

SUPREME COURT TWO-PART INQUIRY EXAMINING CONTENT OF SPEECH AND RELEVANT CONTEXTUAL FACTORS

1 THE LANGUAGE EMPLOYED BY THE SPEAKER

- Whether the speech is an actual threat to harm another person or group of people.
 - If the speech is a message of a third party's propensity to commit a violent act (a photo of someone else with text indicating that person might harm another person).
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2 WHETHER THE STATEMENT CONSITUTED POLITICAL HYPERBOLE, JEST, OR SATIRE

- Ridiculing another person by making a poor attempt at humor.
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3 WHETHER THE SPEECH WAS OF THE TYPE THAT OFTEN INVOLVES INEXACT AND ABUSIVE LANGUAGE

- Communications between two minors discussing another student.
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4 WHETHER THE THREAT WAS CONDITIONAL

- Generic statements about a classmate committing a school shooting as opposed to a direct threat of a person committing a school shooting.
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5 WHETHER IT WAS COMMUNICATED DIRECTLY TO THE VICTIM

- Direct threats made to an intended victim as opposed to private communications between two other individuals.
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6&7 WHETHER THE VICTIM HAD REASON TO BELIEVE THE SPEAKER HAD A PROPENSITY TO ENGAGE IN VIOLENCE, AND... HOW THE LISTENERS REACTED TO THE SPEECH

- The reaction of the recipient of the communication will be instructive as to whether this factor is met. If the recipient acts flippantly it is less likely they perceive the speaker as having the propensity to engage in violence.