

# A Mother Vindicated: Landmark Cyberstalking Case

by Jamie McCall and Shawn A. Weede

*In this piece, Jaime McCall and Shawn Weede outline the steps taken by federal prosecutors to successfully prove a case involving the gross violation of new laws against interstate stalking and cyberstalking. Through painstaking investigation and careful legal footwork, prosecutors were able to convict three family members charged with stalking leading to death—in this case, of a protective mother who, after being relentlessly harassed by her abusive ex-husband and his family, was shot to death in a murder-suicide perpetrated by her ex-father-in-law.*

## I. INTRODUCTION

On February 11, 2013, the bustling lobby of the New Castle County Courthouse in Wilmington, Delaware, was turned into a shooting gallery as Thomas Matusiewicz shot and killed his former daughter-in-law, Christine Belford, and her friend, Beth Mulford. Thomas also shot two Capitol Police officers, who were providing security at the courthouse, before taking his own life.

This brutal criminal act touched off a six-month joint federal and state investigation, which spanned multiple jurisdictions from Delaware to the Texas-Mexico border. The investigation uncovered evidence of a three-year interstate stalking and cyberstalking campaign, which left Christine and her young children in constant fear for their lives, and ultimately resulted in her death. These criminal acts were precipitated by a bitter child custody dispute between Christine's former husband Davis (Thomas's son) and Christine that dated back to 2007, and involved the commission of an international

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parental kidnapping and bank fraud. An analysis follows of how the government proved this landmark case.

## **II. OFFENSE CONDUCT**

### **A. KIDNAPPING**

Christine Belford married David Matusiewicz in 2001. They divorced in 2006. During their marriage, the couple had three children: Laura (born in 2002), Leigh (born in 2003), and Karen (born in 2005). Prior to their divorce, David ran a successful optometry practice, where Ms. Belford also worked as the office manager until their separation in January 2006.

On August 26, 2007, David and his mother, Lenore, kidnapped Laura, Leigh, and Karen. Using a pretext of taking the children to Disney World, the defendants instead fled to Central America with the children. In the process, David told the oldest daughter, Laura, that her mother was dead. In March 2009, law enforcement agents finally located David and Lenore, captured them, rescued the children, and reunited them with their mother.

After their arrest, and in an attempt to justify their criminal conduct, David and Lenore claimed that they abducted the children because Christine sexually abused her eldest daughter, Laura. Prior to their arrest, however, the defendants never made any allegation to this effect to any member of law enforcement, any social service entity, or the children's treating pediatrician.

### **B. STALKING CAMPAIGN**

The defendants' stalking conduct took the form of a three-pronged campaign, which used the Internet, the mail, and third parties, to vilify and torment Christine and her children. David and his family created a webpage called "Grandmother's Impossible Choice," which was dedicated to casting Christine as a crazed, mentally unstable child molester, and falsely branded Laura as a victim of sexual abuse. David and his family also posted surreptitious videos of Christine and her children on YouTube, posted defamatory comments online, and bombarded people in Christine's life with emails and written letters repeating these same pernicious accusations. The Matusiewicz family sent written letters to the children's school, Christine's neighbors, and her church, where she taught Sunday school.

David and his family also convinced third parties to spy on Christine and her children. Not only did David and his family use a network of friends (including a real estate agent, a private detective, and others) to surveil Christine's family home, but they used others to gain her personal trust over the Internet, in order to obtain private information that she innocently believed she was telling to a friend. In the end, no facet of Christine's life, or the lives of her children, was off-limits.

As the trial demonstrated, the defendants' stalking conduct was fueled by a deep hatred for Christine. In David's view, she was the person who took everything from him, including his job, his children, his family, his money, and his freedom. David and his family routinely referred to her as the "Whore

Bitch,” as well as other incredibly offensive names. In their writings to each other, defendants plainly discussed a desire to kill her. For example, law enforcement recovered “Death Certificates” made out in Ms. Belford’s name (and the name of her attorney) on Thomas’s body at the courthouse following the shooting; a letter written by Thomas to Amy stating that “we must drink to WBs [short for Whore Bitch] final day as well when we meet again”; and a note written by Lenore stating “I/Mom had been told she should have ‘killed the bitch’ when she had the chance by a good friend but couldn’t do it! Kidnapping to get to safety was a ‘second choice.’” In yet another email, David cited a Bible passage that discussed hanging a millstone around the neck of people that harm children (a direct reference to Christine) and—most disturbingly—equated himself to God, writing: “‘Vengeance is Mine, sayeth the Lord’ but we are made in His image, aren’t we?”

Once David was released from federal prison, he manufactured a court hearing to get to Delaware, and lied to his probation officers to mask the true purpose of his trip. He then traveled from Texas with his parents in two vehicles loaded with (among other things) firearms, thousands of rounds of ammunition, handcuffs, and surreptitious pictures of the interior and exterior of Christine’s home and neighborhood. On the day of the shooting, video surveillance showed David hug his father one final time, and safely pass through the security line at the courthouse, while Thomas prepared to launch his violent assault.

As Christine entered the courthouse, her worst fears were realized. Thomas walked in front of her, raised his .45 caliber Glock semi-automatic handgun, and shot her several times in the chest. He also shot her friend, who was there to support her, and two Capitol Police officers, before taking his own life. Thanks to their ballistic vests, the Capitol Police officers survived.

Two days after the shooting, David’s sister, Amy, submitted a petition for custody of the children. Amy and her mother remained free until their arrest in August 2013. During the six-months until her arrest, Amy Gonzalez continued to pursue the overarching goal of the “conspiracy”—to regain physical custody of Laura, Leigh, and Karen.

### **C. IMPACT ON VICTIMS**

The impact of the stalking on Christine and her children was severe. At trial, the Government demonstrated that she and her children were not only aware of the cyberstalking, but also of the physical surveillance conducted by defendants. This awareness caused them to fear for their lives. Some of the most striking pieces of evidence at trial were the messages portending her fate that Christine left behind with various people. These fears were communicated to her therapists, friends, family, health care professionals, employer, and attorneys.

### **III. LEGAL FRAMEWORK OR ENHANCEMENT**

In 2013, a Delaware grand jury indicted David, his mother, Lenore, and sister, Amy, on a series of federal stalking offenses, including cyberstalking resulting in

death. At trial, the Government explained to the jury that a two-step inquiry was necessary to find the defendants guilty of cyberstalking resulting in death. First, the jury must conclude that the defendants committed the underlying stalking conduct charged in the Indictment. Second, after making that determination, the jury could assess whether that stalking conduct was the *legal* (or “proximate”) cause of Ms. Belford’s death, in conformity with the district court’s jury instruction.

## A. ACTUS REUS AND MENS REA

As a threshold matter, the federal stalking statute was originally passed in 1996, as part of the Violence Against Women Act. See National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2422, 2655 (1996). Codified in 18 U.S.C. § 2261A, it has undergone several significant changes since its inception, including the addition of the cyberstalking offense in 2000. The statute was most recently amended in 2013, which substantially expanded the statute’s coverage in a number of meaningful ways. The *mens rea* elements were broadened, the instrumentalities of the crime were expanded, and the location of perpetrator no longer matters for cyberstalking. See 18 U.S.C. §§ 2261A(1) and (2) (2013). The instant offense conduct, however, occurred prior to these expansions. Thus, it is important to bear these changes in mind when considering the legal and factual analysis set forth below. Indeed, proving these offenses is significantly easier under the new statute.

Section 2261A(2) criminalizes the act of using the mail, interactive computer services (including Web sites like Facebook and YouTube), or facilities of interstate commerce (including the Internet, email, and cell phones) to engage in a “course of conduct” of stalking. It is commonly referred to as the “cyberstalking” provision, although it expressly encompasses much more than the use of the Internet, including using the mail.

The “course of conduct” required under the cyberstalking provision (§ 2261A(2)) is expressly defined as “a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.” 18 U.S.C. § 2266(2) (2012). The Government is not required to prove that “each act was intended in isolation to cause [the required harm to the victim].” **United States v. Shrader**, 675 F.3d 300, 301 (4th Cir. 2012). It is enough for the Government to show that “the totality of the defendant’s conduct ‘evidenced a continuity of purpose’ to achieve the criminal end.” **Id.** Thus, the proper focus is on the “persistent or repetitive conduct on the part of the harasser.” **Id.** at 312.

This offense requires that the conduct be engaged in with prescribed criminal intent. Under § 2261A(2), the defendant must act with at least one of the foregoing intentions or with the intent to cause substantial emotional distress to a person in another state. See 18 U.S.C. § 2261A(2) (2015).

The Government proved criminal intent by demonstrating that their central claim—namely, that Christine sexually molested her eldest daughter—was false and defamatory. The Government established this by highlighting the *post hoc* timing of the claim in relation to the kidnapping, introducing various inconsistent statements the defendants made regarding the claim, and, most

importantly, through Laura's own testimony that she was *never* sexually abused by her mother. Once the Government demonstrated that this claim was false, it argued that the Grandmother's Impossible Choice Web site, the YouTube videos, as well as the numerous emails and letters sent by defendants, were solely designed to harass and intimidate Christine and her children. Moreover, the totality of these acts represented the "course of conduct" required by the cyberstalking statute, and demonstrated a continuity of purpose amongst the defendants to violate the statute. Ultimately, this evidence was sufficient for the jury to convict defendants of the underlying cyberstalking offense.

## B. ELEMENTS OF ENHANCED PENALTY

Once the jury found the defendants guilty of a violation of 18 U.S.C. § 2261A, the jury was asked to decide whether this conduct resulted in Christine's death in order to apply the enhanced penalty pursuant to 18 U.S.C. § 2261(b). Prior to this case, few reported decisions addressed the proof requirements for the "death . . . results" enhanced penalty under § 2261(b) under *any* theory of liability. The battle, therefore, became whether the Government could prove that defendants' cyberstalking conduct *proximately* caused Christine's death. Although no court had articulated the contours of this causation requirement for the "death results" enhancement under § 2261(b), the concept of proximate cause is a familiar one as to other federal criminal statutes with "death . . . results" provisions.

The hallmark of proximate cause is that an act must play a substantial, even if indirect, role in bringing about a foreseeable result. At trial, the Government pursued two equally applicable theories of liability to prove the proximate cause standard for the cyberstalking offense. The Government argued that the evidence demonstrated that either each defendant's own "personal actions" made it reasonably foreseeable that Christine would die, or that her murder was reasonably foreseeable based on defendants' joint criminal conduct. Indeed, the concept of holding a defendant criminally liable for the foreseeable acts of other co-conspirators is settled law. Under the **Pinkerton** doctrine, therefore, "a participant in a conspiracy is liable for the reasonably foreseeable acts of his coconspirators in furtherance of the conspiracy." **United States v. Cross**, 308 F.3d 303, 311 n.4 (3d Cir. 2002) (*citing* **Pinkerton v. United States**, 328 U.S. 640 (1946)). Here, defendants were collectively charged with a multi-prong interstate stalking and cyberstalking conspiracy that included Christine's death as an overt act of that conspiracy.

In fashioning jury instructions for proximate cause, the district court accepted the concept of "reasonable foreseeability" as part of the standard, but also inserted language that increased the Government's burden to establish a nexus between the offense conduct and the "resulting in death" penalty enhancement. The district court did this for two reasons. First, the district court concluded that where the direct perpetrator of the murders had taken his own life and was not on trial, and where a credible argument could be made that he acted on his own, proximate cause was an "even more important" concept in finding defendants guilty. **United States v. Matusiewicz**, No. CR

13-83, 2015 WL 9305641 (D. Del. Dec. 21, 2015). Second, the district court believed that the structure of the cyberstalking statute also made proximate cause a critical element for proving this particular offense. **Id.** The district court found that the cyberstalking statute more readily applied to scenarios where the target of online harassment might take their own life, or where false impressions of the victim inspired by public defamation would lead a person to target the victim, and was less applicable to the present situation that included “harassing videos posted online, letters sent to neighbors, and a defamatory website” and the victim’s murder by her former father-in-law.

Accordingly, the district court crafted a jury instruction that “increase[d] the government’s burden by highlighting for the jury the need for there to exist a genuine nexus between the Defendants’ conduct and the victim’s death.” **Id.** The district court ultimately charged the jury both as to the defendants’ personal liability and **Pinkerton** liability. Based on these instructions, in order to find that Christine’s death resulted from defendants’ interstate and cyberstalking offense conduct, the jury had to find either: (1) that her death was a “real and meaningful” result of defendants’ “personal actions,” and was a “reasonably foreseeable” and “natural consequence” of those actions; or (2) that another member of the conspiracy killed her in furtherance of that conspiracy, and the killing was “reasonably foreseeable to the defendant as a necessary and natural consequence of that agreement.”

With this jury instruction in mind, the Government pointed to various pieces of evidence that demonstrated that the defendants and Thomas sought to intentionally kill Christine. This evidence included, in part: (1) writings by the various defendants that described physically harming her; (2) evidence that David manipulated the legal system to lure her to the courthouse; (3) evidence that David lied to his probation officers about the reason for, and the nature of, his trip to Delaware; (4) evidence that David traveled to Delaware with Lenore and Thomas and an arsenal of weapons and secret photographs of the interior and exterior of Belford’s home; (5) evidence that David safely passed through the security line at the courthouse minutes before his father murdered Christine; and (6) evidence that Amy was not only aware of her family’s violent intentions, but filed a petition in Delaware Family Court to regain custody of the children only two days after the murders.

Taken together, this evidence demonstrated that either the defendants committed personal acts that made it reasonably foreseeable to them that Christine would be killed, or that another member of the conspiracy (Thomas) killed her in furtherance of that conspiracy, and the killing was “reasonably foreseeable to [each] of defendant as a necessary and natural consequence of that agreement.” Ultimately, the defendants were convicted on all counts, including the interstate stalking and cyberstalking offenses that resulted in Christine’s death. The jury also returned guilty verdicts on the enhanced penalties against each defendant for the cyberstalking offense. At the Government’s urging, the district court sentenced all three defendants to life imprisonment for engaging in the stalking campaign against Christine and her children, and for her murder.



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