ordered that petitioners refrain from physically approaching any person seeking services of the clinic "unless such person indicates a desire to communicate" in an area within 300 feet of the clinic. The state court was attempting to prevent clinic patients and staff from being "stalked" or "shadowed" by the petitioners as they approached the clinic. See *International Society for Krishna Consciousness* v. *Lee*, 505 U. S. ___, ___ (1992) (slip op., at 10–11) ("face-to-face solicitation presents risks of duress that are an appropriate target of regulation. The skillful, and unprincipled, solicitor can target the most vulnerable, including those accompanying children or those suffering physical impairment and who cannot easily avoid the solicitation").

But it is difficult, indeed, to justify a prohibition on *all* uninvited approaches of persons seeking the

services of the clinic, regardless of how peaceful the contact may be, without burdening more speech than necessary to prevent intimidation and to ensure access to the clinic. Absent evidence that the protesters' speech is independently proscribable (*i.e.,* "fighting words" or threats), or is so infused with violence as to be indistinguishable from a threat of physical harm, see *Milk Wagon Drivers,* 312 U. S., at 292–293, this provision cannot stand. "As a general matter, we have indicated that in public debate our own citizens must tolerate insulting, and even outrageous, speech in order to provide adequate breathing space to the freedoms protected by the First Amendment." *Boos* v. *Barry*, 485 U. S., at 322 (internal quotation marks omitted). The "consent" requirement alone invalidates this provision; it burdens more speech than is necessary to prevent intimidation and to ensure access to the clinic.[6]

The final substantive regulation challenged by petitioners relates to a prohibition against picketing, demonstrating, or using sound amplification equipment within 300 feet of the residences of clinic staff. The prohibition also covers impeding access to streets that provide the sole access to streets on which those residences are located. The same analysis applies to the use of sound amplification equipment here as that discussed above: the government may simply demand that petitioners turn down the volume if the protests overwhelm the neighborhood. *Grayned, supra*, at 116.

As for the picketing, our prior decision upholding a law banning targeted residential picketing remarked on the unique nature of the home, as "`the last citadel of the tired, the weary, and the sick.'" *Frisby*,

[6]We need not decide whether the "images observable" and "no-approach" provisions are content based.

487 U. S., at 484. We stated that "`[t]he State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society.'" *Ibid*.

But the 300-foot zone around the residences in this case is much larger than the zone provided for in the ordinance which we approved in *Frisby*. The ordinance at issue there made it "unlawful for any person to engage in picketing before or about the residence or dwelling of any individual." *Id.,* at 477. The prohibition was limited to "focused picketing taking place solely in front of a particular residence." *Id.,* at 483. By contrast, the 300-foot zone would ban "[g]eneral marching through residential neighborhoods, or even walking a route in front of an entire block of houses." *Ibid.* The record before us does not contain sufficient justification for this broad a ban on picketing; it appears that a limitation on the time, duration of picketing, and number of pickets outside a smaller zone could have accomplished the desired result.

Petitioners also challenge the state court's order as being vague and overbroad. They object to the portion of the injunction making it applicable to those acting "in concert" with the named parties. But petitioners themselves are named parties in the order, and they therefore lack standing to challenge a portion of the order applying to persons who are not parties. Nor is that phrase subject, at the behest of petitioners, to a challenge for "overbreadth"; the phrase itself does not prohibit any conduct, but is simply directed at unnamed parties who might later be found to be acting "in concert" with the named parties. As such, the case is governed by our holding in *Regal Knitwear Co*. v. *NLRB*, 324 U. S. 9, 14 (1945). There a party subject to an injunction argued that the order was invalid because of a provision that it

applied to "successors and assigns" of the enjoined party. Noting that the party pressing the claim was not a successor or assign, we characterized the matter as "an abstract controversy over the use of these words." *Id*., at 15.

Petitioners also contend that the "in concert" provision of the injunction impermissibly limits their freedom of association guaranteed by the First Amendment. See, *e.g., Citizens Against Rent Control/Coalition For Fair Housing* v. *Berkeley*, 454 U. S. 290 (1981). But petitioners are not enjoined from associating with others or from joining with them to express a particular viewpoint. The freedom of association protected by the First Amendment does not extend to joining with others for the purpose of depriving third parties of their lawful rights.

In sum, we uphold the noise restrictions and the 36-foot buffer zone around the clinic entrances and driveway because they burden no more speech than necessary to eliminate the unlawful conduct targeted by the state court's injunction. We strike down as unconstitutional the 36–foot buffer zone as applied to the private property to the north and west of the clinic, the "images observable" provision, the 300-foot no-approach zone around the clinic, and the 300-foot buffer zone around the residences, because these provisions sweep more broadly than necessary to accomplish the permissible goals of the injunction. Accordingly, the judgment of the Florida Supreme Court is

Affirmed in part, and reversed in part.