



DELAWARE COALITION AGAINST DOMESTIC VIOLENCE

Breaking the cycle of violence.

Delaware Coalition Against Domestic Violence Files First Amendment Amicus Brief in Matusiewicz Cyberstalking Appeal

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WILMINGTON, Del. – The Delaware Coalition Against Domestic Violence (“DCADV”) has filed an amicus, or “friend of the court,” brief in support of the federal cyberstalking convictions of David and Lenore Matusiewicz and Amy Gonzalez. Other organizations joining the brief are the National Network to End Domestic Violence, the National Center for Victims of Crime, and the Beau Biden Foundation for the Protection of Children. The brief was authored by a team of pro bono lawyers at Ballard Spahr LLP, in Wilmington and Philadelphia.

In July 2015, a federal jury convicted David T. Matusiewicz, his mother, Lenore Matusiewicz, and his sister, Amy Gonzalez, of interstate stalking and cyberstalking. The jury also found all three defendants criminally responsible for the death of Christine Belford, who – along with her friend, Laura “Beth” Mulford – was murdered in the lobby of the New Castle County Courthouse by co-conspirator Thomas Matusiewicz on February 11, 2013. The case marked the first federal convictions for cyberstalking resulting in death, in violation of the federal Violence Against Women Act.

All three defendants were sentenced to life in prison. Lenore Matusiewicz died in prison following her sentencing. David Matusiewicz and Amy Gonzalez are now appealing their convictions and sentences to the United States Court of Appeals for the Third Circuit. The federal appeals court will hear oral arguments in Philadelphia, on February 7, 2018.

DVADV Executive Director Sue Ryan stated, “Stalking is a pervasive crime. The use of technology to invade privacy, harass, intimidate, and destroy reputations is an all-too common tactic of stalkers. The Matusiewicz stalking case was devastating and reminds us of the need for the federal protections afforded in the cyberstalking laws. DCADV is honored to be part of the amicus brief and the effort to protect victims of stalking.”

The DCADV amicus brief focuses on the defendants’ argument that their use of email services, websites and social media platforms to stalk Christine Belford and her children was protected by the First Amendment. Matusiewicz and Gonzalez have asked the federal appeals court to hold that the First Amendment prohibits the federal cyberstalking statute from being enforced against them or anyone else who engages in cyberstalking.

Because the problems of cyberstalking are still relatively new, there is a limited body of court decisions addressing the constitutionality of cyberstalking laws. The DCADV amicus brief uses recent social science reports and First Amendment precedent to argue that the federal cyberstalking statute is an



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important tool for combatting the explosive growth of technology facilitated harassment, bullying, stalking and physical violence.

Recent studies show that nearly half of all American adults surveyed have been targeted for online harassment or abuse, while approximately 70% of surveyed Americans have witnessed such harassment and abuse targeting others. Eighteen percent of Americans have experienced severe forms of harassment including stalking, sexual harassment, physical threats, or harassment over a sustained period.

This growing problem is particularly pronounced as to technology facilitated domestic abuse and violence. Twelve percent of all surveyed Internet users report having been digitally harassed or abused by a current or former romantic partner. Victims include those of different genders, ages, ethnicities, incomes, educational levels, sexual identities, and marital status. Eighty two percent of surveyed victims who obtained a restraining order had a history of digital domestic abuse. Twenty nine percent of surveyed victims feared that their physical safety, or the safety of those close to them, was at risk.

Edward J. McAndrew, co-leader of Ballard Spahr's Privacy & Data Security Group, stated: "Digital information and platforms are now commonly weaponized to inflict injuries of all types – even death – on those who often lack the ability to defend themselves. We are honored to have had the opportunity to assist these outstanding organizations in defending a critical federal tool in combatting the scourge of digital domestic abuse proliferating across society."

For more information about combating technology facilitated domestic abuse, please visit the DCADV website at <https://dcadv.org/>.

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Factual Background

The stalking campaign at issue in this case targeted Christine Belford and the three minor children she had with David Matusiewicz. In August 2007, while David Matusiewicz and Belford were engaged in divorce and child custody proceedings in the Delaware Family Court, David and Lenore Matusiewicz kidnapped the three young children and fled to South America. In March 2009, David and Lenore Matusiewicz and the young children were found living in a motor home in Nicaragua.

David and Lenore Matusiewicz were arrested and prosecuted in Delaware, and the children were returned to Ms. Belford's care.

Following their September 2009 guilty pleas to – and sentences for – crimes relating to the international kidnapping, David and Lenore Matusiewicz launched a campaign to harass and stalk Ms. Belford and her children from their jail cells, with the aid of Thomas Matusiewicz, Amy Gonzalez, and others. They used Internet platforms, including YouTube and Facebook, and other means to falsely accuse Belford of abusing her children, suffering from mental illness and attempting to harm Lenore Matusiewicz. They targeted churches, schools, employers, neighbors, family members and friends of Ms. Belford and her children in a campaign designed to destroy Ms. Belford's reputation and cause her and her children substantial emotional distress and fear.



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In August 2012, the Delaware Family Court terminated David Matusiewicz's parental rights as to the three minor children he shared with Ms. Belford. Following that court action and their release from custody, David and Lenore Matusiewicz joined with their co-conspirators in escalating their stalking campaign to include online and physical surveillance of Ms. Belford, her children and those connected to them and the family court proceedings involving the children (including judges, lawyers and witnesses who participated in the family court and prior criminal proceedings). David Matusiewicz, who was then under the supervision of the United States Probation Office in Texas, orchestrated a child support hearing to be held in the Delaware Family Court, on February 11, 2013.

In the days prior to that hearing, David, Thomas and Lenore Matusiewicz drove from Texas to Delaware in two vehicles loaded with numerous weapons, ammunition, a bullet proof vest, three sets of restraints of progressively smaller sizes, an electric shock device, binoculars, several gas cans, a shovel, and numerous pictures of Christine Belford's children and residence gathered through their online and physical surveillance.

On the morning of February 11, 2013, David and Thomas Matusiewicz drove to the New Castle County Courthouse, where Thomas Matusiewicz shot and killed Ms. Belford and Ms. Mulford as they entered the courthouse lobby. He then exchanged gunfire with Capitol Police officers, two of whom were shot and injured, before dying of a self-inflicted gunshot wound.

Two days later, Amy Gonzalez, who resided near David, Thomas and Lenore Matusiewicz in Texas, petitioned the same court to award her custody of Ms. Belford's three minor children.