

Bullying our First Amendment?

CASE STUDY: Texting, Bullying, and Free Speech

It is hard to decide where the freedoms granted by the First Amendment start and end. We can agree on certain problematic utterances that we wouldn't say out loud, but are we confident enough in these judgments to legally punish these speech acts—and other similar ones we don't anticipate? This was the conundrum brought up by the case of 17 year-old Michelle Carter, who convinced her boyfriend Conrad Roy III to commit suicide. Carter helped Roy construct his method of suicide, then followed with a month of persuading him into finalizing the plan. Through a barrage of text messages over the course of a month, she convinced him to go through the plan by explaining that “everyone will be sad for a while, but will get over it and move on” and telling him that “the time was right and he's ready, he just needed to do it!” On what would be his final day alive, Carter texted Roy informing him “that if he didn't do it now he'd never do it” and then made him “promise” to follow through. The following morning Roy was found dead in his car from inhalation of carbon monoxide. In court, Carter was found guilty of involuntary manslaughter and the legal arguments centered over whether these texts actually and primarily caused Roy's death.

Should Carter have been convicted of involuntary manslaughter from texts messages sent to her boyfriend? The case against Carter was motivated largely by the idea that bullying with words is harmful and should be equated to physical actions in such extreme cases. Roy did not seem intent on committing suicide until the repeated urgings of Carter occurred. As Jason Le Miere reports, he attempted to abort the suicide attempt through carbon monoxide poisoning instigated by her



texts, but then resumed his efforts after she messaged him to “get back in” the car that was slowly filling with lethal gas. If bullying can cause psychological and physical harm, society ought to have an ethical and legal justification to punish those who use speech in this way. Those making this argument also believe that punishing such cases of harmful words will hopefully stop future cases of cyberbullying. According to many, Carter went too far with her negative text messages and was the primary cause of her boyfriend’s act of suicide.

Those defending Carter from legal responsibility for murder argued that “speech that is reckless, hateful and ill-willed nevertheless enjoys First Amendment protection.” They believe that while the words can be potentially hurtful, the act of sending a text message is not equivalent to pulling a trigger and killing someone with a gun. The boyfriend’s actions, while related to the speech of Carter, were not the only possible result of hearing those words. Such an argument might go that however mean and callous her utterances were, his reaction to them was of his own free choosing. Professor Laurie Levenson of Loyola Law School points out one challenge of finding Carter guilty of manslaughter: “What it does is just put people on notice that there could be extreme enough cases where prosecutors and judges find that [speech] has become homicide. Up to now ordinarily, we don’t find that mere remarks to a victim are sufficient.” The Director of the American Civil Liberty Union’s Massachusetts affiliate, Matthew Segal, voices similar worries: “This is a killing in which the murder weapon was words, and that is an incredibly broad view of causation and an incredibly broad view of the manslaughter laws in Massachusetts and creates serious concerns about expanding criminal law without doing so through the legislature.”

As Robby Soave points out, complicating matters in this case was Carter’s status as a minor, as well as concerns about her struggling with mental illness. An additional worry is sorting out what sort of ethical and legal precedent this decision

sets for cases of assisted suicide or euthanasia. As Matthew Segal speculates, “If you have a couple who’ve been together for decades and one says to the other, ‘I’m in terrible pain,’ and the spouse responds with saying, ‘I don’t want to see you go, but I think it’s the right thing for you, you should commit suicide,’ and then the person does it, I gather in Massachusetts, the commonwealth’s view is that is a crime and that spouse at our discretion can be put in prison for potentially a very long period of time.” Many want to treat euthanasia and cyberbullying as different types of actions, but the reasoning of this case shows how challenging it can be to draw this moral and legal line. How should our speech be treated in cases where others end up harming themselves?

Further Information:

Barbara Demick. “Woman who encouraged Boyfriend to kill himself via Text is sentenced to 15 Months in Jail.” *Los Angeles Times*, August 3, 2017. Available at: <http://www.latimes.com/nation/nationnow/la-na-teen-texting-suicide-20170803-story.html>

Paul LeBlanc. “The Text Messages that led up to Teen’s Suicide.” *CNN*, June 16, 2017. Available at: <https://www.cnn.com/2017/06/08/us/text-message-suicide-michelle-carter-conrad-roy/index.html>

Jason Le Miere. “What Michelle Carter’s Guilty Verdict for telling her Boyfriend to kill himself means for Free Speech and Assisted Suicide.” *Newsweek*, June 16, 2017. Available at: <http://www.newsweek.com/michelle-carter-verdict-suicide-boyfriend-626910>

Robby Soave. “Michelle Carter didn’t kill with a Text.” *New York Times*, June 16, 2017. Available at: <https://www.nytimes.com/2017/06/16/opinion/michelle-carter-didnt-kill-with-a-text.html>

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