



## **Docket Watch: The People of the State of Illinois v. Walter Relerford**

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After interning, Walter Relerford interviewed for a position and continued sending emails and phone calls trying to get a job. He was then seen by and waved at the interviewer while shopping at CVS outside the office. Nevertheless, he was turned down for the position. He showed up unexpectedly at the office and was asked to leave—which he did. Relerford then posted on his Facebook page some obscene posts describing sex acts he would do with the interviewer. The interviewer did not have these posts, but a third party forwarded them to her. On these facts, Relerford was eventually convicted of stalking and cyberstalking and sentenced to 6 years imprisonment.

The cyberstalking statute prohibits knowingly causing a person to suffer emotional distress. There are several problems with this conviction which the appellate court recognized, reversing the conviction. The state then appealed the case to the Illinois Supreme Court. The Cato Institute, together with the Marion B. Berchner First Amendment Project, filed an amicus brief—prepared by the UCLA Law School First Amendment Clinic and noted scholar Eugene Volokh—asking the Illinois Supreme Court to reverse Relerford’s conviction. While “true threats” aren’t protected by the First Amendment, there must be an intent to threaten. While Relerford clearly scared the interviewer by his actions, the government needs to prove that this was his intent, which it didn’t even try to do. The cyberstalking statute thus sweeps in a lot of constitutionally protected speech. Speech directed to a person, such as harassing phone calls, can be punished, but not merely speech about a person. Indeed, the U.S. Supreme Court recently considered a case, *Snyder v. Phelps* (2011), in which the Westboro Baptist Church picketed funerals of soldiers with signs like “Thank God for Dead Soldiers,” language clearly designed to inflict emotional distress. The Court there correctly held that this disgusting speech, which intentionally causes severe emotional distress, is protected by the First Amendment from even a civil fine—let alone criminal jail time. The speech in these Facebook posts falls well within this precedent.

On August 14, 2018 the Illinois Supreme Court recognized the First Amendment problems with this case and affirmed the reversal of Relerford’s conviction.

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