

No. _____

In the
SUPREME COURT OF THE UNITED STATES

Jeffrey A. Stevens, *Petitioner*

v.

U.S. Court of Appeals for the 10th Circuit, *Respondent*

On Petition for a Writ of Certiorari to the U.S. Tenth Circuit Court of Appeals,
Denver Colorado

Re: Direct Appeal and Petitions for Rehearing & Rehearing En Banc in Appeal
Case No. 17-5044

PETITION FOR A WRIT OF CERTIORARI

Jeffrey A. Stevens, *Petitioner*
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QUESTIONS PRESENTED

1. Are Predictions, Prognostications or any synonym thereof of any sort, and specifically in this case, Predictions of Civil Unrest or even of violent, open revolt in response to systemic misconduct, murder & predictable, institutionalized denial of Justice by Law Enforcement and the Courts, Protected Speech under the U.S. Constitution's First Amendment?
2. Are U.S. Citizens entitled, under the U.S. Constitution's First Amendment to openly express their fear, their sense of betrayal, their anger, hatred and intolerance of Injustice and evil regardless of who the perpetrators are?
3. Are direct victims of unwarranted Law Enforcement violence and misconduct, and their loved ones, entitled, under the U.S. Constitution's First Amendment to openly express their fear, their sense of betrayal, their anger, hatred and intolerance of this undeniable and growing Nation-wide problem?

4. Are U.S. Federal Judges entitled to bypass Article III, Section 2, Clause 3 and Amendment VI of the U.S. Constitution as well as Rule 18 of Criminal Procedure and deny the accused Trial by Jury by declaring that in their opinion a Reasonable Jury would find the accused guilty?

5. Are U.S. Federal Courts entitled to bypass Article III, Section 2, Clause 3 of the U.S. Constitution and Amendment VI as well as Rule 18 of U.S. Criminal Procedure and force the accused to appear in a State he has never visited, a State other than where the alleged crime was committed in a victimless alleged crime?

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page.

A list of all parties to the proceeding in the Court whose judgment is the subject of this petition is as follows:

Jeffrey A. Stevens

Petitioner, Appeal No. 17-5044

The U.S. Court of Appeals for the Tenth Circuit Denver CO

Respondent, Appeal No. 17-5044

The U.S. District Court for the Northern District of Oklahoma, Tulsa OK

Case No. 4:16-CR-00134-CVE-1

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Dismissal of Petition

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully asks that a writ of certiorari issue to review the judgement below.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the 10th Circuit appears at

Appendix A of the Petition and is reported at

<https://www.ca10.uscourts.gov/opinions/17/17-5044.pdf>

The opinion of the United States District Court for the

Northern District of Oklahoma appears at Appendix B of the Petition

JURISDICTION

The date on which the United States Supreme Court granted me a 60 day time extension to file a Petition for Writ of Certiorari was July 18, 2018

The date on which the United States Court of Appeals for the 10th Circuit dismissed my Petition for Rehearing and Petition for Rehearing En Banc was April 6, 2018.

The date on which the United States Court of Appeals for the 10th Circuit dismissed my Appeal was February 6, 2018.

The date on which the United States District Court for the Northern District of Oklahoma ruled on my case was January 6, 2017.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution Amendment I

Enacted under the Authority of Article V of the U.S. Constitution

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; *or abridging the freedom of speech*, or of the press; or the right of the people peaceably to assemble, *and to petition the Government for a redress of grievances.*”

U.S. Constitution Amendment V and Amendment XIV

The due process clauses of the Fifth and Fourteenth Amendments “[protect] the accused against conviction except upon *proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged*

U.S. Constitution Amendment VI

Enacted under the Authority of Article V of the U.S. Constitution

Abridged to U.S. Constitution Article III, as Section 2, Clause 3

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, *by an impartial jury of the State and district wherein the crime shall have been committed*, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; *to be confronted with the witnesses* (and evidence?) *against him*; to have compulsory process for obtaining witnesses in his favor, and to have the *Assistance of Counsel* for his defence.”

Federal Rule 18 of Criminal Procedures derived from above

“Unless a statute or these rules permit otherwise, the government must prosecute an offense *in a district where the offense was committed*. The court must set the place of trial *within the district with due regard for the convenience of the defendant*, any victim, and the witnesses, and the prompt administration of justice.”

18 U.S. Code § 875(c) Interstate Communication with Intent to Injure

“Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or *any threat to injure the person of another*, shall be fined under this title or imprisoned not more than five years, or both “

True Threat

No U.S. Code § number

No hard Legal Definition has been established

Current application includes:

- a) The “*Reasonable Person*” test
- b) Whether the utterer meant to instill fear in the *recipient(s)*

Mens rea

Wherein the accused did or did not *intend* to commit a crime

Actus reas

Wherein the accused did or did not *commit* a crime

STATEMENT OF THE CASE

After years of high profile deadly shootings by Police of unarmed civilians all across America, the Police Department of Tulsa, OK saw fit to hire as a Deputy, and then as a fully fledged Police Officer Betty Shelby. Tulsa PD knew Betty well before hiring her, and knew she had a history of violence and instability. Tulsa Police had killed twelve people in the preceding fiscal year. Ten were unarmed (possibly 11, there are still questions about one of them). Oklahoma Police kill more of their citizens per capita than any other State in the U.S., and more than any other Nation or Province on Planet Earth.

In the summer of 2016, after a horrific year of these unwarranted killings of unarmed American Citizens by Police escalating, madmen with misdirected anger opened fire on Police Officers in Des Moines IA, Dallas TX, Baton Rouge LA. and several other municipalities across the U.S., killing a record number of those in Uniform. The correlation to and contributing causality of systemic Police misconduct in no small part due to criminally negligent hiring practices, as well as lack of accountability after the fact is unmistakable and undeniable. When we who grew up in Honest Law Enforcement families see Uniformed Officers being gunned down on the Evening News, we don't see strangers. We see our family. We see our Mothers, our Uncles, our friends. We take it personally. It's traumatic.

Fresh on the heels of these tragedies, the Tulsa, Oklahoma, PD, already demonstrably one of the deadliest Police Departments in America, blatantly displayed their arrogance and their disdain for the Citizenry, Honest Law Enforcement everywhere and the Law. On September 16, 2016 Terence Crutcher, claiming his vehicle broke down in the middle of the road was found and approached by Officer Betty Shelby. We do not know what transpired between the pair until three other Police cruisers and a helicopter arrived moments later. For some reason, Shelby had not followed standard protocol by turning on her car's strobe lights, which would have also activated her DashCam. The available footage starts with Shelby pointing her gun at Crutcher, hands up high above his head and slowly moving toward his vehicle to "Assume the Position", while Shelby is pointing her service weapon and repeatedly shouting into her radio "He won't show me his hands!". The unarmed Mr. Crutcher had only 2 hands. Both were in the air. Crutcher, still making no sudden moves, being completely compliant and docile, doing everything right, doing nothing that in any sane, rational person's wildest imagination, could possibly be construed as offensive, reached his vehicle facing it, placed his hands on the roof and parted his feet. Shelby was still acting erratically, pointing her gun at him. One of the three other officers who had arrived, the one to Shelby's right, for some unknown reason, possibly to pacify the unhinged Shelby, fired his Taser at Crutcher, incapacitating him and sending him into spasms. The deranged Shelby then fired a deadly shot at Crutcher. The evil did not stop there. Rather than using the next few precious

minutes to rush to Shelby's innocent victim's aid, which could have possibly have saved him (he did not die until the next day), the four officers stepped around him while the life drained out and huddled, criminally conspiring to come up with a false narrative which they all later swore to in their signed reports. They said that Crutcher had reached in through his car window, presumably for a weapon. Unbeknownst to these corrupt, criminal Officers, the Police helicopter above was also filming and the video clearly showed Crutcher's car window in the fully up position, and his blood splatter on the glass from the murderer's bullet. Video available here--> https://www.washingtonpost.com/video/national/dashcam-video-shows-police-shooting-of-terence-crutcher/2016/09/19/8e7a5c0e-7ea3-11e6-ad0e-ab0d12c779b1_video.html?utm_term=.578448d436c3

Apparently the Officers also lowered Crutcher's window after the fact to back up their criminal deception. The lawlessness and evil continued. What followed can only be described as a criminal conspiracy involving the four Officers, the Tulsa Police Chief, the District Attorney and (later, as I predicted) the Tulsa County Judge to *Obstruct and deny Justice*. No Officer was fired, not even Shelby. In a dog-and-pony show Shelby was charged with Manslaughter, and later acquitted when the intimidating Judge interceded and instructed the Jury to do so, as I and millions of other rational Americans predicted. The Tulsa Police Chief and the District Attorney saw fit to keep in uniform Officers who have proven that they will not hesitate, not for a moment, to victimize innocents, fail to render aid, and file false

reports against them, thereby endangering the Public on an ongoing and daily basis. The DA sees these criminals as "Assets". The People see them as Organized Crime Thugs.

Following this, tens of thousands (including me) posted on the Tulsa PD's social media page asking for Justice and for an explanation of why the criminals in uniform had not been fired, charged and jailed. The Tulsa PD apparently had someone monitor this activity 24/7 and delete any messages questioning their misconduct as well as bar anyone who had criticized or asked even polite but pointed questions from ever posting again. Messages would appear and suddenly vanish, with the poster never heard from again. This went on for weeks, possibly longer.

Following this incident and the protest outside of the Tulsa PD, I sent a series of Predictions of Civil Uprising that would result in violence befalling the criminal and corrupt, as well as those around them to the Tulsa PD's Internal Affairs Division, and only IA, in hopes that if nobody else would, they would do their job and see to it that Justice is done. I was not trying to instill fear, but just the opposite. I wanted to demonstrate the justified fear and anguish that "We the People" are increasingly experiencing every day. My Predictions were in the spirit of JFK's quote: "Those who make peaceful revolution impossible will make violent revolution inevitable". I realize he was addressing Fidel Castro at the time, but it reflects ideals ourselves, as a Nation are bound to by History and by our Founders intention to continually strive for "A More Perfect Union". The People do not want this inexorable slide

into Authoritarianism. The People want this fixed. The People want better Cops. Better vetting & selection. Better training and more vigorous testing, both situational & psychological. Higher standards. Better supervision. Random drug & steroid testing. Random searches. Fair prosecutions by an out-of-district Counsel and Judge. The People want Cops with nerves of steel and who use logic and reason rather than ego and emotion. Corruption, arrogance & self-service is making change impossible.

The Tulsa PD's IA Div. did not do their job as I'd hoped. Instead they dishonestly presented my Predictions to third parties, describing them as "Threats".

On October 13th, 2016 I was arrested and charged with 10 counts of 18 U.S. Code § 875(c) "Interstate Communication with Intent to Injure" for my Predictions and one count of 18 U.S. Code § 1512(a) "Attempt to Influence Testimony of a Witness by Threat of Physical Force" for asking them to just tell the truth, and reminding them that the one who talks gets the deal.

Details of how the U.S. District Court for the Northern District of Oklahoma mishandled this case, denied me my Rights to Trial, violated Codes of Conduct including Judicial Canons, violated Model Rules of Professional Conduct, violated Fiduciary Responsibility and actually committed Felonies in their mishandling can be found in:

a) The *Judicial Complaint* against Judge Eagan and *Petition for Review by the Judicial Council* included in Appendix E

b) *Petition for Rehearing* and *Petition for Rehearing En Banc* included in Appendix C

c) *Criminal Complaint* against A.U.S.A.s Shores & Litchfield included in Appendix F

Additionally, I have been denied a Transcript of Court Proceedings of January 6, 2017

(by my own appointed Counsel) and have reason to believe the Record has been “Modified”.

REASONS FOR GRANTING THE PETITION

Statute

18 U.S. Code § 875(c)

Interstate Communication with Intent to Injure

“Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both”

The A.U.S.A for the U.S. District Court for the Northern District of Oklahoma, Tulsa offered zero evidence supporting “Intent to Injure”. They offered zero argument to support “Intent to Injure”. They offered zero argument to support my desire or intention to ever visit Oklahoma at any time or for any reason. The Due Process clauses of the U.S. Constitution's Fifth and Fourteenth Amendments require that the state prove every element of a criminal offense beyond a reasonable doubt. They made no attempt to do so and offered no argument in support thereof. Instead, in concert with the U.S. District Judge, and with help from the Federal Public Defender, denied me my right to a Fair Trial by a Jury. They did however, mandate that I make three (3) completely unsupervised & unmonitored 3,000 mile round trips to a place I had never been nor had any intention or desire of ever visiting, at my expense, and to within one (1) small city block of where they asserted I “Intended to Injure”, for Court. I was not asked how I got there. Was not asked

how I was getting around. I was not asked where I was staying. This speaks directly to the veracity of, and the prosecution's belief in their charges. The prosecution itself engaged in a plethora of misconduct including the commission of numerous Felonies in their zeal to pacify their Tulsa PD friends in the prosecution of this case. The Judge had been made aware of this and did not address it.

My only "Intent" was to prod and shame the Tulsa PD's Internal Affairs Division into doing the job that "We The People" entrust them to do by displaying to them the intense fear, hate and sense of betrayal those of us who have suffered first hand, and needlessly lost innocent loved ones, while being denied Justice to this systemic, unjust, seemingly institutionalized and sanctioned paradigm. It was they, Internal Affairs, who dishonestly presented out of context, edited and incomplete information to third parties and purposely misrepresented it as "Threats". There was no Intent to intimidate or threaten. There were no threats made, only Predictions.

The 10th Circuit Court of Appeals found only one Case History to parallel this one and that case ended in acquittal. No case of Predictions ending in conviction exists that I can find. Not in the entire history of the United States. Not in any Court. Not State, District, Circuit or the Supreme Court of the United States.

Therefore, this is a ***Precedent of Exceptional Importance*** which threatens 320-plus

million American Citizen's right to express their opinions and dissent. This precedent threatens to change not only the definition of our Constitution's First Amendment, but the nature of who we are as a Nation. This also has the potential to ***Overburden the Courts and Legal System*** and cause ***Unjust Results***.

The 10th Circuit (except for the case ending in acquittal of Angel Dillard) cited only cases in which the accused *publicly and clearly* stated *he, himself* was going to commit acts of violence or *recruit or inspire others to do so*. I merely predicted acts of violence as a result of Civil unrest, spurred by a culture of Injustice, unequal Justice and poor Police hiring, supervising and evaluation practices.

The 10th Circuit Court of Appeals, in their dismissal cited the following non-parallel arguments:

U.S. v. Martin, 163 F.3d 1212 (10th Cir. 1998)

Martin stated that *he, himself* was going to put six bullets into the head of a Police Officer

I never once claimed that I was going to do anything to anybody

U.S. v. Wheeler, 776 F.3d 736, 742 (10th Circuit 2015)

Wheeler posted publicly (Social Media) calling upon & *urging his Religious followers to commit violence & murder*. To "Kill cops. drown them in the blood of their children, hunt them down and kill their entire bloodlines" "To my religious followers and

religious operatives. if my dui charges are not dropped, commit a massacre in the stepping stones preschool and day care, just walk in and kill everybody.”

Wheeler was malicious and clearly, unambiguously intended to and stated *he was going to commit violence against others as well as asking others to do so*. I voiced predictions. Although I see some of the wording in my predictions is similar to that of Wheeler, I asked nobody to do anything to anybody. I intentionally made none of my predictions public nor did I share them on any medium whatsoever or in person whatsoever, purposely so as to avoid accidentally inspiring anybody to do harm to anyone. Only the Tulsa PD's Internal Affairs Division and nobody else on the planet was privy. The District & Circuit Courts know this to be true.

U.S. v. Stock, 728 F.3d 287, 298(2d Cir. 2013)

Mr. Stock posted on a website and made available to all: “I went home loaded in my truck and spend the past 3 hours looking for this douche with the expressed intent of crushing him in that little piece of shit under cover gray impala hooking up my tow chains and dragging his stupid ass down to creek hills and just drowning him in the falls. but alas i can't fine that bastard anywhere . i really wish he would die, just like the rest of these stupid fucking asshole cops. so J.K.P. if you read this i hope you burn in hell. i only wish i could have been the one to send you there.”

Personally, without having more information, I think Mr. Stock was just blowing off

steam, but he did unambiguously make it clear that *he, himself* was going to commit acts of violence. I don't know his history or any other details of this case. Unlike Mr. Stock, I in no way suggested I would commit violence against anyone, anywhere, at any time. I predicted Civil unrest resulting in violence in response to systemic injustice.

U.S. v. Viefhaus, 169 F.3d, 396 1996

Mr. Viefhaus stated unambiguously that *he, himself* “was going to act violently in a terrorist army starting Dec. 15, 1996”.

I predicted en-mass retaliation against an unjust, broken system that allows and defends murder of unarmed, non-offending Citizens and refuses to hold the murderers, co-conspirators and those who attempt to cover up these horrific acts to account.

U.S. v. Heineman 10th Circuit 2014

Mr. Heineman clearly stated and in referring to *he, himself*: “Come the time of the new revolution we will convene to detain you And slay you, by a bowie knife shoved up into the skull from your pig chin you choke, with blood flooding in your filthily treasonous throat!”.....etc. and then Mr. Heineman made it available to all, including to the subjects of his ire.

I did no such thing. Although my predictions of revolt were admittedly written with justifiable anger, fear, venom & hate, I in no way articulated that I would be part of any

revolt. At the time though, there were hundreds of angry, betrayed protesters outside the Tulsa PD chanting, among other things “Kill the bitch”, “Kill them all”, “No Justice, No Peace”, “She's gonna hang”, “Hands up, Don't shoot” (as were the hands of the compliant, docile, inoffensive, unarmed murder victim in the incident that sparked this). As far as I know, nobody was arrested. Nobody was charged with “Intent to Injure”.

True Threat

(No U.S. Code § number)

The Supreme Court has defined “True Threats” to be “Statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals”.

The 10th Circuit, in it's dismissal of Appeal No. 17-5044 cited as examples the following cases.

U.S. v. Dillard 835 F. Supp.2d10th Circuit 2011

As did I, Ms. Dillard sent a cautionary letter predictive of violence. Hers were to a Doctor who was to perform the same abortion procedures in Wichata, KS as a Doctor who had been murdered by a zealot. Disturbingly though, Ms. Dillard had befriended and by all accounts idolized the fanatical murderer of the aforementioned deceased Doctor. I harbor, nor have I voiced or displayed any admiration for anyone who has

committed a violent act. Ms. Dillard also blocked entry to a clinic in violation of FACE 18 U.S.C. § 248. She was however, acquitted of any charges pertaining to “Threat”, with the Jury finding that “The letter was intimidating, but it was more spiritual, more emotional” “It was not a threat of physical violence ... and therefore it did not violate the law.” Given the Acquittal, I’m puzzled as to why the 10th Circuit included this case in their Appeal Dismissal.

Virginia v. Black 538 US.343 (2003)

In this case of a Cross Burning in Virginia meant to instill fear in innocents of African descent, even though it was on private property, the U.S. Supreme Court upheld the Virginia Court's decision in finding that the State Statute was “constitutional with regards to the language limiting cross burning with the intent to intimidate as a valid conduct restriction as the regulation was: within the constitutional power of the government, where the conduct regulation furthers an important government interest and such government interest is unrelated to the suppression of speech, and the incidental burden (secondary effect) on speech is no greater than necessary” and as well “The conduct restriction furthered an important government interest that was unrelated to the suppression of speech, because, *“cross burning done with the intent to intimidate has a long and pernicious history as a signal of impending violence.”* thereby satisfying the definition of “True Threat”. Black was a higher-up in a long established Hate Organization which bases it's

hate on skin tone. Black's organization has committed mass murder for centuries.

I have never been a member of a hate organization. I have conveyed no messages of hate for anyone except for those who harm innocents or anything except the Injustices referenced herein. Injustices which are in violation of our National Values, Human Rights and in violation of the Spirit of the U.S. Constitution and the letter of the Law.

Virginia v. Black is not relevant to this case because:

- a) There was no threat made by me.
- b) My Predictions were not intended for or delivered to those who the predictions were about.
- c) The recipients of my Predictions were not in any way included as or in any way an imagined target of my disdain.
- d) There is no pernicious history of non-published predictions of violence due to Civil Unrest against systemic Injustice as a signal of impending violence against innocents as there is with Cross Burning.

U.S. v. Elonis 575 U. S. ____ (2015)

Mr. Elonis posted on social media vivid descriptions that *he, himself* would:

- a) Wreak havoc at the park from which he was recently fired.
- b) Slit the throat of an FBI agent.

c) Shoot his estranged wife.

d) Harm local Law Enforcement.

d) Shoot up a Kindergarten class of innocent children.

I expressed no intent by myself to harm anyone, anywhere or at any time. I did not make my Predictions of Civil Unrest public in any forum whatsoever. Unlike Mr. Elonis, my protestations are about Social Injustice, in which Civil Unrest is a probability if said systemic Injustice is left unchecked, not "My Girl done left me", as was the case with Mr. Elonis. Elonis claimed his expression were "Art". Personally, I think he's Looney Tunes and should be locked up. The Sandy Hook Elementary School massacre is always fresh in our minds here in Connecticut. Additionally, it seems Elonis had the means, materials and skills to make a reality what he said *he, himself* would and expressed personal desire and intent to do.

Again, let me say I have never committed an act of violence in my entire life despite having been the victim of violence on numerous occasions. I have never hunted. I have never harmed a living creature outside of fish, bugs and microbes. I am a life-long supporter of Honest Law Enforcement. I am staunchly anti-gun proliferation. I have published articles and video in support of this position. The USDOJ knows these things to be true. Still, they ordered a three and a half hour search to be executed on our neat, organized, clean, very small (1,100 sq. ft.) home by what we viewed as a "Platoon of

jackbooted thugs”, of course turning up zero weapons, zero traces of weaponry, zero materials that could be remotely associated with or turned into weaponry, zero literature pertaining to weaponry and zero ties to any radical organizations except AARP.

MacGuyver would be at a total loss in our home. The most “Subversive” thing found was a decorative 1966 paperback copy of J.D. Salinger's “The Catcher in the Rye”. This search also turned up zero personal information on anyone in Oklahoma, and zero plans to ever visit Oklahoma. A thorough search of my computer and internet search history even through my ISP's records turned up zero searches or efforts by me to glean any personal information on anyone in Oklahoma. My information comes only from multiple reputable, respected, professional, Mainstream News outlets that publish Globally.

Elonis' Conviction was overturned by Majority in the U.S. Supreme Court on Mens rea with the Majority Opinion authored by Chief Justice Roberts. Again, I am not sure why the 10th Circuit Court of Appeals and the District Court for NDOK included this case in their Judgments.

Statute

Mens rea

The “Guilty Mind”, the intention to commit a criminal act.

As demonstrated, there was no intention by me to commit a criminal act. As can be clearly seen, though venomous, my statements were of Predictions only. Unlike all the other

cases cited by the 10th Circuit except Dillard, I made no threats at all. Not in jest, not as art, nothing. "I am going to hurt him" is a Threat. "He is going to get himself hurt behaving that way" is a Prediction. This is Elementary School level cognition, logic and understanding of grammar. There is no Mens rea in this case. The prosecution's own information proves that. The prosecution did however try to bolster their case with false information thereby committing multiple felonies themselves in presenting it to the District Court.

Statute

Actus reus

The "Commission of a Crime".

As is demonstrated, there was no crime committed. No "Threat" was issued. No Mens rea, therefore no crime of "True Threat". The prosecution's own information proves this as well. I contend that Predictions are not crimes. Otherwise, every rural Church Pastor in America would be in prison.

Statute

"Reasonable Person" Argument

A "Reasonable Person" (uninterested party) of average intelligence and literacy, and knowing the context would possibly have to read my predictions twice to see I made no threat. Having been delivered out of context and incomplete, *Predictions* of their demise and

those around them in a civil uprising, murderers, obstructors of Justice, corrupt Police who file false reports, District Attorneys who refuse to vigorously prosecute said criminals, Police Chiefs who do not immediately fire and jail said individuals when they commit crimes, as well as Judges who acquit or instruct Juries to acquit murderers of innocent, unarmed, docile, compliant citizens because the prosecution didn't prove said murderer was not in fear (but only if the killer is a cop, or rich, or "Connected" or an asset of the aforementioned), even though there was zero demonstrable cause for fear, do not qualify as "Reasonable People". They are criminals.

Let me reiterate; These Predictions were sent to the Tulsa, Oklahoma Police Department's Internal Affairs Division only and to nobody else. Until this episode, I, as the rest of America does, believed that Internal Affairs would see to it that Police disgracing the Badge & Uniform face Justice. We all grew up learning this from TV and movies. Propaganda at it's pinnacle. This has been quite an education to say the least. It is important to note that if my Predictions had been intended as "Threats" it would have been very easy to not only send them directly to the perpetrators themselves, but to voice them as threats. I made no attempt to obtain contact information for any of the perps. The USDOJ knows this to be true. A murderer or an obstructor of Justice can not only be disregarded as a "Reasonable Person", but also would not be an ally in the American citizenry's nearly unanimous desire for Police, Prosecutorial and yes, even Judicial Reform.

Precedent

a) The Acquittal of Anthony Elonis

b) The Acquittal of Angel Dillard

c) In U.S. v. Heineman No. 13-4043 2014 and in U.S. v. Twitty No. 14-1173 2016 the U.S.

Court of Appeals for the Tenth Circuit determined that a defendant can be Constitutionally convicted of making a True Threat *only* if the defendant intended the *recipient* of the [message] to feel threatened. As we all know, the Tulsa PD's IA Div. was the only recipient and my predictions were in no way about them.

d) The total absence of any Precedent of Convictions for Prediction, Prognostication or Prophecy without the Accused voicing Intent by *He, Himself* to Commit a Criminal Act in the entire Historical Record of the United States of America or any of it's Courts

Misinformation presented by the Tenth Circuit Court of Appeals in their

dismissal of Appeal No. 17-5044

On Page 4 (A. Standard of Review) of the 10th Circuit Court of Appeals' dismissal of Appeal No. 17-5044 the Court in citing *United States v. Wheeler, 776 F.3d 736,742 10th Cir. 2015* (their own Court), included “absent an unusual set of facts, the question whether statements amount to true threats is a question generally best left to a jury.” In the very same Document, on Pages 7 & 8, (C. Analysis), the Court takes it upon itself to bypass

Article III, Section 2, Clause 3 of the U.S. Constitution, as well as Rule 18 of U.S. Criminal Procedure and the U.S. Constitution's Amendment VI and declare that "A Reasonable Jury Could Find the Statements to be True Threats", thereby bypassing an accused's right to a Jury Trial and upholding the District Court's same assertion. This could be true if said Reasonable Jury was only allowed to be presented with the Prosecution's narrative and no information from the Defense. The Court eliminating the consideration of a Fair & Reasonable Jury, and taking it upon themselves to decide what said Jury would conclude is not only arrogant and Unconstitutional, but the *sole basis* for the 10th Circuit's dismissal of Appeal No. 17-5044 as stated on Page 7 (C. Analysis) of their Dismissal of Appeal.

Misinformation presented by the 10th Circuit Court of Appeals:

The 10th Circuit Court of Appeals, in their dismissal of Appeal No. 17-5044 stated multiple times in varying language that I stated that my "Threats" were justified. I never said anything of the sort. I consistently and vehemently stated that my Predictions were not threats nor intended to be threats. I, and the Law see this deliberate and dishonest misrepresentation of reality as Criminal.

The 10th Circuit Court of Appeals, in their dismissal of Appeal No. 17-5044 on Page 7 (C. Analysis) stated that I "repeatedly assert[ed] that the targets of the messages are going to

die unless they comply with [my] wishes". This is complete fiction concocted by the Court.

There exists zero information to support this assertion of conditionality. This repeated,

willful and intentional distortion of Adjudicative Facts and Documentary Evidence is

Criminal.

CONCLUSION

I have already lost two loved ones to Police misconduct. One by Murder and one by Vehicular Manslaughter/Negligent Homicide. Neither perpetrator was prosecuted. Additionally, I have suffered life-long but manageable disability inflicted on me by a psychotic, sadistic, corrupt serial predator in an unprovoked attack and who went unprosecuted and protected by his buddy, the Chief for years. Over 3 decades he left dozens of bloodied, broken, innocent victims in his wake. He routinely wrote works of fiction in his reports. Everyone in the PD knew he regularly falsified reports and brutalized innocents. Anyone who spoke about it was threatened with his job. My incident was the cause of two such departures.

This entire case is not about me. I survived my attack, barely.

This is about James Boyd and his family.

This is about Tamir Rice, Terence Crutcher, Laquan McDonald and their Mother's pain.

This is about Johnny Williams, his rare Artistic talent lost forever.

This is about Sean Bell and the lovely Bride he was to marry hours after being murdered.

This is about the unjustified and needless loss of so many others.

This is about my dear friend Vicky and my (extended family) brother John's pregnant wife Claudette who's lives were taken needlessly, recklessly & criminally and their children who grew up without their Mothers.

All were denied Justice.

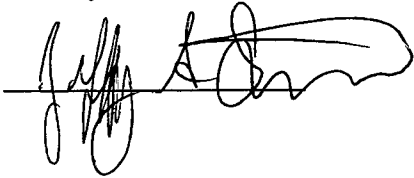
This is about my own Mother, who was a Deputy & Court Stenographer and later Bail Commissioner, my "Uncle" Bill who was a lifelong Honest Cop, my friend Ivan who was an Honest N.Y County Sheriff, my Father figure (Mom's longtime beau) who was an Honest Judge and all the other Honest Cops, Lawyers, Prosecutors & Judges my youth was filled with and instilled in me values of Justice.

What we see today dishonors all of them and is a direct attack on Society, Civility and the Spirit of the U.S. Constitution.

I ask this Body, The Supreme Court of the United States of America
to grant my Petition for a Writ of Certiorari and ultimately, Acquittal
on all charges.

Respectfully Submitted this date, August 28, 2018

Jeffrey A. Stevens

A handwritten signature in black ink, appearing to read 'Jeffrey A. Stevens', written over a horizontal line.

APPENDIX A

*Decision/Dismissal of Appeal No. 17-5044 by the
U.S. Court of Appeals for the Tenth Circuit
Dated February 6, 2018*

PUBLISH

UNITED STATES COURT OF APPEALS

February 6, 2018

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 17-5044

JEFFREY ALLEN STEVENS,

Defendant - Appellant.

Appeal from the United States District Court
for the Northern District of Oklahoma
(No. 4:16-CR-00134-CVE-1)

Barry L. Derryberry, Assistant Federal Public Defender (Julia L. O'Connell, Federal Public Defender, and William P. Widell, Jr., Assistant Federal Public Defender, with him on the briefs), Tulsa, Oklahoma, for Defendant-Appellant.

Leena Alam, Assistant United States Attorney (Loretta F. Radford, Acting United States Attorney, with her on the brief), Tulsa, Oklahoma, for Plaintiff-Appellee.

Before **TYMKOVICH**, Chief Judge, **HOLMES**, and **MATHESON**, Circuit Judges.

MATHESON, Circuit Judge.

Jeffrey A. Stevens was indicted on 10 counts of interstate communication with intent to injure under 18 U.S.C. § 875(c) for posting 10 messages on the Tulsa Police Department's ("TPD") online "Citizen Complaint" form. The messages discussed

committing violence against specific members of the TPD or TPD officers generally.

Mr. Stevens moved to dismiss the indictment on First Amendment grounds, arguing his messages were not true threats. The district court denied the motion because a reasonable jury could construe the messages to be true threats. Mr. Stevens pled guilty to five counts conditioned on his right to appeal the denial of his motion, which he has done here.

The district court properly denied Mr. Stevens's motion. A reasonable jury could understand his messages to be true threats. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

I. BACKGROUND

A. Factual History

On September 16, 2016, TPD Officer Betty Shelby shot and killed Terence Crutcher, an African-American. The shooting made national headlines and reignited a heated debate over law enforcement's use of force against minorities.

Three days after the shooting, Mr. Stevens, a Connecticut resident, sent the first of multiple anonymous messages to the TPD via an online form the public could use to complain about the TPD. This first message read:

[Message No. 1, sent on September 19, 2016, at 6:18 P.M.]

The psychotic pile of s--- who MURDERED the unarmed civilian who broke down is going to be executed, as are ALL psychotic s---bags you and other PDs hire across this Nation who murder unarmed civilians. They are all going to be killed.

ROA Vol. 1 at 31. Over the next three days, Mr. Stevens submitted nine more messages.¹

Agents with the Federal Bureau of Investigation traced the messages to Mr. Stevens's residence. They interviewed Mr. Stevens, who confessed to sending the messages.

B. Procedural History

A grand jury indicted Mr. Stevens on 10 counts of interstate communication with intent to injure in violation of 18 U.S.C. § 875(c). He moved to dismiss the indictment, alleging the First Amendment protected his statements because they were not true threats. The district court denied Mr. Stevens's motion, finding that a reasonable jury could understand his messages to be true threats. *United States v. Stevens*, No. 16-CR-0134-CVE, 2016 WL 7442657, at *2 (N.D. Okla. Dec. 27, 2016).

Mr. Stevens next entered into a plea agreement. He pled guilty to five of the 10 counts, but reserved the right to appeal the district court's denial of his motion.² Following the guilty plea, the district court sentenced Mr. Stevens to 12 months in prison,

¹ The messages accused the TPD and its officers of corruption and other misconduct and warned of violent actions that would be taken against them. Some of the messages conditioned such actions on compliance with certain demands. We reproduce the 10 messages in the appendix to this opinion.

² Even though the Government dropped charges for five of the statements in the plea agreement, we consider all 10 statements because they were all at issue in the motion to dismiss. Mr. Stevens's plea agreement reserved his right to appeal the denial of his motion to dismiss. ROA, Vol. 1 at 62 ("[T]he defendant reserves the right to appeal from contested sentencing issues and the District Court's order denying the defendant's Motion to Dismiss the Indictment.").

followed by three years of supervised release. He now appeals the district court's denial of his motion to dismiss the indictment.

II. DISCUSSION

A. *Standard of Review*

"[W]e review the . . . denial of a motion to dismiss an indictment for an abuse of discretion." *United States v. Ambort*, 405 F.3d 1109, 1116 (10th Cir. 2005). "An error of law is per se an abuse of discretion," *United States v. Lopez-Avila*, 665 F.3d 1216, 1219 (10th Cir. 2011), and we review legal questions de novo, see *United States v. Pauler*, 857 F.3d 1073, 1075 (10th Cir. 2017).

Whether a reasonable jury could find Mr. Stevens's statements to be true threats is a question of law. "[I]f there is no question that a defendant's speech is protected by the First Amendment, the court may dismiss the charge as a matter of law." *United States v. Wheeler*, 776 F.3d 736, 742 (10th Cir. 2015) (quotations and citations omitted). But, "absent an unusual set of facts, the question whether statements amount to true threats is a question generally best left to a jury." *Id.* (quotations and citations omitted). If the court determines a "reasonable jury could find that the [] communication[s] constitute[] . . . true threat[s]," then it may deny the defendant's motion to dismiss. *United States v. Stock*, 728 F.3d 287, 298 (3d Cir. 2013). Because the district court here refused to dismiss the indictment because a jury could find Mr. Stevens's messages to be true threats, we review its ruling de novo.

B. Legal Background

1. Elements of a § 875(c) Offense

Mr. Stevens was charged under 18 U.S.C. § 875(c), which provides:

Whoever [1] transmits in interstate or foreign commerce [2] any communication containing [3] any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.

In addition to the elements specified in the statute, the Supreme Court recognized a fourth element concerning mens rea in *Elonis v. United States*, 135 S. Ct. 2001 (2015). The Court said the government must prove the defendant transmitted the communication for the purpose of issuing a threat or with knowledge the communication would be viewed as a threat. *Id.* at 2012.³ The mens rea element calls for proof the speaker “intended the recipient of the threat to feel threatened.” *United States v. Heineman*, 767 F.3d 970, 978 (10th Cir. 2014).

In his motion to dismiss the indictment, Mr. Stevens challenged only the threat element. The district court therefore limited its analysis to whether a reasonable person would have understood Mr. Stevens’s messages as threats. We similarly limit our review to that issue and provide further legal background on the threat element.

2. Threat Element

In § 875(c) prosecutions, we have followed the Supreme Court’s definition of a threat as “a serious expression of an intent to commit an act of unlawful violence to a

³ The Court recognized this element based on the statute. Before *Elonis* was decided, this court said the First Amendment requires proof of the defendant’s intent in a § 875(c) prosecution. See *United States v. Heineman*, 767 F.3d 970, 975 (10th Cir. 2014); *Wheeler*, 776 F.3d at 740.

particular individual or group of individuals.” *Wheeler*, 776 F.3d at 743 (quoting *Virginia v. Black*, 538 U.S. 343, 359 (2003)). In *Wheeler*, we said that § 875(c) “app[lies] only to ‘true threats,’” which are “outside the protective scope of the First Amendment.” *Id.* at 742-43; *see also Watts v. United States*, 394 U.S. 705, 707 (1969) (“What is a threat must be distinguished from what is constitutionally protected speech.”) “Section 875(c), like all threat statutes, must be interpreted with the commands of the First Amendment clearly in mind.” *Wheeler*, 776 F.3d at 742.

In line with the First Amendment, § 875(c)’s threat element requires proof that a reasonable person would understand the communication to be a threat. *Id.* at 743. Under the reasonable person standard, “[t]he question is whether those who hear or read the threat reasonably consider that an actual threat has been made.” *United States v. Dillard*, 795 F.3d 1191, 1199 (10th Cir. 2015) (quoting *United States v. Viefhaus*, 168 F.3d 392, 396 (10th Cir. 1999)).

To answer this question, “the language [of the statements and] the context in which the statements are made . . . are [] relevant.” *Wheeler*, 776 F.3d at 743 (quoting *Nilander v. Bd. of Cnty. Comm’rs of Cnty. of Republic, Kan.*, 582 F.3d 1155, 1167–68 (10th Cir. 2009)); *see also Dillard*, 795 F.3d at 1201 (a statement is a true threat “so long as a reasonable recipient could conclude, based on the language of the communication and the context in which it is delivered, that this was in fact a veiled threat of violence by the defendant”).

As to a message’s language, we have warned against “rigid adherence to the literal meaning of a communication without regard to its reasonable connotations”

Dillard, 795 F.3d at 1201 (quoting *United States v. Turner*, 720 F.3d 411, 422 (2d Cir. 2013)). For example, “[a] defendant cannot escape potential liability simply by using the passive voice or couching a threat in terms of ‘someone’ committing an act of violence” *Id.*

As for context, it may include where a statement was made and how an audience reacted. *See Watts*, 394 U.S. at 708 (holding that statements made at political protest and at which the audience laughed were “political hyperbole” and not true threats); *Wheeler*, 776 F.3d at 743 (recognizing a recipient’s reaction to a message is relevant).

C. Analysis

The sole issue on appeal is whether the district court erred in concluding that a rational jury could find Mr. Stevens’s statements to be true threats under the reasonable person standard. We conclude it did not.

1. A Reasonable Jury Could Find the Statements to be True Threats

The district court examined the language and the context of the statements. It determined that, because Mr. Stevens’s messages were “targeted at specific people, groups of people, and their family members,” and because they “repeatedly assert[ed] that the targets of the messages are going to die unless they comply with [his] wishes,” a “jury could determine that ‘a reasonable person would interpret the statements to be threats.’” *Stevens*, 2016 WL 7442657, at *2 (quoting *Wheeler*, 776 F.3d at 744).

Mr. Stevens sent messages describing specific acts of violence directed toward particular individuals or groups of individuals. He targeted particular individuals in five of his 10 messages—several to Officer Shelby, the TPD Officer who shot Mr. Crutcher.

The language and context of these messages mirror the circumstances in *United States v. Martin*, 163 F.3d 1212 (10th Cir. 1998), in which we determined a reasonable jury could construe the statements as true threats. In *Martin*, the defendant stated in a taped conversation that he would “unload six bullets into Detective O’Rourke’s brain.” *Id.* at 1213. Detective O’Rourke was the head of the narcotics unit that had recently investigated two of the defendant’s friends. *Id.* Throughout the conversation, the defendant “repeatedly reaffirmed his plans to shoot Detective O’Rourke” and also stated his motives for doing so. *Id.* at 1216. We determined that a “rational jury could have evaluated the [statements on the] tape . . . to conclude that the threats” were true threats. *Id.*

Here, Mr. Stevens sent multiple communications that Officer Shelby would be “executed” for shooting Mr. Crutcher. ROA, Vol. 1 at 31. In the tenth message, for example, he wrote: “Betty is not going to get 3 yeas [sic] probation and a pension, she is getting a bullet through her brain.” *Id.* at 34.⁴ From the repeated statements and explicit motives that were sent to Officer Shelby’s place of work, a reasonable jury, as in *Martin*, could conclude that Mr. Stevens’s postings were true threats against Officer Shelby. It

⁴ In addition to his tenth message, Mr. Stevens sent other violent messages about Officer Shelby:

- First: “The psychotic pile of s--- who MURDERED the unarmed civilian . . . is going to be executed.” ROA, Vol. 1 at 31.
- Second: “The psycho c--- who never should have been given a badge . . . [is] going to be executed.” *Id.*

further could conclude Mr. Stevens's other messages directed at identified TPD employees were true threats.⁵

Mr. Stevens also directed messages at groups, including TPD officers. The language and context of these messages were similar to a message aimed at Colorado police officers in *Wheeler*, 776 F.3d at 736. In that case, the defendant held strong anti-government views and was angry at police officers in Grand Junction, Colorado, because of a DUI arrest. *Id.* at 738. While in Italy, he posted messages on his Facebook account, one of which urged his "religious followers" to "kill cops. drown [sic] them in the blood of thier [sic] children, hunt them down and kill their entire bloodlines." *Id.* We held that a "rational juror considering the language and context of these posts could consider them to be true threats" because they directed "specific, deadly action against a number of individuals." *Id.* at 745.

Similar to the message in *Wheeler*, Mr. Stevens targeted messages of deadly action at TPD officers generally. Mr. Stevens's fifth message, for example, mentioned the

⁵ In addition to Officer Shelby, Mr. Stevens directed the following violent messages to the current TPD Chief, the former TPD Chief Ron Palmer, the Tulsa County District Attorney, and a Tulsa County Magistrate Judge:

- Second: "[U]nless the Prosecutor [sic] & the Judge deny bail, they too will be executed." ROA, Vol. 1 at 31.
- Third: "The Tulsa PD Chief is going to be killed." *Id.*
- Sixth: "Ron Palmer [the former TPD Chief], who has developed a culture of corruption and victimizing innocent civilians, along with his family is going to be burned to death." *Id.* at 33.

Mr. Stevens argues that "none of the named targets in the messages were employed" in the TPD's Internal Affairs Division, which manages the webpage where he posted his messages. Aplt. Br. at 19. We think a reasonable jury could still determine that a message sent to a different division of the TPD could constitute a true threat against the named individuals in the TPD. The same applies for the message against the Tulsa County District Attorney and the Tulsa County Magistrate Judge.

“right to Life, Liberty & the Pursuit of Happiness” and stated: “If killing every last one of you [TPD officers] and your families your wives your children is what it takes to drive [that point] home, so be it.” ROA, Vol. 1 at 32.⁶ Because this message and the others were sent to the TPD and were “specific, deadly” in nature, *Wheeler*, 776 F.3d at 745, a reasonable jury could find from their language and context that they were true threats.⁷

⁶ In addition to the fifth message, Mr. Stevens made violent statements against members of the TPD in the following messages:

- Second: “[A]ll [of Officer Shelby’s] cohorts who patted her on the back and said ‘Good Shoot’ are going to be executed.” ROA, Vol. 1 at 31.
- Fourth: “Now is the time that EVERYONE on that list is going to start being killed. Cops, Prosecutors, Judges, family members.” *Id.* at 32.
- Seventh: The TPD “started out with just under 100 Enforcers going to Tulsa. It has grown to well over 1000. Cops are going to be killed.” *Id.* at 33.
- Eighth: “Spill your guts to the Feds, even to questions they don’t ask, or your kids will start dying.” *Id.*
- Ninth: “The last words your child will hear are the same words that will be burned into his or her corpse.” *Id.* at 34.
- Tenth: “Every corrupt s--- a--hole cop who filed a report stating that Crutcher was reaching through his CLOSED window is also going to be killed.” *Id.*

⁷ In addition to the TPD officers, Mr. Stevens also directed the following violent message to Tulsa prosecutors, judges, and their family members:

- Fourth: “Now is the time that EVERYONE on that list is going to start being killed. Cops, Prosecutors, Judges, family members.” ROA, Vol. 1 at 32.

2. Mr. Stevens's Arguments

On appeal, Mr. Stevens has preserved two arguments that his messages were not true threats: (1) his messages were political speech, and (2) he did not have the intent or ability to carry out the threat.⁸ Neither argument has merit.

First, Mr. Stevens argues his messages “protested improper police conduct in vehement terms,” and the “threats were a means of expressing the opinion that a police officer killed a person without justification.” Aplt. Br. at 13-14. The district court found, however, that even if Mr. Stevens’s messages concerned “an event that garnered national attention and [was] a part of a larger political debate,” this did “not preclude the communications from being true threats.” *See Stevens*, 2016 WL 7442657, at *2. We agree. As we said in *Viefhaus*, even if “a specific threat accompanies pure political speech[, this] does not shield a defendant from culpability.” *Viefhaus*, 168 F.3d at 396.

Second, Mr. Stevens argues that his “location in Connecticut while sending threats to Tulsa reflects the absence of intent or ability to carry out any threat.” Aplt. Br. at 19. Although we may consider the speaker’s apparent intention or ability to carry out the threat in determining whether the communication was a true threat, Mr. Stevens’s argument suffers from at least two problems. First, nowhere on the face of the messages (see the Appendix to this opinion) is there any indication of Mr. Stevens’s being located

⁸ Mr. Stevens also argues his statements were not true threats because: (1) he did not send messages to specific identified recipients and (2) his statements contained too many people to believe they were real threats. *See* Aplt. Br. at 19-20. Both arguments were not included in his motion to dismiss the indictment. Because Mr. Stevens has failed to argue plain error, we consider both arguments waived. *See Richison v. Ernest Grp., Inc.*, 634 F.3d 1123, 1130 (10th Cir. 2011).

in Connecticut, and nowhere does the record show that any of the recipients knew that Mr. Stevens was located there. Second, even if a reasonable person in Tulsa who received these messages knew they came from Connecticut, he or she could reasonably conclude that Mr. Stevens had the wherewithal to travel to Tulsa and execute the threats. We therefore affirm the district court's rejection of this argument. *See Stevens*, 2016 WL 7442657, at *2.

* * * *

In determining whether Mr. Stevens's statements were true threats, the district court examined "the language of the communication and the context in which it is delivered." *Dillard*, 795 F.3d at 1201. It properly concluded that a reasonable jury could find Mr. Stevens's messages to be true threats.

III. CONCLUSION

For the foregoing reasons, we affirm the district court's denial of Mr. Stevens's motion to dismiss the indictment.