

No.

IN THE SUPREME COURT OF THE UNITED STATES

ILLIANA GRIGORIOU, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

*ON PETITION FOR A WRIT OF CERTIORARI TO
THE FOURTH DISTRICT COURT OF APPEAL OF FLORIDA*

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. The dialogue between Petitioner (a 19 year old girl) and ZF (a 20 year old male) show sarcasm, hyperbole, venting of frustration but not true threats so as to make a 19 year old girl a convicted felon. It was, at best, rambling hyperbole. However, § 836.10 has no mens rea and can criminalize threats which are made in jest, hyperbole, or just to blow off steam. Thus, the question is:

Whether Section 836.10 of the Florida Statutes (2022) is facially unconstitutional as being overbroad in violation of the First and Fourteenth Amendments to the United States Constitution?

2. Whether Florida Statute § 836.10 is unconstitutional as applied to Petitioner's case in violation of the First and Fourteenth Amendments of the United States Constitution?

3. Whether the failure of § 836.10 to place one on adequate notice of what conduct is unlawful renders the statute void for vagueness in violation of the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution?

RELATED PROCEEDINGS

The proceeding listed below is directly related to the above-captioned case in this Court: *Grigoriou v. State*, 400 So. 3d 16 (Fla. 4th DCA 2025).

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PETITION FOR A WRIT OF CERTIORARI

Illiana Grigoriou respectfully petitions for a writ of certiorari to review the judgment of the Fourth District Court of Appeal of Florida in this case.

OPINION BELOW

The decision of Florida's Fourth District Court of Appeal is reported as *Grigoriou v. State*, 400 So. 3d 16 (Fla. 4th DCA 2025). It is reprinted in the appendix. A2-3.

JURISDICTION

Florida's Fourth District Court of Appeal issued its opinion on January 8, 2025. A2-3. The court affirmed Petitioner's conviction and sentence. A2.

Petitioner sought review in the state's highest court – the Supreme Court of Florida. On November 25, 2025 the Supreme Court of Florida declined to review the case. A4-5. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The First Amendment provides:

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.

The Fifth Amendment provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Section 1 of the Fourteenth Amendment of the United States

Constitution provides:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 836.10, Florida Statutes, provides in relevant part:

(1) As used in this section, the term “electronic record” means any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call.

(2) It is unlawful for any person to send, post, or transmit, or procure the sending, posting, or transmission of, a writing or other record, including an electronic record, in any manner in which it may be viewed by another person, when in such writing or record the person makes a threat to:

- (a) Kill or to do bodily harm to another person; or
- (b) Conduct a mass shooting or an act of terrorism.

A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not impose liability on a provider of an interactive computer service, communications services as defined in s. 202.11, a commercial mobile service, or

an information service, including, but not limited to, an Internet service provider or a hosting service provider, if it provides the transmission, storage, or caching of electronic communications or messages of others or provides another related telecommunications service, commercial mobile radio service, or information service for use by another person who violates this section. This exemption from liability is consistent with and in addition to any liability exemption provided under 47 U.S.C. s. 230.

STATEMENT OF THE CASE

Petitioner was charged with violation of § 836.10 of the Florida Statutes in October of 2022 R13-14.

Petitioner filed a motion to dismiss the charge on the ground § 836.10 was unconstitutional in violation of the First Amendment and as applied to her R53-77.

On March 11, 2024 a hearing was held on the motion R106-131.

Petitioner was a 19 year old girl and ZF was a 20 year old male. Petitioner alleged the texting dialogue between her and ZF show sarcasm, hyperbole, venting of frustration but not true threats so as to make her a convicted felon. The following were the text exchanges between Petitioner and ZF:

Petitioner

ZF

Ik where you live and your
Mom keep playing

IK where u live

you know where I stay right
you all talk

Wats yo addy
Stop talkin

Yup

Lmaoooo

no one scared
I anit worried bout you I'm trynna
get shot done with my life and
not be a bum

U scary hoe I'm not worried

trust they going to your
Mom house first

Make sure he get the right
House

ight

ight say less

Anit getting no calls don't forget
I'm doing shit with my life I'm
at work
Your gonna have a lot of
People I the hospital Z*** keep
Playing

Yh
Answer my call

No one blocked you
Trust got people out for you
Now Z***
That got all your info

You fucked with the wrong
person

you think it's funny imma
think it's hilarious when you
sitting in the hospital

i'm not gonna tell you when
it's gonna be a surprise ask
the other nigga that did something
just like that he was in icu
for 5 months

Bc he didn't know it
was coming

don't got to be
bc he's gonna catch you
off card

Yo scary ass blocked me X

Bra unblock my sister

Lmaooo
Bet

XXXXX
OK

Unblock my sisters n
talk to them

DO THAT PLZZZZZ IM BEGGIN
U

OK bet
I'm ready X

I'm scared scared

u tryna sound sound hard now
watch this

Difference between me n u is
that I stand on wat I need to
stand on

i told you it's gonna be
a surprise they definitely
not coming today bc your
expecting it you think we
that dum

Lol Yh don't worry we gon spin on
U den
U n them niggas pussy
Tell 'em I said it
U not bout shii u say u on

trust I am

U sound like a kid talkin bout a
surprise
Bitch if u on dat then be Watchu
say u on

they already been by your
moms house 3 or 4 times
already

Cap asf trust

sen

I can't fight for my own
U don't even believe that shii X

obviously not

Braaa u still textin me

I hit people with cars too so
watch yourself

Juss stand on bidnezz

LOLLL

Z*** I anit scared

Ok come hit me plz matter of
fact use me as a speed bump

R68-78, A27-30.

The trial court denied the motion to dismiss ruling that § 836.10 was facially constitutional and constitutional as applied to Petitioner R123.

Petitioner accepted the plea offer to the crime of assault and pled no contest R127-128. Petitioner reserved the right to appeal the denial of the motion to dismiss R130.

Petitioner timely filed her notice of appeal R105.

Petitioner then filed his brief in the appellate court-the Fourth District of Appeal. Petitioner among other issues, argued that: § 836.10 was unconstitutional in violation of the First and Fourteenth Amendments. A6-47.

The Fourth District Court of Appeal held § 836.10 did not violate the First Amendment:

We affirm the circuit court's denial of the defendant's motion to dismiss. See *B.W.B. v. State*, 374 So. 3d 40, 46 (Fla. 4th DCA 2023) (“We hold section 836.10 is not overbroad. This is because section 836.10 has a limited objective—to punish [written

or electronic] ‘threats’ of violence sent[, e.g.,] through electronic social media. Because section 836.10 deals only with ‘threats’ to commit a violent act, it does not violate ... First Amendment rights.”)

A2.

Petitioner sought review in the state’s highest court – the Supreme Court of Florida. On November 25, 2025 the Supreme Court of Florida declined to review the case. A4-5.

REASONS FOR GRANTING THE PETITION

I. SECTION 836.10 OF THE FLORIDA STATUTES (2022) IS FACIALLY UNCONSTITUTIONAL AS BEING OVERBROAD IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION .

Section 836.10 of the Florida Statutes (2022) is facially unconstitutional as being overbroad in violation of the First and Fourteenth Amendments to the United States Constitution.

§ 836.10 prohibits sending/posting/transmitting a writing or record of a threat to kill or do bodily harm in a manner that may be viewed by another person:

(2) It is unlawful for any person to send, post, or transmit, or procure the sending, posting, or transmission of, a writing or other record, including an electronic

record, in any manner in which it may be viewed by another person, when in such writing or record the person makes a threat to:

- (a) Kill or to do bodily harm to another person; or
- (b) Conduct a mass shooting or an act of terrorism.

The statute prohibits certain words, but does not limit its reach by providing context or whether the sending is limited by intent, recklessness, etc. The sending could be for the purpose of a joke, to educate another, to blow off steam, hyperbole, etc. Section 836.10 prohibits legitimate protected speech and thus is overbroad violating the First Amendment.

If the words of § 836.10 had provided a mens rea, the statute would be limited and would not prohibit protected speech. In this case the appellate court never identifies where the mens rea is located in § 836.10. Nor does the court ever explain what mens rea is to be used. The words in the statute simply do not provide whether the threat must be purposeful, intentional, willful, reckless, etc. It simply prohibits certain words regardless of the reason for the words.

As explained by this Court in *Counterman v. Colorado*, 600

U.S. 66, 143 S. Ct. 2106, 216 L. Ed. 2d 775 (2023) not all threats are unprotected –only “true” threats are unprotected. 600 U.S. 74 (distinguishing “true” threats from threats made from “jests or hyperbole or stating “I am going to kill you for showing up late”).

§ 836.10 is not limited to “true threats”.

The appellate court noted § 836.10 was limited to true threats because that limitation was its **objective**. However, the words of the statute simply do not limit its prohibition to true threats. Florida prescribes that the lawmakers intent is not superior to the actual words of the statute. The text of the statute is supreme – and that text is more authoritative than the case law interpreting the statute. *Nader v. Florida Dept. of Highway Safety & Motor Vehicles*, 87 So.3d 712, 726 (Fla. 2012).

§ 836.10 does not limit the purpose of the sending. The sending could be for the purpose of a joke, to educate another, to blow off steam, hyperbole, etc. Section 836.10 prohibits protected speech and thus is overbroad violating the First Amendment.

§ 836.10 prohibits words that may be frowned upon but that does not mean they are not protected speech. The exchange of text messages in this case demonstrate hyperbole, joking, and at best

blowing off steam. The discourse was two young people reacting to dialogue but were not true threats to kill.

ZF's repeated reactions to Petitioner's comments is to laugh (Lol or laughing emoji). Petitioner's hyperbole words are met with ZF's reaction showing the words are hyperbole by ZF laughing, or stating "u tryna sound sound hard now" and "u sound like a kid".

Petitioner's comment-- she hits people with cars-- is not a true threat and pure hyperbole. What is ZF's response? "Ok come hit me plz matter of fact use me as a speed bump".

ZF started out the conversation by "IK where you live" and Petitioner responded the same. This shows the context and nature of both participants conversation ---banter and hyperbole but not true threats. ZF states throughout the entire conversation that he's "not worried" and even jokes about making sure some unknown character gets the right house.

Although there was language of dissatisfaction and crude hyperbole—it was protected speech.

The overbreath of § 836.10 is not limited to immature young people texting. It could be applied to protected political speech where, in an effort to invigorate the troops, a candidate sends his

backers an email saying he “will kill” his opponent in the election. On its face this is a violation of § 836.10 as it has (1) a threat to kill, (2) is electronically transmitted, and (3) and it may be viewed by another. It certainly is hyperbole. But § 836.10 doesn’t exclude hyperbole from its reach by limiting context or intent. The statute is facially unconstitutional in violation of the First Amendment.

Also, § 836.10 prohibits frowned upon, but not unprotected, speech of “trash talk”. It is common in sports to threaten with trash talk. Trash talk is also common in electronic gaming over the internet. In games over the internet a common goal is to kill the opponent. Gamers commonly have audio and chat connection to the opponent they play against. Threats to kill by participants are common—the goal to kill is part of the game. § 836.10(1) gives very broad definitions of records so the exchange of these threats by audio, chat room, etc. is a record and constitutes a felony.

Even if § 836.10 is applied so as to prohibit only “true threats” it would still be overbroad in violation of the First Amendment due to the lack of notice of any mens rea needed to avoid the chilling effect on protected speech.

The legislature did not put any mens rea limitation to the

statute. As read, the words of the statute provide for strict liability without any particular intent or recklessness. Thus, a citizen reading the statute could be deterred or chilled from sending a message that is legitimate protected speech.

In *Counterman v. Colorado*, 600 U.S. 66, 143 S. Ct. 2106, 216 L. Ed. 2d 775 (2023) this Court explained that the First Amendment may be violated even where only “true threats” are involved because of the potential **chilling effect or self-censorship** on other citizens:

Yet the First Amendment may still demand a subjective mental-state requirement **shielding some true threats from liability**. The reason relates to what is often called a chilling effect. Prohibitions on speech have the potential to chill, or deter, speech outside their boundaries. A speaker may be unsure about the side of a line on which his speech falls. Or he may worry that the legal system will err, and count speech that is permissible as instead not. See *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 777, 106 S.Ct. 1558, 89 L.Ed.2d 783 (1986). Or he may simply be concerned about the expense of becoming entangled in the legal system. The result is “self-censorship” of speech that could not be proscribed—a “cautious and restrictive exercise” of First Amendment freedoms. *Gertz*, 418 U.S. at 340, 94 S.Ct. 2997.

600 U.S. at 75; 143 S.Ct. at 2114-15 (emphasis added)

This Court in *Counterman* went on to explain the chilling effect First Amendment violation is prevented by the mens rea

requirement:

And an important tool to prevent that outcome—to stop people from steering “wide[] of the unlawful zone”—is to condition liability on the State's showing of a culpable mental state. *Speiser v. Randall*, 357 U.S. 513, 526, 78 S.Ct. 1332, 2 L.Ed.2d 1460 (1958)..... Or said a bit differently: “[B]y reducing an honest speaker's fear that he may accidentally [or erroneously] incur liability,” a mens rea requirement “provide[s] ‘breathing room’ for more valuable speech.” *Alvarez*, 567 U.S. at 733, 132 S.Ct. 2537 (BREYER, J., concurring in judgment).

Id.

Law abiding citizens refrain from doing what the statute says is prohibited. Again, the problem here is that a citizen reading § 836.10 does not read any mens rea requirement of intent or recklessness. Because § 836.10 does not express a limitation to only intentional or reckless transmissions to cause fear-- should a politician etc., steer away from such a transmission? This is the chilling effect and makes § 836.10 facially unconstitutional.

States are prohibited from “abridging the freedom of speech.” First Amendment, United States Constitution; *Virginia v. Black*, 538 U.S. 343, 358, 123 S.Ct. 1536, 155 L.Ed.2d 535 (2003) (noting that the First Amendment is applicable to the states).

§ 836.10 prohibits legitimate protected speech and thus is

overbroad violating the First Amendment.

II. FLORIDA STATUTE 836.10 IS UNCONSTITUTIONAL AS APPLIED TO THIS CASE IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION.

Appellant moved to dismiss on the ground that § 836.10 was unconstitutional on its face and as applied to her case R53-77. The trial court denied the motion to dismiss R86-87,123.

"An as applied First Amendment challenge contends that a given statute or regulation is unconstitutional as it has been applied to a litigant's particular speech activity." *McDonough v. Mata*, 489 F. Supp. 3d 1347,1359 (S.D.Fla. 2020) (*citation omitted*).

"It is axiomatic that a ' statute may be invalid as applied to one state of facts and yet valid as applied to another.'" *Ayotte v. Planned Parenthood of N. New England*, 546 U.S. 320,329, 126 S. Ct. 961,968,163 L. Ed. 2d 812 (2006).

" 'True threats' encompass those 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." *Virginia v. Black*, 538 U.S. 343, 359 (2003)).

In this case, when looking at the totality of the circumstances, there were no true threats being made by Petitioner, all the texts exchanged are crude hyperbole, sarcasm, and venting.

The defense motion relayed facts dispelling there was a true threat:

In our case, when looking at the totality of the circumstances, there were no true threats being made by Ms. Grigoriou, all the texts exchanged are crude hyperbole. We must first consider the age of both parties in this exchange, Ms. Grigoriou was merely 19 years old and still attending high school. ZF, the alleged victim here, was 20 years old. Both individuals were no more than legal adults and not living outside of their parents' homes. Furthermore, having been friends for 5 years leading up to this incident, ZF was aware that Ms. Grigoriou did not own or have access to a car and did not have a driver's license. This shows that he was aware Ms. Grigoriou never hit anyone with a car*** We must also consider the responses made by ZF to these alleged "threats" being made. When the ICU comment is made, ZF responds that he is "ready" with a laughing face. ZF even references the fact that the statements being made by Ms. Grigoriou are hyperbole when he states that she's "[trying to sound hard now." Furthermore, ZF writes that he knows where Ms. Grigoriou lives, which elicits one of the supposed "threats" of her statement that she knows where he lives. ZF states throughout the entire conversation that he's "not worried" and jokes about making sure this elusive "he" character gets the right house. Looking at the totality of the circumstances in the present case, this statute was unconstitutionally applied to a conversation consisting of language of dissatisfaction and crude hyperbole.

R64-65. A43-44.

The dialogue between Petitioner and ZF show sarcasm, hyperbole, venting of frustration but not true threats so as to make a 19 year old girl a convicted felon. It was, at best, rambling hyperbole and not the serious true threat of killing or bodily harm required. ZF's repeated reactions to Petitioner's comments is to laugh (Lol or laughing emoji)-- "u tryna sound sound hard now" and "u sound like a kid". Petitioner's comment-- she hits people with cars-- is not a true threat and pure hyperbole. What is ZF's response? "Ok come hit me plz matter of fact use me as a speed bump".

§ 836.10 statute was unconstitutionally applied to a conversation consisting of language of dissatisfaction and crude hyperbole.

III. THE DUE PROCESS CLAUSE PROHIBITS PROSECUTION UNDER SECTION 836.10 BECAUSE THE LAW FAILED TO PLACE ONE ON ADEQUATE NOTICE AS TO WHAT CONDUCT IS UNLAWFUL, AND IT INVITES ARBITRARY AND DISCRIMINATORY ENFORCEMENT, SO THE STATUTE IS VOID FOR VAGUENESS PURSUANT TO THE FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.” *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (citations omitted).

Therefore, “a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application” violates due process. *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926) (citations omitted).

“The vagueness doctrine...was developed to ensure compliance with the Due Process Clause in the Fifth Amendment of the United States Constitution.” *Simmons v. State*, 944 So. 2d 317, 324 (Fla. 2006).

This “constitutional standard[] for definiteness and clarity” in regulation is required by the Due Process Clause of the Fourteenth Amendment. *Kolender v. Lawson*, 461 U.S. 352, 361 (1983).

As the U.S. Supreme Court has recognized, “a guilty mind is a necessary element in the indictment and proof of every crime.” *Elonis v. United States*, 575 U.S. 723 (2015) (citing *United States v. Balint*, 258 U.S. 250, 251 (1922)).

To avoid vagueness, a defendant must know the facts that make his conduct fit the definition of the offense. *Id.* (citations omitted).

Section 836.10 does not specify which kinds of “threats to kill or do bodily harm” are proscribed. It is vague what is meant by “threat,” as that term is imprecise and not defined in the statute.

It is unclear if the term includes satirical threats or those meant figuratively or in jest or if it is meant to cover only true threats.

It is also unclear if it covers veiled threats or “threats” that are not subjectively meant to be a threat but could be interpreted as a threat by someone else.

It is unclear if the “threats” proscribe involve asserting that someone will be injured directly or by indirect means.

Additionally, the statute does not have a scienter requirement, which would mitigate the law’s vagueness. The statute does not define any intent by the person who sent the writing.

It is vague if the statute criminalizes accidentally or recklessly sending a written threat.

It also is unclear what exactly the offender has to intend—

does he have to intend that the recipient be afraid that the offender will actually kill or cause bodily harm or is it sufficient that the offender intend that the recipient receive the writing?

In *Hermanson v. State*, 604 So. 2d 775, 781-82 (Fla. 1992)(emphasis added) it was again emphasized that statutes are not merely written to be understood by lawyers and judges, but must be written so the “common world” understands to avoid vagueness:

The United States Supreme Court, in *United States v. Cardiff*, 344 U.S. 174, 73 S.Ct. 189, 97 L.Ed. 200 (1952), stated that **confusion in lower courts is evidence of vagueness which violates due process**. Furthermore, in *Linville v. State*, 359 So. 2d 450, 453-54 (Fla. 1978), we held that due process is lacking where “a man of common intelligence cannot be expected to discern what activity the statute is seeking to proscribe.” In *State v. McKown*, 461 N.W.2d 720 (Minn.Ct.App. 1990), *aff’d*, 475 N.W.2d 63 (Minn. 1991), cert. denied, 502 U.S. 1036, 112 S.Ct. 882, 116 L.Ed.2d 786 (1992), a child’s parents utilized a Christian Science practitioner and a Christian Science nurse, but did not seek conventional medical treatment. The McKowns were indicted for second-degree manslaughter when their child died of untreated diabetes. The issue in that case was whether the child abuse statute, which contained an exception for spiritual treatment similar to the Florida statute, was to be construed in conjunction with a manslaughter statute that was based on culpable negligence resulting in death. In finding a violation of due process, the Minnesota court concluded that there was a “lack of clarity in the relationship between the two statutes.” *Id.* at 723.

... .

The United States Supreme Court has stated that one of the purposes of due process is “to insure that no individual is convicted unless **‘a fair warning [has first been] given to the world in language that the common world will understand,** of what the law intends to do if a certain line is passed.’ ” *Mourning v. Family Publications Serv., Inc.*, 411 U.S. 356, 375, 93 S.Ct. 1652, 1663, 36 L.Ed.2d 318 (1973) (quoting *McBoyle v. United States*, 283 U.S. 25, 27, 51 S.Ct. 340, 341, 75 L.Ed. 816 (1931)). In *Linville*, this Court explained that a person of common intelligence must be able to determine what type of activity the statute is seeking to proscribe.

§ 836.10 does not give fair notice of the expression that is forbidden, and it allows for the arbitrary and discriminatory enforcement.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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