

Publications

Can Haters Post Death Threats on Facebook?

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AUTHORED ARTICLE | 12.9.2014

Social Media Explorer

Whitney Gibson, a partner in the Vorys Cincinnati office and the leader of the firm's internet defamation group, and Mary Henkel, of counsel in the Cincinnati office and a member of the litigation group, authored an article for *Social Media Explorer* called "Can Haters Post Death Threats on Facebook?" The article outlined the arguments made before the U.S. Supreme court in the case of Anthony Elonis, a 31-year-old Pennsylvanian convicted of posting violent, threatening statements on Facebook. The article also outlined what the case means for social media users.

The article states:

"One immediate effect of all the news media attention to this social media/criminal case is higher awareness. Anyone who assumed that there were no legal consequences for saying anything on the Internet should now know that was a mistake.

Whichever standard the Supreme Court chooses, it is clear that you can go to prison for violent threats on social media, whether the prosecutor has to convince the jury that you really meant it, or merely that it was reasonable for your victim to be afraid. Not many juries are likely to sympathize with a defendant who posts about shooting kindergarten children on Facebook, Twitter, or any other platform.

If the Court rules against Elonis, the standards will become even stricter in those states and federal circuits that previously required proof of the accused criminal's real intentions. A ruling against Elonis may "chill" offensive speech and limit how others express themselves through social media. It is worth noting that, at trial, Elonis argued that some of his lyrics were quotes from or inspired by rapper Eminem and a skit from sketch comedy troupe 'The Whitest Kids U' Know.'

Even if the Court rules for Elonis, convictions will still be available as long as a jury finds that an accused criminal had real intent to threaten someone."

To read the entire article, visit the Social Media Explorer [website](#).

