

Top US court mulls free speech, Facebook threats

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US Supreme Court justices struggled Monday with the difficult question of whether threats made on Facebook can be prosecuted or are protected free speech.

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justices heard arguments in the case of a man convicted of making [death threats](#) on the social network against his estranged wife.

The oral arguments came in the case of Anthony Elonis, who was convicted for making threats in his comments posted in rap verse style and sentenced to prison.

"There's one way to love you but a thousand ways to kill you. I'm not going to rest until your body is a mess, soaked in blood and dying from all the little cuts. Hurry up and die, bitch," Elonis posted after the breakup ending seven years of marriage.

Justice Samuel Alito commented that "this sounds like a roadmap for threatening a spouse... you put them in rhymes, you claim you're an artist then you're free from prosecution."

But Justice Elena Kagan cautioned about any ruling that could infringe on rights enshrined in the First Amendment of the constitution.

"The First Amendment requires a kind of buffer zone ... because we don't want to chill innocent behavior," she said during the hourlong session.

Lawyers for Elonis have argued that the government failed to prove comments on Facebook showed the intent to commit a crime.

Elonis has said he never seriously intended to make an attempt on his ex-wife's life or carry out any of the other threats, and that without proof of such an intent, criminalizing his Facebook posts violates his First Amendment right to [free speech](#).

On December 8, 2010, he was charged with threatening clients and employees of the park, threats against his ex-wife, against police officers

and an FBI agent, as well as threats involving a preschool class.

During his trial, Elonis said he was inspired by rapper Eminem in his posts, some of which contained lewd and violent passages.

A range of free-speech groups including the American Civil Liberties Union and the libertarian Cato Institute supported Elonis, arguing that upholding the conviction could erode constitutional guarantees.

Press freedom groups also joined in seeking to overturn the conviction, claiming the case could impact journalists' ability to do their jobs.

Curbing online 'hate speech'

Other groups petitioned the top court to uphold the conviction, saying it could help curb what is often described as online hate speech. Groups supporting victims of domestic violence also joined the government's side.

Chief Justice John Roberts questioned during the arguments what impact the case might have on teenagers who make frequent posts on Facebook, or on rap artists like Eminem.

"Should he (Eminem) be prosecuted?" Roberts asked.

Arguing for the government, Deputy Solicitor General Michael Dreeben said the conviction should not impact "freedom to engage in rap artistry" and asked the court to affirm the jury's conviction based on its reading of the intent of the language.

Justice Antonin Scalia said the court needs to consider whether a genuine threat is made, online or offline.

Scalia cited the possibility of "a warning that Al-Qaeda is going to assassinate a certain person, it contains a threat."

Justice Stephen Breyer questioned meanwhile whether the case involves "transmitting a true threat."

The justices are expected to decide the case at the end of their term in June.

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