

Ferguson Facebook case part of debate about online threats

March 19 2015, by Martha Bellisle

A Washington state man faces sentencing for posting threats on Facebook against a former Ferguson, Missouri, police officer who fatally shot a young black man—a case that is part of a broader legal debate over when social media rants go beyond hyperbole and become criminal acts.

Jaleel Abdul-Jabbaar pleaded guilty on Feb. 2 for posting a threat against Darren Wilson on Facebook that included a call to "give back those bullets that Police Officer Darren Wilson fired into the body of Mike Brown."

Federal prosecutors said Abdul-Jabbaar posted inflammatory messages for months after the Aug. 9 killing of Brown sparked protests nationwide.

The federal charge of making an interstate threat carries a maximum penalty of five years in prison and a \$250,000 fine, but prosecutors have recommended that Abdul-Jabbaar be sentenced to time served—two months—and three years of supervised release because he cooperated with state prosecutors in an unrelated shooting case. The plea deal included dismissal of charges for his other threatening messages. Sentencing is set for Monday morning.

The popularity of social media sites like Facebook and its users' willingness to speak their minds have landed people in jail and left lawyers arguing over what constitutes a "true threat"—one not protected

by the First Amendment—and what is simply an exercise of First Amendment free speech.

The U.S. Supreme Court heard arguments in December on another Facebook threat case that legal experts say could answer some of those questions. When Anthony Elonis' wife left him, he vented on his Facebook page by posting violent threats against her in the form of rap lyrics. The justices are considering whether an "objective" standard should be used in these cases—meaning an average person would believe the writer intended to harm someone—or whether the threat was "subjective," meaning he was just venting and didn't intend to hurt anyone.

"Facebook 'threats' may be different because the person is not 'sending them' to the intended target; indeed, the target may find out from someone else," said Loyola Law School Professor Marcy Strauss. "It also may depend on whether the 'threat' is written on the 'victim's' wall, or whether it is posted on the speaker's.

"Whether that is important may turn on the standard the Supreme Court adopts."

Another Seattle man, Mark Brian Verhul, was sentenced last year to four years in prison for posting on Facebook a photograph and message that said "This is the cop I am going to kill." The officer pictured had arrested Verhul and he was angry about it.

A Massachusetts man was arrested for posting "Put Wings On Pigs" on his Facebook page in December, which was a repeat of the final remarks of the shooter who killed two New York police officers.

Strauss said she believes the number of criminal cases involving [social media](#) threats are increasing "because monitoring of Facebook by

government entities and by others attuned to suspicious posts is growing."

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