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Defining a True Threat: The Supreme Court Mulls the Boundaries of Free Expression on Social Media

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In 2010 the wife of aspiring rapper Anthony Elonis left him, taking their kids. Under the name “Tone Dougie,” with a public profile, Elonis took to Facebook to vent over the breakup. Griping, bad-mouthing, and oversharing on social media are nothing new. But Elonis’s menacing posts took things to a whole different level, and he ultimately was sentenced to 44 months in prison on federal charges of making a threat of personal injury in interstate commerce. (See *United States v. Elonis*, 730 F.3d 321 (3rd Cir. 2013), cert. granted, 134 S. Ct. 2819 (2014).)

Elonis, a Pennsylvania resident, has appealed his case all the way to the U.S. Supreme Court, where the resulting oral argument last December was robust. The case has pitted free-speech and civil rights advocates and journalists on one hand against battered women’s groups and law enforcement on the other. Fifteen amicus curiae briefs were filed. The justices peppered the discussion with numerous questions and comments, as they seemed to struggle with where to draw the line between threats and self-expression.

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