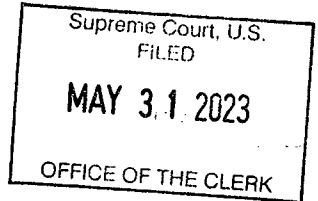


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No. 22-980

ORIGINAL

In The
Supreme Court of the United States



NEIL NOBLE,

Petitioner,

v.

STATE OF TEXAS,

Respondent.

**On Petition For A Writ Of Certiorari
To The Court Of Appeals For The
Fifth District Of Texas At Dallas**

PETITION FOR REHEARING

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A. Grounds

A(1). Should Have Known Legal Standard

Fifteen states have “should know” or “reasonably should have known” as mens rea element in stalking statute: Illinois, Iowa, Maryland, Mississippi, Montana, New York, North Carolina, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming, District of Columbia. Three states have in harassment statute: Arkansas, Kentucky, West Virginia.¹

Noble submits the stalking statutes, in relevant part. Noble challenged the “should have known” standard in Petition for Writ of Certiorari, but did not list other states.

“You’ve got a big national case” Judge Elrod, 5th Circuit, Oral Argument on Mifipristone, May 17, 2023.²

“should have known” is objective standard. Whether reasonable person would have known. *Coleman v. United States*, 202 A.3d 1127, 1143-1144, D.C. 2019.

Convictions may have rested on unconstitutional ground. Must be set aside (Vietnam War views offensive). *Bachellar v. Maryland*, 397 U.S. 564, 571, 1970.

Unconstitutional as applied (stalking). First Amendment implicated. Content-based. De Novo review. *State v. Schackelford*, 825 S.E.2d 689, N.C. Ct.

¹ *Stalking, Harassment, and Related Offenses*; Stalking Prevention and Awareness Resource Center: January, 2022; funded by Department of Justice.

² Dallas Morning News, p.3, 5/18/2023

App., 2019, citing *State v. Bishop*, 787 S.E.2d 814, N.C., 2016 (cyberbullying, failed strict scrutiny, not least restrictive means).

A(2). Obscene Communications

Harassment statutes in 25 states prohibited obscene, lewd, lascivious or indecent communications in 2014: Obscene (24), Lewd (15), Lascivious (12), Indecent (8), Profane (8), Vulgar (3).³ Indecent found overbroad in *Reno v. ACLU*, 521 U.S. 944, 1997.

A(3). Speedy Trial

A(3)(a). Noble Competent to Stand Trial

Noble had sufficient understanding of charges and criminal justice system. Dr. Pittman thought Noble's views on the assassination of President Kennedy were delusional, but he is not an expert in that area. Noble objected (RR Vol4,23-24). Pittman's testimony was not reliable. *Nenno v. State*, 970 S.W.2d 549, 560-561, Tex.Cr.App., 1998, citing *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579, 1993.

After several months of hospitalization, defendant found delusional but competent. *Zedner v. United States*, 547 U.S. 489, 496, 2006.

³ Marwick, Alice E. and Miller, Ross W., *Online Harassment, Defamation, and Hateful Speech: A Primer of the Legal Landscape* (June 10, 2014). Fordham Center on Law and Information Policy Report.

Dr. Kristi Compton found Noble incompetent because Noble wanted to rely on New York lawyer Roy Cohn for legal assistance (RRVol2,62:10-20). Cohn born February 20, 1927; date of death August 2, 1986.

Motion for psychiatric examination filed August 2, 1972. August 4, 1972 evaluation said, "Noble is suffering from a mental illness for many years. Despite severity of symptoms, he is capable of understanding court procedures and aiding in his defense". *Noble v. State*, 505 S.W.2d 543, 544, Tex.Cr.App., February 20, 1974.

Defendant's letters to court demonstrate he understands legal process. *Teague v. State*, WL 2236642, Tex.App.6, 2015.

A(3)(b). Court Ordered Medication

Texas courts apply Section 574.106(a-1)(1) of Texas Health and Safety Code which allows courts to order medication if patient lacks capacity to make decision regarding taking medication. This conflicts with *Sell v. United States*, 539 U.S. 166, 2003. See *In Matter of N.N.*, No. 02-19-00253-CV, Tex.App.2, 2019.

A(4). Structural Error

Noble located six constitutional rights whose violation this Court has deemed structural error. *Weaver v. Massachusetts*, 137 S. Ct. 1899, 2017.

1. Impartial trial judge. Fifth and Fourteenth Amendment right to due process. *Tumey v. Ohio*, 273 U.S. 510, 1927.

2. Sixth Amendment right to attorney. *Gideon v. Wainwright*, 372 U.S. 335, 1963.

3. Sixth amendment right to represent self and conduct own defense. *McKaskle v. Wiggins*, 465 U.S. 168, 1984; *United States v. Gonzalez-Lopez*, 548 U.S. 140, 149, 2006.

4. Sixth Amendment right to public trial. *Waller v. Georgia*, 467 U.S. 39, 1984.

5. Racial discrimination in selection of grand jury. Fifth Amendment right to grand jury indictment. *Vasquez v. Hillery*, 474 U.S. 254, 261-264, 1986.

6. Deficient reasonable-doubt instruction jury instruction. Fifth Amendment Due Process right to proof of guilt beyond a reasonable doubt and Sixth Amendment right to a jury trial. *Sullivan v. Louisiana*, 508 U.S. 275, 278-279, 1993.

No rational trier of fact could have found beyond a reasonable doubt a true threat to kidnap. *United States v. Landham*, 251 F.3d 1072, 1083 (6th Cir. 2001).

A(5). Dobbs

Dallas County District Attorney Henry Wade was the Wade in *Roe v. Wade*, 410 U.S. 113, 1973. Companion case *Doe v. Bolton*, 410 U.S. 179, 1973.

Possibility of two shooters was defense theory in Murdaugh case.

Two men robbed Handy Pantry Store of \$313. *State v. Key*, 180 S.E. 2d 888, S.C., 1971.

B. President Kennedy Assassination

Pittman thought it was delusional that:

- 1) Joe Campisi of Campisi's restaurant in Dallas could have had some role (CR253-254, November, 2019; CR271-272, January, 2020; CR382-384, December, 2020)
- 2) 1969 song *Ruby* by Kenny Rogers could be about Kennedy (CR272, CR383).

B(1). Basic Facts

Kennedy was assassinated in Dallas, Texas on November 22, 1963. Motorcade route determined by luncheon and speech at Dallas Trade Mart built by Trammel Crow. Route went past School Book Depository Building on Elm Street in Dealey Plaza where Lee Harvey Oswald worked.

Oswald's gun found near window on Sixth Floor. Model 38 Italian Carcano bolt action rifle. Purchased by mail on March 12, 1963 (3/12/1963). Scope not sited-in correctly. For fatal shot, Oswald should have aimed directly at Kennedy, rather than ahead "lead".

Consensus three shots, third one fatal. First at 12:30 p.m. Fatal shot in front of a grassy area with

band shell. One bullet possibly hit both Kennedy and Governor Connally who was in front seat, which would be difficult from that window.

Expert marksman had difficulty repeating rapid shots. Fatal shot difficult from window due to angle with limousine driving away 265 feet to West. Easier for left-handed person. Easier shot if taken as limousine slowed to turn onto Elm Street (120 degree angle turn). 1970's U.S. House Select Committee recognized possibility of two shooters based on audio tape (4th shot).

Only video made by Abraham Zapruder. Fatal shot fired in Frame 312. Provides doubt fatal shot came from window based on motion of head on impact with bullet. Band shell possible. Zapruder born in Russian Empire.

Description of shooter provided by Howard Brennan broadcast over police radio. Oswald approached by officer J.D. Tippit while walking down sidewalk in Oak Cliff. Oswald killed Tippit. Oswald arrested at movie theatre.

Oswald killed by Jack Ruby live on national television (NBC) during transfer between jails on November 24, 1963 (basement). Ruby allegedly conned NBC into broadcasting transfer. Ruby said he did it to spare Ms. Kennedy pain of trial. Ruby born in Chicago. Low level Dallas mob ties.

80% thought there was a conspiracy 10 years later, 61% on November, 2013.⁴

B(2). Cast of Characters

J. Edgar Hoover: FBI Boss, 1924-1972. Wanted public to believe Oswald acted alone. November 24, 1963 memo. *I was a Communist for the FBI*, 1951 film.

Henry Wade: Dallas County District Attorney, 1951-1987. Worked previously for FBI.

H.L. Hunt: Dallas oilman. Financed own operations to remove Fidel Castro from power in Cuba.

Fifteen children. President Trump called investigation into Russian interference in 2016 election a "witch hunt". Sounds like "which hunt". Which of H.L. sons?

Richard Nixon: Lost 1960 Presidential election to Kennedy. Graduated from Duke Law School. In Dallas on November 21, 1963.

James Duke (1856-1925): Tobacco businessman. Endowed Duke University. Daughter Doris born November 22, 1912.

E. Howard Hunt (Everette): CIA operative. Participated in Watergate Break-ins that led to President Nixon's resignation.

⁴ Sixth Floor Museum, Dallas.

By 1980, Hunt complained "It's become an article of faith that I had some role in the Kennedy Assassination". *The Sword and Shield: The Mitrokhin Archive and the Secret History of the KGB*, by Christopher Andrew and Vasili Mitrokhin, p.229, 1999, citing *Plausible Denial: Was the CIA Involved in the Assassination of JFK*, by Mark Lane, p.187, 1991.

"Waiting on the Double E" *Poor, Poor, Pitiful Me*, Linda Ronstadt, 1977.

Eugenio Rolando Martinez: Cuban Exile. Associate of Howard Hunt.

Charles Luciano "Lucky": Italian-American crime boss in Prohibition Era in 1920's. Convicted of compulsory prostitution. Released from jail for assistance provided to Roosevelt Administration during World War II. Born November 24, 1897.

Sam Giancana: 1960's Chicago mob boss. Worked with Chicago Mayor Richard Daley to help get Kennedy elected President. Nicknames Mooney and Momo.

"It wasn't me [who started that crazy Asian war]" *Ruby* by Kenny Rogers.

"Make sure" (sounds like Nixon) *It wasn't Me*; Shaggy, 2000.

Roy Cohn: Lawyer for 1950's McCarthy Senate investigations into Communist infiltration of military. Alleged conflict with President Kennedy's brother Robert Kennedy.

Clay Shaw: Founded New Orleans Trade Mart (124 Camp Street). Only person put on trial for assassination. Ties to CIA and anti-Castro groups. Acquitted in 1969.

(B)(3) Circumstantial Evidence

“eat crow” means “to admit one was wrong”.

Oswald the Lucky Rabbit is Disney animated cartoon character. First appeared in *Trolley Trouble* on September 5, 1927. The first Oswald cartoon, *Poor Papa*, rejected for poor production quality and sloppiness.⁵

Actress/model Marilyn Monroe sang “Happy Birthday” to Kennedy in 1962 in her last public appearance before her death at age 36.

Kennedy invited to event in Houston honoring Congressman Albert Thomas on November 21, 1963 by Jack Valenti in letter dated September 17, 1963. Valenti worked previously in advertising in oil business. Valenti was President of Motion Picture Association of America, 1966-2004. Born September 5, 1921.

Full page advertisement in *Dallas Morning News* on November 22, 1963 criticizing Kennedy as soft on Communism (Cuba). Advertisement paid by John Birch Society. Nelson Bunker Hunt was financial supporter of Birch. Hunt posted on Society’s web site when

⁵ Wikipedia.

he died in 2014. Archie Bunker was main character in 1970's television sitcom *All in the Family*.

Ruby ate at Campisi's restaurant the night before assassination (Egyptian Lounge on Mockingbird). Campisi was known in organized crime. Campisi visited Ruby in jail after Ruby killed Oswald. 1970's House Committee deposed Campisi.⁶ There is allegedly a mafia custom where mafia visits person in jail if crime committed on behalf of organization.

"It means we give the order fire" *Double Cross: The Explosive Inside Story of the Mobster Who Controlled America*, by Sam and Chuck Giancana (nephew/brother), Warner Books, p.227, 1992.

"brain fart" is a temporary mental lapse.

Sam Wyly watched motorcade from Neiman Marcus. Sam and brother Charles had tax problems.

Lamar Hunt said he likes to eat at Campisi's when he's in town.⁷ Lamar owned Kansas City Chiefs football team.

U.S. Representative Henry Steagall died November 22, 1945. Co-sponsored Glass-Steagall Act which established government insurance for bank deposits.

⁶ G. Robert Blakey and Richard Billings, *Fatal Hour: The Assassination of President Kennedy by Organized Crime*, 1992. Blakey was attorney for 1970's House Committee that investigated assassination.

⁷ Dallas Morning News, June, 2002.

1910 Kessler Plan for Dallas development mentioned dangers of street level railroad crossings. Suggested bridges or depressing road under track. Elm street depressed under train track. Kessler born in Germany. Mother: Adolphe Kessler. Wife: Ida Grant Field.

Ulysses S. Grant promoted to General-in-Chief of the U.S. Armies effective March 12, 1864 during American Civil War. Noble has a common ancestor with President Grant (CR600).

Tippit's father: Edgar Lee Tippit. Wife: Marie Frances Gasway. Born September 18, 1924. Tippit Worked for Dearborn Stove Company, 1946-1948.

Ruby's sister: Eva Grant. Nicknamed "Sparky".

Oswald born October 18, 1939.

B(4) Older Legal Cases

Sales contract had "Special Condition E". Dupont acting as defendant's agent. *Alloys and Chemicals Corp v. United States*, 324 F.2d 509, Fed. Cir. November 15, 1963, amended, **November 22, 1963**, Court Of Claims).

Must turn on scope [of monopoly]. *Henry v. A.B. Dick*, 224 U.S. 1, 13, 1912.

"I bet that is an old client of mine [Tom Mooney] who I defended in Martinez. *In Re: Mooney*, 10 Cal.2d 1, 80; 73 P.2d 554, October 29, 1937.

"To whomever it is attributable" *Nelson Hunt v. State*, 9 Tex.Ct.App. 570, 1880.

Involved "Rule" where potential witnesses excluded from courtroom. Witness Wrayne Townsley. *Ruby v. State*, 9 Tex.Ct.App. 353, 1880.

(B)(5). 1974 Fire

Noble claims persecution due to fire in Noble's neighborhood in Dallas on September 4, 1974 (addresses 9634 and 9638) (CR384). Noble in second grade. Noble's third grade teacher, Ms. Brennan, repeatedly made Noble sit out in hall.

"It started way back in third grade" [. . .] "got caught passing me a note" *Check Yes or No* by George Strait. *Strait Out of the Box* album released September 12, 1995.

Kennedy announced Soviet defense missiles in Cuba on September 4, 1962. Cited 1823 Monroe Doctrine in justifying naval quarantine around Cuba to prevent delivery of more missiles. Is Noble being persecuted for having ties to Castro because of fire?

Harlan Crow, Trammell Crow's son, paid tuition for Justice Thomas' nephew Mark Martin. \$6,200 a month to Hidden Lake Academy in Georgia in 2009.

We Didn't Start the Fire, Billy Joel, released September 18, 1989. *Storm Front* album October 17, 1989 (CR384).

(B)(6). 1975 Martha Moxley Murder

Martha Moxley killed with golf club on October 30, 1975 in Greenwich, Connecticut. Michael Skakel convicted in 2002. Skakel is nephew of Robert Kennedy (U.S. Attorney General).

Conviction vacated in 2018. Skakel's lawyer, Mickey Sherman, did not locate a non-family member alibi witness. Skakel went to cousins' to watch television, *Monty Python* rerun. Dogs barking could indicate time of death while Skakel at cousins.

"Cone of Uncertainty" is range of locations where a hurricane may make land fall. Roy Cohn's alleged conflict with Robert Kennedy could make Cohn an alternate suspect ("reasonable doubt").

"you don't understand" *Mickey* by Toni Basil, 1981.

"butane in my veins" [. . .] "with the rerun shows" *Loser* by Beck, 1994.

B(7). 1979 Cotsen Murders

Wife and son of Neutrogena CEO Lloyd Cotsen killed in Beverly Hills, CA on May 23, 1979. Murders attributed to Belgium competitor Erich Arnold Tali. Cotsen married founder's daughter.

Cotsen was client of Noble's during divorce from second wife in 1992. President Grant's memoirs dated May 23, 1885. Civil War General Ambrose Everette

Burnside born May 23, 1824. Noble fired from Boston Consulting Group in 1996 by Willie H.L. Burnside.

White House Plumbers broke into office of Lewis Fielding in Beverly Hills, CA on September 3, 1971. (Hunt, Martinez, others). Fielding was psychiatrist for Daniel Ellsberg who leaked Pentagon Vietnam War study.

B(8). September 11, 2001 Attacks

Noble 34. *September of My Years* is 1965 Frank Sinatra album. *Rock of Ages* on 1983 Def Leppard album *Pyromania* (cover: fire at top of office building). "Shot Down" *Blaze of Glory*, Bon Jovi, 1990.

CIA Director John Brennan miscalculated trying to overthrow the Assad Government in Syria (Assad born September 11, 1965).

C. Stalking Statutes from Other States

C(1). Illinois: 720 ILCS 5/12-7.3

(a) [. . .] knowingly engages in a course of conduct directed at a specific person, and **he or she knows or should know** that this course of conduct would cause a reasonable person to: [. . .]

C(2). Iowa: 708.11(2)

2. Person commits stalking when all of the following occur: [. . .]

b. **Person has knowledge or should have knowledge** that a reasonable person would feel terrorized, frightened, intimidated, or threatened or fear bodily injury or death [. . .]

C(3). Maryland: 3-802

(a) [. . .] malicious course of conduct that includes approaching or pursuing another where:

(1) person intends to place or **knows or reasonably should have known** the conduct would place another in reasonable fear: [. . .]

(2) person intends to cause or **knows or reasonably should have known** that conduct would cause serious emotional distress.

C(4). Mississippi: 97-3-107

1(a). [. . .] purposefully engages in a course of conduct [. . .], and who **knows or should know** that the conduct would cause a reasonable person to fear for his or her own safety, [. . .]

C(5). Montana: 45-5-220

(1) [. . .] purposefully or knowingly engages in a course of conduct directed at a specific person and **knows or should know** that the course of conduct would cause a reasonable person to: [. . .]

C(6). New York: 120.45

[. . .] intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and **knows or reasonably should know** that such conduct: [. . .]

C(7). North Carolina: 14-277.3A

(c) [. . .] willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant **knows or should know** that the harassment or the course of conduct would cause a reasonable person to: [. . .]

C(8). Utah: 76-5-106.5

(2) [. . .] intentionally or knowingly:

(a) engages in a course of conduct directed at a specific individual and **knows or should know** that the course of conduct would cause a reasonable person: [. . .]

C(9). Vermont: 13 V.S.A. 1061

(4) [. . .] engage purposefully in a course of conduct that the person [. . .] **knows or should know** would cause a reasonable person to fear for his or her safety. [. . .]

C(10). Virginia: 18.2-60.3

A. Engages in conduct, [. . .] with the intent to place, or when **he knows or reasonably should know** that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury[. . .] Class 1 misdemeanor.

C(11). Washington: 9A.46.110

(1)(c) Stalker either:

(i) Intends to frighten, intimidate, or harass person; or

(ii) **Knows or reasonably should know** that the person is afraid, intimidated, or harassed [. . .]

C(12). Wisconsin: 940.32

(2) [. . .] criteria is guilty of a Class I felony:

(b) Actor **knows or should know** that at least one of the acts that constitute the course of conduct will cause the specific person to suffer serious emotional distress or place the specific person in reasonable fear of bodily injury [. . .]

C(13). Wyoming: 6-2-506

(ii) [. . .] engage in a course of conduct [. . .] that defendant **knew should have known** would cause: [. . .]

C(14). District of Columbia: 22-3133

(a) [...] to purposefully engage in a course of conduct directed at a specific individual:

(3) That person **should have known** would cause a reasonable person in the individual's circumstances to: [...]

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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REHEARING CERTIFICATE

This Petition for Rehearing is submitted in good faith and not for delay. The issues raised in this Petition for Rehearing were not raised in this level of detail in the Petition for Discretionary Review. The Supreme Court rules have length limits for briefs which limits the number of issues that can be raised.

NEIL NOBLE, Pro Se

May 31, 2023
Date