

# Class 8: Threats and Harrassment

## Administrative

Next Time: 180-181; 187-210

No Office Hours today

CHANGE TO SYLLABUS!

Skip article by Rychalk and notes following, pages 181-187

But read intro to "Vice Crimes" and "U.S. v. Cohen"

## Last Time

Criminal Copyright and the Internet

How the Internet changes things

NET Act: No commercial motive necessary +

Prosecutorial Discretion +

Should prosecutors ever go after p2p users?

## Threats and Harrassment

Statutes

18 USC 875

18 U.S.C. 2261A

47 U.S.C. 223 +

How Does the Internet Change Threats and Harrassment?

Alkhabaz

Facts

Alkhabaz aka Jake Baker in Ann Arbor, Michigan (U. Mich. student)

Communicating with Arthur Gonda, probably in Canada

How they communicated

Usenet

Private email

What they communicated

fictional stories involving "abduction, rape, torture, mutilation, and murder of women and young girls."

One story used the name of one of Baker's classmate

Indicted under 875(c)

Oddity

Case based solely on private emails to Gonda

NOT Usenet posts

District Court

Held

Reasoning

Dissent

What about threats posted to odd corners of the Internet?

Class 8: Threats and Harrassment

Threats and Harrassment

The First Amendment

"Congress shall make no law . . . abridging the freedom of speech,"

In reality, lots of exceptions  
Most relevant: "low value speech"

Planned Parenthood

Internal to Carmichael (at pages 172-174)

"Nuremberg Files" website

- Listing
  - Abortion providers
  - Prosecutors
  - Judges
  - Politicians
  - Abortion rights supporters
- Facts
  - Black font (working)
  - Legend
    - Greyed-out name (wounded)
    - Strikethrough (fatality)
  - Three murdered doctors were stricken-through after murders
  - Civil suit seeking injunction to shut site down (and damages)

Held (en banc)

Reasoning

Carmichael

Big drug conspiracy case (marijuana)

Key to case were informants/snitches

Facts

Website

- WANTED in big red letters
- "Information on these Informants and Agents"
- Four informants shown; four agents shown
- Three with photos
- "If you have any information about these informants and agents, regardless of how insignificant you may feel it is, Please contact" followed by list of attorneys and phone numbers
- Disclaimers at various times "definitely not an attempt to intimidate or harass"

Odd procedural posture

Held

Reasoning

True Threats

Incitement