

H5671

Jennifer Lima

Support

My name is Jennifer Lima and I was elected to the North Kingstown School Committee in November in 2020. In July of 2021 I was targeted for recall because of my stance on DEI and it's been quite a journey since then.

Among other things I have been threatened, received multiple horrific emails including some about my family, had a mailer go out to the entire town calling me a marxist anti-american race predator, been publicly accused of supporting baby killers and rapists, and had a picture of a noose emailed to my house. As much as it's possible to, I try to take that all in stride. Like I told the NKPD when I finally went in to file a complaint after being harassed online by the same person for over a year, if I was in there every time someone wasn't nice to me, they would have to give me an office.

The current statute on cyber stalking and cyber harassment requires the contact must be for the SOLE purpose of harassing a person or their family. As a public official, it can be argued that any contact between a constituent and the official is public business.

As you all know, public officials cannot block people from their campaign accounts. This individual made a total of 678 comments on my instagram accounts over a period of 12 months. He would make them and then delete them. Often multiple comments in short bursts.

He tried to follow my young adult children on instagram. He tagged them in posts, including one of a picture of a group of town officials at a town event on arbor day of us holding a shovel of dirt where he said how to bury a body in which he tagged my then 18 year old son.

Not all of his comments were threatening or offensive, some of them were innocuous and some of them could indeed be construed as being solely related to my role as a school committee member.

Some of the most egregious ones included “i hope you you’re alone in a cage like the dog you are when god pulls your number”, “some things you can’t escape, death, takes and a rape, f** you pay me” and can someone please silence gary (that’s my husband) c** wife”. (He didn’t use an asterisk).

Sometimes these would come through on a weekend morning when I was running so they would play in my headphones audibly. Another thing he would do was include emojis in his comments. Some of his favorites were tombstones, guns and lilacs.

As I mentioned at the beginning of my testimony, I am no stranger to internet hate, or social media trolls. I am used to the constant barrage of negativity and criticism. But this person was different. I woke up every morning wondering what was going to be waiting for me on my phone. I worried about running into him in town and having him see me and then

backtrack and follow me during my morning walk (which had happened once).

And I was always worried today would be the day that he was going to escalate from messaging to something more. Both the NKPD and the RISP told me that “without a specific actionable threat there was nothing they can do”, “it’s not against the law to comment on Instagram”, “this is what freedom of speech is” and “this is part of being a public official”.

I have a very hard time believing that anyone can look at the totality of his messages to me and believe that it was a concerned citizen expressing his disapproval with my position on policy. But I understand the reason why charges could not be brought based on the way that the statute is written.

If someone disagrees with me on policy, I welcome the discussion. I respect the first amendment and believe that being able to question one's government is necessary. But what I experienced went far beyond that. Elected officials should not have to put up with harassment and threats as part of the job.

I was fortunate in that I had the resources and the knowledge to be able to retain a private attorney at a cost of several thousand dollars to obtain a civil restraining order which made the harassment stop. Not everyone has that privilege.

I encourage you to please pass this bill to take the word solely out of the statute which allows the totality of the circumstances to be reviewed when making the determination in whether or not to charge in these situations.

Thank you.

Jennifer Lima

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North Kingstown, RI

I am appending to this letter a copy of the information I posted on my campaign facebook page when I decided to go public with what had been happening to me, which includes all the messages I received so that you can get a feel for the sheer volume, and also read them all if you are so inclined, as well as an excerpt from the independent investigators report which

 AC post

Excerpt from the Independent Investigation:

The issue at hand is whether the contents of the comments made by Mr. xxxx to Ms. Lima's public social media accounts rise to the level of cyberstalking and cyberharassing such as they violate R.I. General Laws §11-52-4.2.

Analysis and Conclusions §11-52-4.2 provides a detailed definition cyberstalking and cyberharassment as follows: (a) Whoever transmits any communication by computer or other electronic device to any person or causes any person to be contacted for the **sole** purpose of harassing that person or his or her family is guilty of a misdemeanor... For the purpose of this section, "harassing" means any knowing and willful course of conduct directed at a specific person which seriously alarms, annoys or bothers a person and which serves no legitimate purpose. The course of conduct must be a kind of conduct that would cause a reasonable person to suffer substantial emotional distress or be in fear of bodily injury. "Course of conduct"

means a pattern of conduct composed of a series of acts over a period of time, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of 'course of conduct.' The statute is clear and unambiguous, laying out certain elements that must be met. First, the contact communication must be for the sole purpose of harassing a person or their family. 'Harassing' is defined as a knowing and willful conduct directed at a specific person which bothers a person and serves no legitimate purpose. The course of conduct must be such that would cause a reasonable person to suffer substantial emotional distress. Ms. Lima is an elected member of the North Kingstown School Committee. Mr. xxxx issues and complaints appear to revolve around his complaint against xxxx and directed against Ms. Lima, in her public capacity as a North Kingstown School Committee member. Mr. xxxx does not deny posting comments to Ms. Lima's public social media accounts but does deny that any of his comments were threatening in nature. Like the analysis made by the Rhode Island State Police there is no evidence to show the comments posted by Mr. xxxx were solely to harass Ms. Lima. One could argue the purpose of the comments/posts were to voice displeasure as Ms. Lima's political stance with respect to certain issues. Specifically, many of the comments posted by Mr. xxxx contain mention "xxxxx" and displeasure with Ms. Lima regarding that issue. Certainly, the voluminous posts can be viewed as annoying. No doubt, a reasonable person can view them as alarming and maybe threatening. The difficulty arises in determining the "sole" purpose was to annoy and harass Jennifer Lima. The Rhode Island statute as well as some the cases from other jurisdictions cited above is similar in that they use the language of "the sole purpose of the statute." Is it reasonable to interpret the sole purpose of the posts/comments being to harass Jennifer Lima? One could argue that the posts were pertaining to political issues. Secondly, the 'course of conduct' must be of a kind that would cause a reasonable person to suffer substantial emotional distress." In this case we are looking at a reasonable person that is a public figure in which political issues are being discussed in the public arena. Ms. Lima has expressed that she was upset and disturbed by the number of comments made to her social media accounts by xxxxxx. There is no reason to disbelieve her. However, she is a public figure, and some criticism and annoying comments from the public are to be expected. The question is does §11-52-4.2 outlaw the conduct of xxxxx in this case? Lastly, the statute requires that there be "no legitimate purpose" to the communication. Although the communication by xx. xxxx may have been annoying and unwelcoming, one cannot conclude there was no legitimate purpose to the comments posted to her public social media pages. Ms. Lima, in her public capacity, on her public social media accounts discussed matters involving different topics (public policy, political matters, etc). It can be argued that the public has a right to comment on those public posts and the comments can be shown to be legitimate. Additionally, the statute gives protection to speech that is protected by our Constitution. Our Courts have continuously protected First Amendment speech when it relates to political speech. "In public debate our own citizens must tolerate insulting and even outrageous speech in order to provide adequate breathing space to freedoms protected by our First Amendment." *Boos vs. Barry*, 485 U.S. 312. The Courts have extended the First Amendment protection for methods of speaking on the internet. Anything online is equally protected under the First Amendment, again, whether it addresses uncomfortable expression touching on political or religious matters. "There is no limit to the First Amendment, even though the communication may be online." *Reno vs. American Civil Liberties Union*, 521 U.S. 844

Conclusions In looking at the facts of this case and the circumstances in which the comments/posts were made, it is difficult to determine that they were posted for the **sole purpose** of harassing Jennifer Lima (as required by RIGL §11-52-4.2). The comments appear to fall in the arena of public debate and criticism, even the most outrageous and offensive of the comments. Additionally, our Courts have repeatedly intervened to protect even the most offensive and repellant type of speech, especially when it is critical of the government and or government officials (See, *Watts v. U.S.*, 398 U.S. 705 (1969); *Texas v. Johnson*, 491 U.S. 397 (1989); *City of Houston v. Hill.*, 482 U.S. 451 (1987)). Ms. Lima is a political figure active in the local issues of the Town of North Kingstown (including as a member of the North Kingstown School Committee), the State of RI and the Nation. The posts/comments made by xxxxxx are Constitutionally protected speech and there does not appear to be any exception here to that protection. For the reasons previously stated, the information and evidence provided do not demonstrate the existence of probable cause to believe that xxxxxx committed Cyberstalking and cyberharassment as defined by R.I.G.L.§11-52-4.2 . Lastly, I found Ms. Lima to be credible and sincere in her alarm and reaction to the comments made by xx. xxxx. Thankfully, she is not without legal recourse. Civil remedies are available for those seeking protection. Ms. Lima has availed herself of that remedy and a Restraining Order is in place. Thank you for the opportunity to work with the Town on this matter. If you have questions or would like follow-up on any issues, please let me know.