

Elonis v. United States

Docket No. Op. Below Argument Opinion Vote Author Term

[13-983](#) [3d Cir.](#) Dec 1, 2014 TBD TBD TBD [OT 2014](#)

Disclosure: John Elwood, a frequent contributor to this blog, is among the counsel to the petitioner in the case.

Issue: (1) Whether, consistent with the First Amendment and *Virginia v. Black*, conviction of threatening another person under 18 U.S.C. § 875(c) requires proof of the defendant's subjective intent to threaten, as required by the Ninth Circuit and the supreme courts of Massachusetts, Rhode Island, and Vermont; or whether it is enough to show that a “reasonable person” would regard the statement as threatening, as held by other federal courts of appeals and state courts of last resort; and (2) whether, as a matter of statutory interpretation, conviction of threatening another person under 18 U.S.C. § 875(c) requires proof of the defendant's subjective intent to threaten.