

APPENDIX

A

United States v. Unocic 135 F4TH 632 (8TH Cir 2025)

United States Court of Appeals
For the Eighth Circuit

No. 24-1057

United States of America,

Plaintiff - Appellee,

v.

Anthony Unocic,

Defendant - Appellant.

University of Nebraska College of Law's First Amendment Clinic

Amicus on Behalf of Appellant(s)

Appeal from United States District Court
for the District of Nebraska - Lincoln

Submitted: November 19, 2024

Filed: April 28, 2025

Before COLLOTON, Chief Judge, BENTON and KELLY, Circuit Judges.

COLLTON, Chief Judge.

A jury convicted Anthony Unocic of one count of threatening to assault a federal officer under 18 U.S.C. § 115(a)(1)(B). On appeal, Unocic argues that the district court* plainly erred when instructing the jury on the mental state required for the offense. We affirm.

While incarcerated in a Nebraska detention center, Unocic told two fellow inmates that he wanted to kill a federal agent named Tubbs who had investigated Unocic. The inmates took the threats seriously because Unocic bragged about a previous violent standoff with police, told the inmates he would use his training with explosives and knives, and spent eight minutes demonstrating stabbing techniques that he would use to murder the agent. Unocic boasted that he would have no problem walking up to Agent Tubbs with a grenade and blowing up both of them. The inmates, concerned that Agent Tubbs's life was at risk, reported Unocic's threats to federal agents.

A grand jury charged Unocic with one count of threatening to assault a federal officer in violation of 18 U.S.C. § 115(a)(1)(B) and (c)(1). Section 115(a)(1)(B) provides:

Whoever . . . threatens to assault, kidnap, or murder . . . a Federal law enforcement officer . . . with intent to retaliate against such . . . law enforcement officer on account of the performance of official duties, shall be punished as provided in subsection (b).

*The Honorable John M. Gerrard, United States District Judge for the District of Nebraska.

Unocic pleaded not guilty, and the case proceeded to trial. The district court gave a jury instruction that specified four elements that the government must prove to establish that Unocic committed the charged offense:

- One, . . . Mr. Unocic made a threat to assault Agent Tubb;
- Two, Mr. Unocic either knew or intended that others would regard his communication as threatening violence, or recklessly disregarded a substantial risk that others could regard his communication as threatening violence;
- Three, at the time Unocic issued the threat, Agent Tubbs was a federal law enforcement officer; and
- Four, Mr. Unocic made the threat with intent to retaliate against Agent Tubbs on account of the performance of his official duties.

Regarding element two, the district court included the following definition: “A person ‘recklessly disregards’ a substantial risk within the meaning of this offense when he is aware of the risk, but consciously, deliberately, or carelessly ignores it and decides to act anyway.”

The court’s use of the term “carelessly” in the definition of “recklessly disregards” is the focus of this appeal. Unocic did not object to that term in the district court. He objected to the instruction on a different ground—that element two should have referred to “Agent Tubbs” rather than “others”—and the district court overruled the objection. A jury found Unocic guilty, and the district court sentenced him to thirty-three months’ imprisonment.

On appeal, Unocic argues for the first time that the jury instruction’s use of the word “carelessly” in defining “recklessly disregards” allowed the jury to convict him for speech that is protected by the First Amendment. When a defendant objects to a jury instruction in the district court, but on different grounds than he raises on appeal, we review for plain error. *United States v. Davis*, 901 F.3d 1030, 1034 (8th Cir. 2018). To show plain error, Unocic must establish that “(1) there is an error; (2) the

error is clear or obvious, rather than subject to reasonable dispute; (3) the error affected [his] substantial rights, which in the ordinary case means it affected the outcome of the district court proceedings; and (4) the error seriously affect[s] the fairness, integrity or public reputation of judicial proceedings.” *United States v. Marcus*, 560 U.S. 258, 262 (2010) (internal quotation marks omitted).

When evaluating a challenge to a jury instruction, we do not view each instruction or portion thereof in artificial isolation, but consider any disputed instruction in the context of the overall charge to the jury. *Boyde v. California*, 494 U.S. 370, 378 (1990). We then assess whether there is a reasonable likelihood that the jury instructions, taken as a whole, misled the jury to convict the defendant based on an incorrect standard. *Id.* at 380. On plain error review, therefore, Unocic must show that a reasonable likelihood of misleading the jury was “obvious.” If that prong is satisfied, then he must show a reasonable probability that the error affected the outcome of the trial. *United States v. Haynie*, 8 F.4th 801, 805 (8th Cir. 2021).

Unocic relies on *Counterman v. Colorado*, 600 U.S. 66 (2023), where the Supreme Court held that in a prosecution for making true threats of violence, the First Amendment requires proof that the defendant acted with at least reckless disregard of the threatening nature of his statements. An objective “reasonable person” standard, without proof that the defendant had any kind of subjective intent to threaten, is insufficient. *Id.* at 78, 82. Unocic argues that the district court flouted this rule by instructing the jury that a defendant “recklessly disregards” a substantial risk when he is aware of the risk but “carelessly” ignores it and decides to act anyway. Unocic maintains that the instruction impermissibly allowed a conviction without a showing that he had a subjective understanding of the threatening nature of his statements.

The word “carelessly” is an awkward fit in a definition of “recklessly disregards.” Standing alone, at least, the term carelessness connotes a different *mens*

rea than does recklessness. “Someone who acts recklessly with respect to conveying a threat . . . is not merely careless. He is aware that others could regard his statements as a threat, but he delivers them anyway.” *Elonis v. United States*, 575 U.S. 723, 745-46 (2015) (Alito, J., concurring in part and dissenting in part). It appears that the district court included the term “carelessly” because it borrowed language from a model jury instruction for sex trafficking offenses.

Taking the jury instructions as a whole, however, we conclude that there is no obvious error. The instruction did not advise the jury that Unocic could be convicted merely for acting carelessly with respect to conveying a threat. The jury was required to find that Unocic “recklessly disregarded a substantial risk that others could regard his communication as threatening violence.” The jury was further advised that a person “recklessly disregards” a substantial risk only if he is “aware of the risk” and “decides to act anyway.” The word “carelessly” was included only with respect to the defendant’s act of ignoring the risk—“consciously, deliberately, or carelessly ignores it.” Because the instruction still required proof that the defendant (1) was aware of the substantial risk that others could regard his statements as a threat and (2) decided to act anyway, there is not a reasonable likelihood that the jury convicted Unocic for carelessly conveying a threat without a subjective understanding of the threatening nature of his statements.

The instruction further required the jury to find the defendant “made the threat with intent to retaliate against Agent Tubbs.” With this additional requirement of a subjective mental state, it is even more unlikely that a jury would have focused on the word “carelessly” in isolation to conclude that it could convict Unocic for intending to retaliate against the federal agent by making a “careless” threat without a subjective understanding of the true threat. There is no obvious reasonable likelihood that the jury instructions, taken as a whole, misled the jury to convict Unocic based on an incorrect standard in violation of his rights under the First Amendment. There

is thus no plain error warranting relief. *See United States v. Wilkins*, 25 F.4th 596, 601 (8th Cir. 2022).

The judgment of the district court is affirmed.

APPENDIX B

United States v. Unocic DNe Case No: 4:23-cr-3019

UNITED STATES DISTRICT COURT

for the
District of Nebraska

UNITED STATES OF AMERICA

v.

ANTHONY UNOCIC

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:23CR3019-001
USM Number: 72815-509

Korey L. Reiman

Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to count(s)
☐ pleaded nolo contendere to count(s) which was accepted by the court.
☒ was found guilty on count I of the Indictment after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section& Nature of Offense

18:115(a)(1)(B) and 115(c)(1) INFLUENCING AND RETALIATING
AGAINST A FEDERAL OFFICIAL BY THREAT

Offense Ended

April 12, 2022

Count

I

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
☐ Count(s) dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

January 4, 2024

Date of Imposition of Sentence:

s/ John M. Gerrard

Senior United States District Judge

January 4, 2024

Date

DEFENDANT: ANTHONY UNOCIC
CASE NUMBER: 4:23CR3019-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **thirty-three (33) months, said term to run consecutive to sentence imposed in U.S. District Court for the District of Wyoming, Dkt. 1:21CR-00121-01J.**

☒ The Court makes the following recommendations to the Bureau of Prisons:

1. That the defendant be allowed to participate in the Residential Drug Treatment Program or any similar drug treatment program available.
2. That the defendant be incarcerated at **FCI Sheridan, Oregon. Court specifically recommends the defendant not be incarcerated at FCI Florence, Colorado.**
3. Upon entry into BOP, that the defendant receive a complete mental health evaluation and that the recommendations be followed.
4. That the defendant be allowed to participate in vocational and educational training while incarcerated appropriate with his past skills and education.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant was delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

BY: _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: ANTHONY UNOCIC
CASE NUMBER: 4:23CR3019-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **three (3) years, said term to run concurrently with supervised release imposed in U.S. District Court for the District of Wyoming, Dkt. 1:21CR-00121-01J.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about

DEFENDANT: ANTHONY UNOCIC

CASE NUMBER: 4:23CR3019-001

your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see Overview of Probation and Supervised Release Conditions, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: ANTHONY UNOCIC

CASE NUMBER: 4:23CR3019-001

SPECIAL CONDITIONS OF SUPERVISION

- a. You must not purchase or possess, use, distribute, or administer any alcohol, just the same as any other narcotic or controlled substance.
- b. You must submit your person, residence, office, or vehicle to a search conducted by a United States Probation Officer at any time; failure to submit to a search may be grounds for revocation; you must warn any other residents that the premises may be subject to searches pursuant to this condition.
- c. You must attend, pay for and successfully complete any diagnostic evaluations, treatment or counseling programs, or approved support groups (e.g., AA/NA) for alcohol and/or controlled substance abuse, as directed by the probation officer.
- f. You must attend, successfully complete, and pay for any mental health diagnostic evaluations and treatment or counseling programs as directed by the probation officer.
- p. You must attend, successfully complete, and pay for an approved cognitive-behavioral based program, as directed by the probation officer.
- zz. You must report to the Supervision Unit of the U.S. Probation Office for the District of Wyoming between the hours of 8:00 a.m. and 4:30 p.m., Joseph C. O'Mahoney Federal Building, 2120 Capitol Avenue, Room 7008, Cheyenne, WY 82001, within seventy-two (72) hours of release being placed on probation or release from confinement, and, thereafter, as directed by the probation officer.

DEFENDANT: ANTHONY UNOCIC
CASE NUMBER: 4:23CR3019-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties in accordance with the schedule of payments set forth in this judgment.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00				

☐ The determination of restitution is deferred until . An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	----------------------	----------------------------	-------------------------------

Totals

☐ Restitution amount ordered pursuant to plea agreement \$

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

*Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299

**Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ANTHONY UNOCIC
CASE NUMBER: 4:23CR3019-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$100.00 due immediately, balance due
☐ not later than _____, or
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
The criminal monetary penalty is due in full on the date of the judgment. The defendant is obligated to pay said sum immediately if he or she has the capacity to do so. The United States may institute civil collection proceedings at any time to satisfy all or any portion of the criminal monetary penalty.

Without limiting the foregoing, and following release from prison, the defendant shall make payments to satisfy the criminal monetary penalty in the following manner: (a) monthly installments of \$100 or 5% of the defendant's gross income, whichever is greater; (b) the first payment shall commence 30 days following the defendant's discharge from incarceration, and continue until the criminal monetary penalty is paid in full; and (c) the defendant shall be responsible for providing proof of payment to the probation officer as directed.

All financial penalty payments are to be made to the Clerk of the U. S. District Court, 111 S. 18th Plaza, Suite 1152, Omaha, NE 68102-1322.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
---	--------------	-----------------------------	--

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s): _____

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

AO245B(Rev 09/19) Judgment in a Criminal Case

Judgment Page 8 of 8

DEFENDANT: ANTHONY UNOCIC
CASE NUMBER: 4:23CR3019-001

CLERK'S OFFICE USE ONLY:

ECF DOCUMENT

I hereby attest and certify this is a printed copy of a document which was electronically filed with the United States District Court for the District of Nebraska.

Date Filed: _____

DENISE M. LUCKS, CLERK

By _____ Deputy Clerk

APPENDIX

C

ORDER ON PETITION FOR REHEARING

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 24-1057

United States of America

Appellee

v.

Anthony Unocic

Appellant

University of Nebraska College of Law's First Amendment Clinic

Amicus on Behalf of Appellant(s)

Appeal from U.S. District Court for the District of Nebraska - Lincoln
(4:23-cr-03019-JMG-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

June 24, 2025

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

APPENDIX

D

CONSTITUTIONAL AND STATUTORY
PROVISIONS

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 1 Religious and political freedom.

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.

§ 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member

(a) (1) Whoever—

(A) assaults, kidnaps, or murders, or attempts or conspires to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under section 1114 of this title [18 USCS § 1114]; or

(B) threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section,

with intent to impede, intimidate, or interfere with such official, judge, or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties, shall be punished as provided in subsection (b).

(2) Whoever assaults, kidnaps, or murders, or attempts or conspires to kidnap or murder, or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or a member of the immediate family of any person who formerly served as a person designated in paragraph (1), with intent to retaliate against such person on account of the performance of official duties during the term of service of such person, shall be punished as provided in subsection (b).

(b) (1) The punishment for an assault in violation of this section is—

(A) a fine under this title; and

(B) (i) if the assault consists of a simple assault, a term of imprisonment for not more than 1 year;

(ii) if the assault involved physical contact with the victim of that assault or

USCS

1

the intent to commit another felony, a term of imprisonment for not more than 10 years;

(iii) if the assault resulted in bodily injury, a term of imprisonment for not more than 20 years; or

(iv) if the assault resulted in serious bodily injury (as that term is defined in section 1365 of this title [18 USCS § 1365], and including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title [18 USCS § 2241 or 2242]) or a dangerous weapon was used during and in relation to the offense, a term of imprisonment for not more than 30 years.

(2) A kidnapping, attempted kidnapping, or conspiracy to kidnap in violation of this section shall be punished as provided in section 1201 of this title [18 USCS § 1201] for the kidnapping or attempted kidnapping of, or a conspiracy to kidnap, a person described in section 1201(a)(5) of this title [18 USCS § 1201(a)(5)].

(3) A murder, attempted murder, or conspiracy to murder in violation of this section shall be punished as provided in sections 1111, 1113, and 1117 of this title [18 USCS §§ 1111, 1113, and 1117].

(4) A threat made in violation of this section shall be punished by a fine under this title or imprisonment for a term of not more than 10 years, or both, except that imprisonment for a threatened assault shall not exceed 6 years.

(c) As used in this section, the term—

(1) “Federal law enforcement officer” means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law;

(2) “immediate family member” of an individual means—

(A) his spouse, parent, brother or sister, child or person to whom he stands in loco parentis; or

(B) any other person living in his household and related to him by blood or marriage;

(3) “United States judge” means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate [United States magistrate judge]; and

(4) “United States official” means the President, President-elect, Vice President, Vice

USCS

2

© 2025 Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

President-elect, a Member of Congress, a member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 U.S.C. 101, or the Director of the Central Intelligence Agency.

(d) This section shall not interfere with the investigative authority of the United States Secret Service, as provided under sections 3056, 871, and 879 of this title [18 USCS §§ 3056, 871, and 879].

(e) There is extraterritorial jurisdiction over the conduct prohibited by this section.

HISTORY:

Added Oct. 12, 1984, P. L. 98-473, Title II, Ch X, Part G, § 1008(a), 98 Stat. 2140; Nov. 10, 1986, P. L. 99-646, §§ 37(a), 60, 100 Stat. 3599, 3613; Nov. 18, 1988, P. L. 100-690, Title VI, Subtitle N, § 6487(f), 102 Stat. 4386; Nov. 29, 1990, P. L. 101-647, Title XXXV, § 3508, 104 Stat. 4922; Sept. 13, 1994, P. L. 103-322, Title XXXIII, §§ 330016(2)(C), 330021(1), 108 Stat. 2148, 2150; April 24, 1996, P. L. 104-132, Title VII, Subtitle B, §§ 723(a), 727(b), 110 Stat. 1300, 1302; Nov. 2, 2002, P. L. 107-273, Div B, Title IV, § 4002(b)(9), Div C, Title I, Subtitle A, § 11008(c), 116 Stat. 1808, 1818; Jan. 7, 2008, P. L. 110-177, Title II, § 208(a), 121 Stat. 2538; Nov. 18, 2021, P.L. 117-59, § 3(2), 135 Stat. 1469.

CERTIFICATE OF REMAILING

Comes Now the Petitioner, Anthony Unice, and he hereby certifies that on this 25th day of November, 2025, he re-mailed the attached Petition for Writ of Certiorari to the Clerk of the Court, 1st Class Postage Prepaid. Unice originally mailed this Petition by certified mail # 9589 0710 5270 2408 4608 96 to the Clerk of this Court, postage prepaid, on August 23, 2025, and it was received by the Clerk September 2, 2025. As it was lost by the Clerk before it was docketed, he now re-mails it.

Thereby aver under penalty of perjury this 25th day of November, 2025, that the above is true and correct.



Anthony Unice #72815-SG9

FBI-Cumberland

PO Box 1000

Cumberland, MD 21501

**Additional material
from this filing is
available in the
Clerk's Office.**