

The Boston Globe

BostonGlobe.com

Harassment via Internet a crime, SJC rules

Decision upholds convictions of pair who targeted neighbors in Andover

By **John R. Ellement and Travis Andersen** | GLOBE STAFF DECEMBER 23, 2014

The state's highest court ruled Tuesday that people who use the Internet to harass someone can be prosecuted under existing state law, a decision that upheld the conviction of an Andover couple who were linked to false ads on Craigslist and who filed a fake claim of child abuse against a neighbor.

Essex District Attorney Jonathan Blodgett, whose office prosecuted the case, said the ruling from the Supreme Judicial Court was the first time the panel clearly authorized law enforcement to use the state's antiharassment statute in cybercrimes.

CONTINUE READING BELOW ▼

“Cyberharassment is becoming more prevalent in today’s society and the victims in this case were tormented by the defendants,” Blodgett said. “This case sends the right message that it is a crime, and a serious one.”

The 7-0 ruling left intact the harassment convictions for William P. Johnson and his wife, Gail M. Johnson, who wanted to subdivide and develop land in Andover, but were opposed by an abutting neighbor, James J. Lyons Jr., and his wife, Bernadette, along with other neighbors.

That dispute preceded the harassment campaign by the Johnsons, the high court said.

As part of the harassment, William Johnson called in a false allegation of child abuse against James Lyons with the state Department of Children and Families, according to the SJC.

“They literally tried to have our kids taken away from us,” James Lyons, who is now a state representative, said in a telephone interview. “These people invested time and money to torture my wife, my boys, and myself.”

Robert S. Sinsheimer, an attorney for the Johnsons, said in a statement that they were disappointed by the SJC’s decision and were considering their legal options. The Johnsons lived on the same street as the Lyons family.

“Where the sole purpose of the defendants’ speech was to further their endeavor to intentionally harass the Lyonses, such speech is not protected by the First Amendment,” Justice Robert Cordy wrote in the ruling.

According to the SJC ruling, during a 35-day period in 2008 the Johnsons enlisted a longtime friend and handyman, Gerald Colton, who sent the Lyonses an e-mail falsely claiming that James Lyons “stole the innocence of a young man,” and posted fake ads on Craigslist.

One of those ads said that the Lyonses were giving away golf carts for free, prompting dozens of people to show up outside the couple’s home.

“The Craigslist postings were the equivalent of the defendants recruiting others to harass the victims and the victims alone,” Cordy wrote. “The defendants cannot launder their harassment of the Lyons family through the Internet to escape liability.”

Another ad said the family was selling a Harley-Davidson motorcycle and told interested parties to call after 10 p.m., generating many nighttime calls that continued for months, the ruling said.

One e-mail that Colton sent to the Lyons family from a fake account, the SJC said, read, “Remember, if you aren’t miserable, I ain’t happy! Let’s Play.”

Colton had testified for the prosecution and said that William Johnson had told him he had sent James Lyons a letter accusing him of molesting a teenager, which was false. The Johnsons were convicted in Lawrence District Court in late 2011. William Johnson was sentenced to 18 months behind bars; his wife was given a six-month sentence to serve.

Alan M. Dershowitz, a prominent attorney and retired Harvard Law professor, said it is rare for defendants to receive jail time for such conduct, adding that the Johnsons’ behavior was particularly egregious.

“Was the [SJC] opinion too broad? I think time will tell,” Dershowitz said. “I would hope it would be applied in a very narrow way.”

The ruling does not appear to encroach on the free speech rights of Internet users, according to Harvey A. Silverglate, a criminal defense lawyer and civil libertarian who has written extensively on First Amendment issues.

“I don’t think this opinion imposes a risk of squelching protected speech on the Internet,” Silverglate said. “It isn’t very hard to figure out that what these people were doing is very threatening, and it’s not the kind of speech that a civilized society wants to tolerate.”

Sameer Hinduja, a criminology professor at Florida Atlantic University and codirector of the Cyberbullying Research Center, said online harassment is not confined to young children and adolescents.

Hinduja pointed to a recent Pew Research Internet Project study that found that 40 percent of adult Internet users have experienced online harassment.

“I agree with the court’s decision, absolutely,” Hinduja said.

“You have really crazy sorts of things being done [in the case]. It’s really willful, it’s really intentional. . . . I like that [the SJC] labeled it criminal conduct.”

Hinduja said laws barring online harassment are necessary, even if they do not always deter offenders. “We do need to have laws for egregious situations to send a message in our society, with the social contract that we all agree to, that this is unacceptable,” he said.

Martin G. Weinberg, a Boston defense lawyer who has litigated cybercrime cases, said in an e-mail that the ruling helps define criminal conduct in the realm of Internet communications.


“Judges nationwide, from the Supreme Court to the state courts, have an historic challenge of taking a Bill of Rights written in the 18th century and making it meaningful in a very different world of computers and technology,” Weinberg wrote.

John R. Ellement

can be reached at ellement@globe.com.

Travis Andersen

can be reached at travis.andersen@globe.com.

 SHOW 23 COMMENTS