

COMM THREATS

Defendant's Letter to Victim Was Insufficient to Support Conviction of Attempting to Intimidate State's Witness

State v. Williams, ___ N.C. App. ___, 650 S.E.2d 607 (2 October 2007).

The defendant was convicted of attempting to intimidate a witness. The defendant was in jail with another person (Scott), who was charged with the rape and kidnapping of a female. The state's case against the defendant consisted solely of a letter that the defendant had written to the victim. The indictment charged that the defendant had "by menaces and coercive statements attempt[ed] to deter and prevent" her from attending court by sending the letter to her. The court examined the letter and found that it was not threatening, coercive, or menacing (see the discussion in the court's opinion). The court ruled that the evidence was insufficient to support the defendant's conviction.

(1) Communicating Threats Charge Was Not Fatally Defective

(2) Sufficient Evidence to Support Adjudication of Communicating Threats

In re S.R.S., 180 N.C. App. 151, 636 S.E.2d 277 (7 November 2006).

The juvenile was adjudicated delinquent of communicating threats. As the juvenile was being restrained in an elementary school from going into a hallway, he shouted at a teacher in the hallway that he was going to bring a gun to school the next day and kill the teacher's daughter. The teacher's daughter was a student in the school whom the juvenile had previously assaulted. (1) The juvenile petition charging communicating threats alleged that the juvenile threatened to physically injure the person and damage the property of the teacher and was communicated by orally stating to the victim that he was going to bring a gun to school the next day and kill the teacher's daughter. The court noted problems in the pleading that included allegations of damage to property as well as injury to a person and alleging the juvenile's threatening injury to the teacher instead of the teacher's child. However, the court ruled that the charge was not fatally defective because any confusion in the pleading was clarified by the allegation setting forth the precise conduct forming the basis of the charge—the threat to kill the teacher's daughter. The juvenile had sufficient notice of the offense to defend himself. [Author's note: The fact that the pleading alleged both injury to a person and damage to property does not create a fatal defect because the state is only required to prove one of the alleged alternative ways of committing an offense, and the language concerning damage to property is surplusage that does not adversely affect the validity of the charge. See the discussion in paragraph 13 on page five of Robert L. Farb, "Criminal Pleadings, State's Appeal from District Court, and Double Jeopardy Issues," posted on the Institute of Government's website at <http://ncinfo.iog.unc.edu/programs/crimlaw/pleadjep.pdf>.] (2) The court ruled that the evidence was sufficient to support the adjudication of

communicating threats. Based on the juvenile's prior assault of the teacher's daughter, the juvenile's threat in the school's hallway would cause a reasonable person to believe that the threat was likely to be carried out, and that the teacher actually believed the threat was likely to be carried out.

(1) Juveniles – Petition -- Communicating Threats -- Sufficiency

(2) Threats – Communicating -- Sufficiency Of Evidence

In re SRS, 180 N.C. App. 151 (2006)

(1) A juvenile petition was not fatally defective where it charged the juvenile with communicating threats with initial language that the juvenile had threatened a person and her property, and subsequently and more specifically described only a threat to the person. The juvenile had notice of the precise statutory provision he was being charged under, as well as the precise conduct alleged to be a violation, he had notice sufficient for mounting a defense and can show no unfair prejudice, and the petition was specific enough to allow the court to enter a finding of delinquency and to alleviate any double jeopardy concerns. (2) There was sufficient evidence that a juvenile communicated a threat where the juvenile was looking at the victim when he threatened to kill her daughter, he had to be restrained from coming into the school hallway where she was standing, and she testified that the victim had been involved in prior incidents with her daughter that caused her to take the threats seriously.

Threats -- Communicating Threats -- Motion To Dismiss -- Sufficiency Of Evidence

State v. Thompson, 157 N.C. App. 638 (2003)

The trial court did not err by denying defendant's motion to dismiss the charge of communicating threats under N.C.G.S. § 14-277.1, because: 1) N.C.G.S. § 14-277.1 prohibits both direct and indirect threats communicated to the victim; and 2) the fact that defendant utilized a third person to communicate his threats as part of his "psychological warfare" against the victim does not negate the criminality of defendant's behavior.

Communicating Threats -- Sufficiency Of Evidence

State v. Mortimer, 142 N.C. App. 321 (2001)

The trial court erred by denying defendant's motion to dismiss the charge of communicating threats under N.C.G.S. § 14-277.1 based on defendant's action of placing a screen saver on a school computer stating "the end is near" when the school was in a state of fear over the recent tragedy at another school and local rumors of bomb threats, because: 1) the statement "the end is near" does not constitute a threat to injure a person or damage property when the meaning of the statement is impossible to ascertain; 2) defendant was never connected with any

of the alleged bomb threats at the school; and 3) there was no evidence defendant had any plans to physically injure anyone or damage school property.