

SUPREME COURT OF ILLINOIS

People v. Ashley

2019 IL 123989 (Ill. 2020) · No. 123989 · Decided January 24, 2020

SUMMARY

The Illinois Supreme Court affirmed Marshall Ashley’s stalking conviction under 720 ILCS 5/12-7.3(a)(2). The court held that the term “threatens” in the stalking statute refers to true threats of unlawful violence and therefore does not criminalize constitutionally protected speech. The court also rejected Ashley’s facial constitutional challenges based on the First Amendment and substantive due process.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Neville; Chief Justice Burke; Justice Thomas; Justice Kilbride; Justice Garman; Justice Karmeier; Justice Theis
JURISDICTION	Illinois
DECIDED	January 24, 2020
DOCKET	123989
DISPOSITION	affirmed
PROCEDURAL POSTURE	After a bench trial and conviction for stalking in the McLean County circuit court, the defendant appealed. The Illinois Appellate Court affirmed, and the Illinois Supreme Court granted leave to appeal.
STANDARD OF REVIEW	Constitutional challenges to statutes are reviewed de novo. The sufficiency of the evidence is reviewed to determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the elements proved beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published precedential opinion of the Illinois Supreme Court
PARTIES	Marshall Ashley v. The People of the State of Illinois

TOPICS

- free speech
- first amendment
- overbreadth doctrine
- substantive due process
- statutory interpretation

PRACTICE AREAS

constitutional criminal law

criminal procedure

statutory interpretation

First Amendment law

QUESTIONS PRESENTED

1. Whether the term "threatens" in the Illinois stalking statute must be construed to refer only to true threats of unlawful violence in order to avoid unconstitutional overbreadth.
2. Whether the stalking statute's knowing mental-state requirement satisfies the First Amendment standard for a true threat, or instead requires specific intent to threaten.
3. Whether the statute's "should know" negligence standard is unconstitutional when applied to a course of conduct involving threats.
4. Whether applying a reasonable-person standard to the effect of a true threat on the victim is unconstitutionally overbroad.
5. Whether the stalking statute violates substantive due process through vagueness, criminalization of innocent conduct, or inadequate limitation to conduct causing fear for personal safety, and whether Ashley had standing to challenge provisions unrelated to his conviction.
6. Whether the evidence was sufficient to sustain Ashley's stalking conviction.

HOLDINGS

1. The term "threatens" in 720 ILCS 5/12-7.3(c)(1) refers to true threats of unlawful violence, including threats of bodily harm, sexual assault, confinement, or restraint. Construed in that manner, the provision is not facially overbroad under the First Amendment.
2. The First Amendment does not require specific intent to threaten the victim. A knowing mental state satisfies the true-threat requirement when the accused is consciously aware of the threatening nature of the speech.
3. The statutory "should know" negligence standard does not satisfy the mental-state requirement for a true threat. Applied to a course of conduct that threatens, it is unconstitutionally overbroad because it may criminalize speech that is not a true threat.
4. Applying an objective reasonable-person standard to whether a true threat would cause fear or emotional distress is not facially overbroad.
5. The stalking statute, as construed to prohibit intentional or knowing true threats of unlawful violence, does not violate substantive due process or vagueness principles. Ashley lacked standing to challenge applications involving conduct that did not form the basis of his conviction.
6. The evidence was sufficient to prove stalking because Ashley knowingly engaged in a course of conduct consisting of true threats of unlawful violence and knew the conduct would cause a reasonable person to fear for safety and suffer emotional distress.

KEY QUOTATIONS

“Accordingly, we conclude that the legislature intended that the term “threatens” in subsection (c)(1) refers to “true threats” of unlawful violence such as bodily harm, sexual assault, confinement, and restraint, as set forth in subsections (a-3) and (a-5).” (¶ 47)

“In other words, we hold that the accused must be subjectively aware of the threatening nature of the speech.” (¶ 56)

“Accordingly, we hold that the “should know” portion of subsection (a) is overly broad and cannot be constitutionally applied with regard to a course of conduct that “threatens.”” (¶ 64)

“In sum, we hold that the term “threatens” as used in subsection (c)(1) refers to intentional or knowing threats of unlawful violence that the accused knows would cause a reasonable person to suffer significant mental suffering, anxiety, or alarm.” (¶ 103)

FACTUAL BACKGROUND

Ashley and Keshia Tinch had dated for approximately two years, shared a child, and lived together. During an argument, Ashley made threatening telephone calls and sent Tinch numerous threatening text messages, including messages referring to killing, guns, and causing her to suffer; he also sent a photograph of a handgun. Tinch and her family left the apartment and contacted police, and Ashley was later apprehended near the apartment. The trial court found that the conduct would cause a reasonable person to suffer emotional distress and convicted Ashley of stalking.

PROCEDURAL HISTORY

Ashley was convicted of stalking under 720 ILCS 5/12-7.3(a)(2) and sentenced to one year and six months' imprisonment. The appellate court rejected his facial First Amendment and substantive-due-process challenges and affirmed his conviction. The Illinois Supreme Court affirmed the appellate court's judgment and conviction.

DISPOSITION

affirmed

CASES CITED

- People v. Relerford, 2017 IL 121094
- People v. Bailey, 167 Ill. 2d 210 (1995)
- People v. Morocho, 2019 IL App (1st) 153232
- Grayned v. City of Rockford, 408 U.S. 104 (1972)
- Zwickler v. Koota, 389 U.S. 241 (1967)
- People v. Minnis, 2016 IL 119563
- Bates v. State Bar, 433 U.S. 350 (1977)
- Broadrick v. Oklahoma, 413 U.S. 601 (1973)
- Virginia v. Hicks, 539 U.S. 113 (2003)
- Ashcroft v. American Civil Liberties Union, 535 U.S. 564 (2002)

- *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002)
- *United States v. Stevens*, 559 U.S. 460 (2010)
- *United States v. Alvarez*, 567 U.S. 709 (2012)
- *Watts v. United States*, 394 U.S. 705 (1969)
- *Virginia v. Black*, 538 U.S. 343 (2003)
- *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992)
- *Elonis v. United States*, 575 U.S. 723, 135 S. Ct. 2001 (2015)
- *United States v. Cassel*, 408 F.3d 622 (9th Cir. 2005)
- *United States v. Fuller*, 387 F.3d 643 (7th Cir. 2004)
- *People v. Casas*, 2017 IL 120797
- *People v. Maggette*, 195 Ill. 2d 336 (2001)
- *People ex rel. Scott v. Schwulst Building Center, Inc.*, 89 Ill. 2d 365 (1982)
- *People v. Lutz*, 73 Ill. 2d 204 (1978)
- *Moran v. Katsinas*, 16 Ill. 2d 169 (1959)
- *People v. Bona*, 2018 IL App (2d) 160581
- *People v. Khan*, 2018 IL App (2d) 160724
- *Carrell v. United States*, 165 A.3d 314 (D.C. 2017) (en banc)
- *United States v. LaFontaine*, 847 F.3d 974 (8th Cir. 2017)
- *People v. Goodwin*, 2018 IL App (1st) 152045
- *People v. Wood*, 2017 IL App (1st) 143135
- *People v. Dye*, 2015 IL App (4th) 130799
- *United States v. Elonis*, 841 F.3d 589 (3d Cir. 2016)
- *United States v. Dillard*, 795 F.3d 1191 (10th Cir. 2015)
- *People v. Madrigal*, 241 Ill. 2d 463 (2011)
- *People v. Wright*, 194 Ill. 2d 1 (2000)
- *People v. Maness*, 191 Ill. 2d 478 (2000)
- *Russell v. Department of Natural Resources*, 183 Ill. 2d 434 (1998)
- *Hill v. Colorado*, 530 U.S. 703 (2000)
- *People v. Einoder*, 209 Ill. 2d 443 (2004)
- *People v. Taylor*, 2019 IL App (1st) 160173
- *Village of Hoffman Estates v. The Flipside, Hoffman Estates, Inc.*, 455 U.S. 489 (1982)
- *People v. Crawford*, 2019 IL App (1st) 160184
- *People v. Sucic*, 401 Ill. App. 3d 492 (2010)
- *People v. Ryan*, 117 Ill. 2d 28 (1987)
- *Schall v. Martin*, 467 U.S. 253 (1984)
- *In re M.I.*, 2013 IL 113776
- *People v. Terrell*, 132 Ill. 2d 178 (1989)

- People v. Haywood, 118 Ill. 2d 263 (1987)
- People v. Rogers, 133 Ill. 2d 1 (1989)
- City of Chicago v. Lawrence, 42 Ill. 2d 461 (1969)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/illinois-supreme-court-of-illinois/2020/people-v-ashley-49m6fou9>