

US Supreme Court

Case: *Watts v. United States*, 394 U.S. 705 (1969)

Date: April 21, 1969

Votes: 6-3

Opinion: Per Curiam, no oral arguments

Concurrences: Justice Douglas

Dissents: Justice Fortas, with Justice Harlan

Tags: First Amendment, threats, threat against President, draft, Vietnam War, political hyperbole

Question(s) Presented: Did petitioner's statements at a political rally constitute a true threat?

Holdings: No, petitioner's speech did not violate the statute about threatening the President. Lower court decision is reversed.

Rationale: Petitioner's speech was political hyperbole, and is protected under the First Amendment.

Facts: Petitioner, at age 18, entered discussion at political rally in D.C. saying that he rejected the draft and that if he ever did have a rifle in his hands, he'd like to have LBJ in his sights. Arrested for threatening President.

Legal History, Prior Appeals & Trial Court Input:

- **Jury Trial, U.S. D.C. of D.C.:** convicted of violating statute
- **DC CA:** affirmed

Attorneys' Arguments:

- For Watts:
 - Speech was made in the context of a political debate, was conditional on an event which Watts swore would never occur (his being drafted), and everybody laughed when he said it.

Appeals to Statute & Precedent:

- **1917 Statute:** prohibits "knowingly and willfully . . . [making] any threat to take the life of or to inflict bodily harm upon the President of the United States." (quoted 705-706)
- ***Ragansky v. U.S.*, 253 F. 643, 645 (C. A. 7th Cir. 1918):** volition and intent to carry out threat
- ***Pierce v. U.S.*, 365 F. 2d 292 (C. A. 10th Cir. 1966):** volition and intent to carry out threat
- ***NYT v. Sullivan*, 376 U. S. 254, 270 (1964):** Interpret wording of statute "against the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."

Dicta/Discussion:

- Statute is facially Constitutional.
 - “Nevertheless, a statute such as this one, which makes criminal a form of pure speech, must be interpreted with the commands of the First Amendment clearly in mind. What is a threat must be distinguished from what is constitutionally protected speech.” (707)
- CoA judges “differed over whether or not the ‘willfulness’ requirement of the statute implied that a defendant must have intended to carry out his ‘threat.’” (707)
 - SCOTUS is not dwelling on willfulness, because they can objectively say this is not a true threat.
- “We do not believe that the kind of political hyperbole indulged in by petitioner fits within that statutory term.” (708)

Concurrence: Justice Douglas

- Gives history of the statute (English law & threats to the king!) & Alien & Sedition Acts in 1790s.
- Thinks this statute essentially involves the suppression of political speech, which means it’s unconstitutional.

Dissent: Fortas (with Harlan)

- They don’t think the per curiam opinion was a good idea—there should have been OAs, because the questions here are important and difficult (i.e., is this statute constitutional, and did the petitioner violate it?)