

Date 4/16/98

☐ Birth ☐ Credit ☒ Criminal ☐ Death ☐ INS ☐ Marriage* ☐ Motor Vehicle ☐ Other ☐ Driver's License

To NCLC Buded

Return to File number 89A-PG-64410

Name and aliases of subject, applicant, or employee, and spouse
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Addresses
Residence _____
Business _____
Former _____

* Date and place of marriage (if applicable) _____

Race	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Age	Height	Weight	Hair	Eyes
------	--	-----	--------	--------	------	------

Birth date 	Birthplace
---	------------

Arrest Number	Fingerprint classification	Criminal specialty
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Specific information desired	Social Security Number
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Results of check

(Use reverse side, if necessary)

89A-PG-64410-51

SEARCHED	GEN	FOIMS
SERIALIZED	<u>14</u>	INDEXED <u>OK</u>
FILED		
APR 21 1998		
FBI - PITTSBURGH		

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 2/4/1998

[redacted] Erie Insurance Claims Office, College Park Plaza, Suite 206, Johnstown, PA, [redacted] was interviewed at his place of employment. [redacted] was advised of the identity of the interviewing Agent and the nature of the inquiry regarding threats made by [redacted] provided the following information:

[redacted] advised [redacted] Erie Insurance [redacted] was initially involved with the claim against Carmens' Wholesale Tires (CWT) involving [redacted] investigation determined CWT was liable for the damage to [redacted] truck, at which point the matter was transferred to Erie Insurance employee [redacted] for resolution.

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[redacted] advised subsequently [redacted] came to the Erie Insurance Claims Office and wanted to file a claim for lost wages. [redacted] a self-employed contractor, provided contractor's copies of invoices which reflected work lost as a result of the loss of use of his truck. The total of these invoices reflected a substantial amount of money. [redacted] added it appeared to Erie Insurance that [redacted] believed he was entitled to a large sum of money. After several visits to the Erie Insurance offices, a settlement was ultimately negotiated and the claim settled for substantially less than [redacted] was seeking. At the time of the settlement, [redacted] described [redacted] as gritting his teeth, seemingly ready to explode, as he stated, "It's always this way."

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[redacted] advised in September 1997 he received a telephone call from [redacted]. The call was transferred to him by the office secretary. Once [redacted] was on the line, [redacted] identified himself and, without mentioning the claim, stated "You've dealt with me before, I found out where you, [redacted] and [redacted] live, I'm going to pay you a visit." [redacted] stated when he asked, "Is that a threat?", [redacted] replied, "Take it any way you want to." At that point, [redacted] hung up the telephone. [redacted] described [redacted] tone as stern and to the point. Furthermore, [redacted] stated he perceived the call as a threat and notified Erie Insurance Security. [redacted] stated he also notified the appropriate police departments.

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b7CInvestigation on 1/21/98 at Johnstown, PAFile # 89A-PG-64410Date dictated 1/28/98by SA [redacted]

117 PH0009.302 (1)

89A-PG-64410-53

SEARCHED	INDEXED
SERIALIZED	FILED
FBI - PITTSBURGH	

89A-PG-64410

Continuation of FD-302 of [REDACTED], On 1/21/98, Page 2

[REDACTED] added [REDACTED] made no mention of Congressman MURTHA during the call.

[REDACTED] further advised on two other occasions, around the time of the telephone call, [REDACTED] was observed in the area of the Erie Insurance offices. On both occasions, [REDACTED] was observed in the hallway outside the entrance to Erie Insurance. b6 [REDACTED] walked by the entrance and looked in, however did not b7C enter the office. On one occasion, [REDACTED] may have visited the bank located on the same floor as the Erie Insurance office. [REDACTED] further added his office faces the front of the building, and he was able to observe [REDACTED] inside his vehicle, parked in front of the building, and staring in the direction of the Erie Insurance offices.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/20/1998

[redacted] Inmate Number [redacted] Date of Birth [redacted] Social Security Number [redacted] was interviewed at the Cambria County Prison (CCP), 425 Manor Drive, Ebensburg, PA 15831. [redacted] was advised of the identity of the interviewing Agent and the nature of the inquiry regarding [redacted] [redacted] resides at [redacted] Johnstown, PA 15906. [redacted] provided the following information:

[redacted] advised he arrived at CCP on [redacted] after being sentenced to [redacted] for [redacted]. A subsequent sentence reduction hearing reduced his sentence to [redacted]. [redacted] stated since his arrival at CCP, he has been assigned to [redacted]. For a two week period in January 1998 while assigned to [redacted] either [redacted] also advised he was familiar with inmate [redacted] who was assigned to [redacted] then subsequently [redacted] added [redacted] had already been transferred to [redacted] and assigned to [redacted] prior to the time he [redacted] was transferred to [redacted] and assigned to the [redacted].

[redacted] advised when he asked [redacted] why he was in jail, [redacted] related his problems were related to some plans he developed. As a result of those plans, he was accused of threatening Congressman MURTHA with guns and bullets. However, [redacted] stated he never threatened Congressman MURTHA. [redacted] added [redacted] talked about his problems constantly, however never admitted he threatened Congressman MURTHA. [redacted] related [redacted] advised, "I have some great plans, plans so good that MURTHA and his people are going to steal them." [redacted] felt [redacted] "they," Congressman MURTHA, were out to get him for his plan [redacted] also stated he had problems with his truck, which he used in his business. [redacted] related the engine problems with his truck continued, and [redacted] became frustrated and just wanted the truck fixed. [redacted] added [redacted] never really talked about an insurance agent, however [redacted] believed the problems with his truck, in fact all of his problems, were related to Congressman MURTHA.

Investigation on 4/15/98 at Ebensburg, PAFile # 89A-PG-64410Date dictated 4/20/98by SA [redacted]

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Continuation of FD-302 of [REDACTED]

, On 4/15/98

, Page 2

[REDACTED] advised on one occasion while they were [REDACTED] was locked down, confined to his cell. This was a result of [REDACTED] not keeping his cell orderly. [REDACTED] stated he recalled, on that occasion, [REDACTED] sat on a chair outside the cell and talked with [REDACTED] recalled this conversation lasted approximately 30-45 minutes. [REDACTED] added he overheard portions of the conversation, which dealt with [REDACTED] case. During this particular conversation, [REDACTED] told [REDACTED] about his plans and how he was accused of telling an insurance agent he had guns and bullets. [REDACTED] added he did not hear [REDACTED] tell [REDACTED] he had made any threats. However, [REDACTED] did say he was taken to see a doctor, given a shot, and then was beaten. In addition, [REDACTED] also stated while he was in the hospital, he was shown a photograph and was told he would end up like "MICKENS." [REDACTED] related to [REDACTED] that Congressman MURTHA had people watching him, how Congressman MURTHA and his people were out to get him, and he thought his life was in danger. [REDACTED] further advised [REDACTED] had frequent conversations with [REDACTED] Generally, [REDACTED] would not even have to say anything to him, [REDACTED] would just start talking about his situation. b6 b7C

[REDACTED] advised [REDACTED] had been transferred from [REDACTED] before [REDACTED] received paperwork relating to discovery in his case. [REDACTED] added [REDACTED] kept track of everything and had a lot of paperwork in his cell. In addition, [REDACTED] advised upon his [REDACTED] transfer to B block and assignment to work detail at the courthouse, [REDACTED] said, "They got to you, they will take you over there and ask you all these questions about me, don't lie, don't roll over on me." [REDACTED] added after his sentence modification, he returned to C block. [REDACTED] questioned him as to what had happened, to which [REDACTED] responded his sentence was reduced. [REDACTED] subsequently received paperwork regarding discovery on his case, which listed the witnesses against him. [REDACTED] added when he discovered [REDACTED] was listed as a witness, [REDACTED] stated "That little snitch." b6 b7C

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/15/1998

[redacted] Records, Cambria County Prison (CCP),
425 Manor Drive, Ebensburg, PA 15931, [redacted] provided
copies of pertinent information from CCP records regarding former
CCP inmate [redacted]. A copy of these records is attached
and made a part hereto.

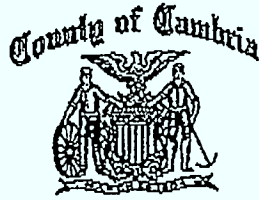
b6
b7CInvestigation on 4/14/98 at Johnstown, PA (telephonically)File # 89A-PG-64410 Date dictated 4/15/98by SA [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

89A-PG-64410-55

MARTIN A. KOVACS
Warden

JOHN J. FREEBISH, JR.
Deputy Warden - Operations



Cambria County Prison

425 Manor Drive, Ebensburg, PA 15931

(814) 472-7330

EDWARD P. DESABATO
Deputy Warden - Administration

BRIAN J. BRACKEN
Director of Inmate Services

Fax Number : 814-472-8530

FAX TRANSMISSION

TO:

[Redacted]

FROM:

[Redacted]

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DATE:

4-14-98

SUBJECT:

[Redacted]

PAGES:

5

(Including Cover)

If you do not receive all of the pages, or have a question about this transmission, contact us at: 814-472-7330.

TO:

FROM:

RE

WHILE INCARCERATED WAS.

Cellmates with

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Cellmate for Class 3 Lock-up was

CAMBRIA COUNTY PRISON
MINOR MISCONDUCTInmate's Name Date 1-24-98 Time 12:00 PmHousing Unit HC Cell Number 17Due to your misconduct of Bed Not Being Made Items
Down on Table, Mr. Factory was out of
his cell.b6
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you will serve a period of lock - down in your cell.

Time In 12:15 Pm

Offic

Time Out 11:00 Pm

Inma

White - Lieutenant

Yellow - Inmate

Pink - Officer

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/15/98

JUDD C. ZIMMER, Chief, Clearfield Borough Police,
14 South Front Street, Clearfield, PA 16830, (814) 765-7819, was
contacted regarding [REDACTED] Chief ZIMMER advised
their records reflected the following information regarding
[REDACTED]

12/21/79

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No disposition reported

5/23/97

Charges waived.

A copy of the May 23, 1997, arrest report is attached
and made a part hereto.

Investigation on 4/14/98 at Johnstown, PA (telephonically)File # 89A-PG-64410 Date dictated 4/15/98by SA [REDACTED]b6
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89A-PG-64410-56

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/16/1998

[redacted] Inmate Number [redacted] Date of Birth [redacted] Social Security Number [redacted] was interviewed at the Cambria County Prison (CCP), 425 Manor Drive, Ebensburg, PA 15831. [redacted] was advised of the identity of the interviewing Agent and the nature of the inquiry regarding [redacted] resides at [redacted] Johnstown, PA. [redacted] provided the following information:

[redacted] advised that he arrived at CCP on January 7, 1998, to begin serving [redacted] for [redacted] added his expected release date is [redacted] further advised on either January 10, 1998, or January 11, 1998, he was transferred to [redacted] as [redacted] remained in C block for two days and, on [redacted] which houses inmates participating in the Work Release Program. [redacted] was assigned to a cleaning detail within the unit.

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[redacted] advised during the two or three days he was in the same cell with [redacted] did not discuss, in any detail, the reason he was at CCP. However, [redacted] did mention in conversation he was there because, "They wanted to shut him up because he was running for Governor." [redacted] added [redacted] did not say who "they" were and he did not ask. [redacted] further added he never heard [redacted] mention Congressman MURTHA by name nor did [redacted] admit he made any threats.

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Investigation on 4/15/98 at Ebensburg, PA

File # 89A-PG-64410

Date dictated 4/16/98

by SA [redacted]

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/16/1998

[redacted] Inmate Number [redacted] Date of Birth [redacted] Social Security Number [redacted] was interviewed at the Cambria County Prison (CCP), 425 Manor Drive, Ebensburg, PA 15931. [redacted] advised he resides at [redacted]. [redacted] was advised of the identity of the interviewing Agent and the nature of the inquiry regarding [redacted]. [redacted] provided the following information:

[redacted] advised he arrived at CCP on [redacted] following his arrest for [redacted]. On February 5, [redacted] with [redacted] until [redacted] release. [redacted] advised during the time he [redacted] never discussed any details relating to his arrest. [redacted] did relate an insurance man blamed him for making threats against Congressman MURTHA. [redacted] added [redacted] said that he did not do it, but he was being blamed for it. [redacted] advised [redacted] never admitted to threatening anyone and he never heard [redacted] threaten anyone.

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[redacted] advised [redacted] also said he had plans to help poor people, however, again, [redacted] did not go into any details. [redacted] did mention once he met someone at the incline plane but again did not identify the person by name. [redacted] added he found [redacted] easy to get along with and someone who appeared to have feelings for people. [redacted] stated [redacted] appeared to like people and would talk to anyone. When someone appeared to be down, [redacted] would help them out, and tell them "You need a purpose in life."

[redacted] further advised [redacted] occupied his time by watching television and reading. [redacted] added during the time they shared a cell, [redacted] was not locked down nor did he say he had been lock down while at CCP. [redacted] advised [redacted] did have some legal papers in the cell and on one occasion showed him one piece of paper. [redacted] recalled the paper may have reflected something to the effect the insurance agent said [redacted] did not threaten him.

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[redacted] advised by way of background, inmates are not permitted to enter another inmate's cell. CCP guards watch this closely and the cells are checked several times a day. [redacted]

Investigation on 4/15/98 at Ebensburg, PAFile # 89A-PG-64410Date dictated 4/16/98by SA [redacted]

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Continuation of FD-302 of b6
b7C, On 4/15/98, Page 2

added inmates are required, when not in their cell, to keep the bed made and put personal items away, nothing can be left on the beds, lockers, or tables. Violations result in the inmate's confinement, lock down, in his cell for 24 hours.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/16/1998

[redacted] Corrections Officer, Cambria County Prison (CCP), Ebensburg, PA 15931, [redacted] was contacted at his place of employment. [redacted] was advised of the identity of the interviewing Agent and the nature of the inquiry. [redacted] provided the following information:

[redacted] stated he is currently assigned to work in housing unit HC (C block), where he works the 6:00 a.m. - 2:00 p.m. shift. [redacted] advised by way of CCP procedure, inmates are not permitted to enter another inmate's cell, and, additionally, when an inmate leaves his own cell, the bed is to be made and nothing can be left on the table or locker. [redacted] advised the inmates are well aware of these rules and violation of these rules will result in the inmate being confined to his cell (lock-down), usually for 24 hours. b6 b7C

[redacted] reviewed a copy of a CCP Minor Misconduct form dated January 24, 1998, involving inmate [redacted] advised this incident occurred at lunch time, 12:00 p.m., when the inmates would be out of their cells and eating lunch.

[redacted] stated his normal procedure was to have the inmates exit their cells in groups of six or seven. Once all the inmates are out of their cells, he then walks through the cell block and inspects the cells. On this particular date and time, he discovered [redacted] bed was unmade and there were items left on the table. [redacted] advised he examined the items and determined they belonged to [redacted] b6 b7C

[redacted] advised after lunch, 12:15 p.m., as indicated on the form, he advised [redacted] of the misconduct and the resulting lock-down period, after which [redacted] signed the form. [redacted] added [redacted] did not protest or offer any explanation for the misconduct.

[redacted] advised the normal inmate population in C block is between 40-45 inmates. [redacted] further advised from his position at the control panel, all of the cells are visible. From that position and during the process of releasing inmates from their cells, he is able to observe the inmates as they exit their cells. [redacted] added there would not be opportunity for an inmate to enter another inmate's cell without being observed. b6 b7C

Investigation on 4/15/98 at Ebensburg, PA

File # 89A-PG-64410

Date dictated 4/16/98

by SA [redacted]

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89A-PG-64410

Continuation of FD-302 of [REDACTED], On 4/15/98, Page 2

[REDACTED] advised he was familiar with [REDACTED] who, at one time, had also been assigned to C block. [REDACTED] stated [REDACTED] was not a problem and described him as quiet. [REDACTED] added [REDACTED] was also known to be a jailhouse snitch, who would do anything to get out of jail, and the other inmates were also aware this. [REDACTED] stated he could not recall any specific instances involving conversations between [REDACTED] and [REDACTED]

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/19/98

[redacted] for Congressman JOHN P. MURTHA, 12th Congressional District, P.O. Box 780, Johnstown, PA 15907, [redacted] was interviewed at his place of employment. [redacted] was aware of the identity of the interviewing Agent and also present during the interview was Assistant United States Attorney (AUSA) [redacted]. [redacted] was interviewed regarding threats made by [redacted] against [redacted] and Congressman MURTHA. [redacted] provided the following information:

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[redacted] advised he has been employed as Congressman MURTHA's [redacted] since 1987. In this position, [redacted] attends meetings, and meets with constituents on behalf of Congressman MURTHA. [redacted] added constituents have access to the Congressman's office and he [redacted] attempts to go the extra step for those constituents and tries to help constituents who come to the office.

[redacted] advised he was not able to locate any record to reflect [redacted] had written letters to Congressman MURTHA's office. However, [redacted] added a review of their records reflected two scheduled meetings with [redacted]. The records reflected the first meeting was scheduled with [redacted] at the Johnstown office, on Tuesday, June 25, 1996, at 10:00 a.m. The records further reflected the purpose of the meeting was "idea for city and surrounding area." [redacted] added he was not able to recall this particular meeting or remember any details of the meeting. The records also reflected [redacted] had a meeting scheduled with [redacted] at the Incline Plane on July 2, 1996, at 1:00 p.m. [redacted] advised this meeting occurred as scheduled, as [redacted] was insistent [redacted] see his plan. [redacted] provided copies of the pertinent District Staff Schedules, which are attached and made a part hereto.

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[redacted] advised he went alone to meet with [redacted] at the Incline Plane. [redacted] stated [redacted] was already at the Incline Plane when he arrived. [redacted] recalled [redacted] was wearing jeans and a shirt and carrying a pizza box. [redacted] also added they met outside the Incline Plane and did not enter either the bar or restaurant. [redacted] requested [redacted] to accompany him to the observation deck at the Incline Plane so he could point out the

Investigation on 5/11/98 at Johnstown, PAFile # 89A-PG-64410Date dictated 5/19/98by SA [redacted]

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Continuation of FD-302 of [REDACTED], On 5/11/98, Page 2

[REDACTED] appropriate points of his plan. [REDACTED] had drawn the plan on the pizza box and proceeded to explain his plans for skiing areas and monorails. While doing so, [REDACTED] pointed to the areas of Westmont, Prospect, Richland, Johnstown Airport, and Galeria Mall, and the location of the parks as drawn on the pizza box.

[REDACTED] advised after [REDACTED] described his plan, he [REDACTED] pointed out to [REDACTED] due to the contour of the area, the monorail "supports would be like the Eiffel Tower" thereby blocking the views [REDACTED] described. During this conversation, [REDACTED] also related he would initially need \$60 million to get the project started. [REDACTED] stated he told [REDACTED] he [REDACTED] would need to have a sponsor for the project, such as JARI, Johnstown Area Regional Industries. In addition, [REDACTED] suggested [REDACTED] contact the Johnstown Economic Development Office and the meeting ended. [REDACTED] added, at no time, did [REDACTED] state he was going to run for elected office.

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[REDACTED] advised there has not been any contact, by letter or telephone, with [REDACTED] since that meeting. [REDACTED] added he read [REDACTED] letters to the editor which appeared in The Tribune Democrat newspaper. In addition, [REDACTED] advised he was aware of [REDACTED] subsequent arrest by the Richland Township Police Department (RTPD) for threatening people with a knife. He became aware of this incident by hearing police broadcasts on his scanner.

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[REDACTED] advised on December 3, 1997, he was informed by RTPD Officer [REDACTED] that [REDACTED] had made threats against his life, as well as the life of Congressman MURTHA. [REDACTED] stated he subsequently notified Special Agent [REDACTED] FBI, Johnstown, PA, and requested the West Hills Regional Police be notified to increase patrols in the vicinity of Congressman MURTHA's residence.

[REDACTED] further advised he owns a 1977 Gold Lincoln Continental which he keeps in the garage at his residence. [REDACTED] added he also has two other vehicles, a green 1986 Ford Bronco and a blue 1988 GMC truck, which are his primary use vehicles.

[REDACTED] stated he is familiar with Carman's Wholesale Tires (CWT), as he has purchased tires for his vehicles from CWT since 1967. [REDACTED] advised he has no connection with Erie

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Continuation of FD-302 of [REDACTED], On 5/11/98, Page 3

Insurance Company, Laurel Ford, or [REDACTED] and [REDACTED] of [REDACTED] Waterproofing Company. [REDACTED] further advised he has been personal friends with [REDACTED] and [REDACTED] for over 20 years. [REDACTED] over the years, has also been a contributor to the election of Congressman MURTHA. [REDACTED] added he is familiar with [REDACTED] as well as [REDACTED] his Chief of Security. [REDACTED] denied any involvement with these individuals or anyone else in a conspiracy against [REDACTED]

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District Staff's Schedule

Subject: BC - Meeting on recovering metals from mine drainage
Place: CTC Environmental Center - Johnstown

June 25, 1996 (Tuesday)
Appointments

Time: 8:00am

Subject: ☐ - ☐ Leave

Time: 9:00am

Subject: ☐ Mtg -
Place: Johnstown Office
Re: St. Clair Road flood damage

Time: 9:00am

Subject: ☐ Field Representative -
Place: Connellsville Office

Time: 9:30am

Subject: ☐ Mtg -
Place: Johnstown Office
Re: idea for city & surrounding area

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b7C

Time: 10:00am

Subject: ☐ Mtg -
Place: Johnstown Office

Time: 11:00am

Subject: ☐ Tour Mine Discharge & Rattling Run Waterfalls
Place: Apollo
Meet with who will show him the problem.

July 1, 1996 (10:40am)

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/18/98

[redacted] [redacted] Date of Birth [redacted]
[redacted] Laurel Ford, 135 Ford Drive, Windber, PA, [redacted]
was interviewed at his place of employment. [redacted] provided
copies of Laurel Ford documents regarding the repair of a 1983 b6
Ford Ranger Truck owned by [redacted] These copies are b7C
attached and made a part hereto.

X
PIL

Investigation on 5/12/98 at Windber, PAFile # 89A-PG-64410by SA [redacted]Date dictated 5/18/98SEARCHED GL INDEXED GL
SERIALIZED GL FILED GL

MAY 29 1998

FBI - PITTSBURGH

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1983 Ford Truck Ranger 2WD 4-140 2.3L SOHC COPYRIGHT ALLDATA 1997
1-800-859-3282 V3.62D

AUTOMOTIVE REBUILDERS
1505 HIGH STREET
PO BOX 26845 RICHMOND VA 23261-6845
804-643-5600 800-900-3673

Description	Manufacturer	Qty	Part Number	Part Price	Labor Hours	Total Charge
Cylinder Head, R&R or Gasket, Renew: (B)		1	Labor Rate A		4.8	\$192.00
Includes: Remove Carbon And Make All Necessary Adjustments.						
NOTE: With AC, Add		1	Labor Rate A		0.4	\$16.00
Total Labor Hours at rate A (\$40.00 / Hour)					5.20 Hours	
Total Labor Cost				\$	208.00	
Information Access Charge					N/C	
Estimate Total				\$	208.00	

Customer Signature

Date

CENTRAL PARTS DISTRIBUTOR

LAUREL FORD
101 THIRD STREET
WINDER, PA
15963

AS PER FORD TIME STANDARD
AUTH# 5003 08/27

290.61 0.00 290.61

TOTAL= \$290.61

08/27/97

00002791



CENTRAL PARTS DISTRIBUTOR
1112 SOUTH FIRST STREET
ALTOONA, PA 16602
PH: 814-946-8771

MIDSTATE BANK & TRUST
ALTOONA, PA
60-119/313

*** TWO HUNDRED NINETY & 61/100 DOLLARS

PAY

TO THE ORDER OF
LAUREL FORD
101 THIRD STREET
WINDER, PA 15963

DATE AMOUNT

08/27/97 *****\$290.61

950625

COM

McB

CALL 1-800-636-1272



LAUREL FORD

Telephone (814) 467-5565 101 Third Street
Windber, Pennsylvania 15963

Central Parts Distributor
1112 South First Street
Altoona Pa. 16602

C/O

Dear

In reference to repair order #27338, please note that the total repair cost was 603.15. This vehicle was towed into our shop on 7/7/97 at the request of erie insurance company was the claims adjuster. Previous to being at Laurel Ford the vehicle was at Carmens Tires, where attempts to repair the vehicle failed.

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As noted on the back of our repair order, our technician claimed only actual time to repair the vehicle. Because the vehicle had been worked on previously, this made his job even more difficult. Someone needs to be responsible for paying for diagnostics and related problems that led to the headgasket being discovered.

If Central Parts and or its vendor are not willing to pay us only for our actual time invested, than the only thing I can do is contact erie insurance and have them subrogate for payment.

I sincerely appreciate the offer of 290.61 but feel we are entitled to the full amount requested, we stand behind everything we do in business and I believe we are entitled to be paid for our hard work.

Thank You

(814) 467-5565



TECH.	REC. MAINTENANCE	PRICE
-------	------------------	-------

10	HOSES & BELTS
----	---------------

[illegible]

LAUREL FORD

135 Ford Drive
WINDBER, PA 15963
(814) 467-5565



50347

PAGE 1 OF 1

DATE: 12/01/97 VEHICLE IDENTIFICATION NO. [REDACTED] MILEAGE IN: 58349 MILEAGE OUT: [REDACTED] YR: 83 MAKE: FORD MODEL: TRUCK STOCK NO. 0004689 IN SVC. DATE: 11.0000 LABOR RATE: 30.41 R.O. NO. 19

TIME IN: 14.16 PROGRAM CODE: [REDACTED] APPROVAL: [REDACTED] COMMIT: [REDACTED] INSTALLED: [REDACTED] DATE: [REDACTED] MILES: [REDACTED]

CUSTOMER: [REDACTED] COMMENTS: [REDACTED] PARTS: [REDACTED]

PHONE NUMBERS: 0000

HOME: [REDACTED]

WORK: [REDACTED]

U.S. [REDACTED]

PROMISED DATE/TIME: [REDACTED]

DATE REC'D: 12/01/97 DATE NOTIFIED: 12/01/97

NO. NUMBERS: 120397

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

TECH	REC. MAINTENANCE	PRICE
01	LUBE, OIL, FILTER	
02	CHECK EXHAUST SYS.	
03	MANUAL TRANS. SERVICE	
04	TRIP CHECK	
05	SAFETY CHECK	
06	AUTOMATIC TRANSMISSION SERV.	
07	COOLING SYSTEM FLUSH	
08	FRONT END ALIGNMENT	
09	WHEEL BALANCE	
10	AIR COND. SERVICE	
11	BRAKE SERVICE	
12	AIR FILTER	
13	ROTATE TIRES	
14	STEERING, CHASSIS INSP.	
15	TUNE UP	
16	AIM HEADLIGHTS	
17	SERVICE WHEEL BEARING	
18	FUEL SYSTEM	
19	HOSES & BELTS	

COST	LC	QTY	EC	FC	PART NUMBER	DESCRIPTION	PRICE	LC	TIME	R	FO	CC	OPERATION CODE	OPERATION DESCRIPTION	PRICE
								A	2.000			18M		REPR SEPARTOR BOX	18.00

TYPE	COST	ACCOUNT	DATE	TYPE	COST	ACCOUNT	DATE	TOTALS
	7750.00		12/01/97		18000.5730		12/01/97	PARTS AMOUNT
								LABOR AMOUNT
								MISCELLANEOUS SALES
								MISCELLANEOUS MATERIALS
								TOTAL CHARGES
								DEDUCTIBLE AMOUNT
								SALES TAX
								CUSTOMER PAY
								OTHER PAY

DISCLAIMER OF WARRANTIES
Any warranties on the products sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products. Any limitation contained herein does not apply where prohibited by law.

CUSTOMER SIGNATURE: [REDACTED]

NAME		EMPL NO.	OPEN. NO.	COST	TIME ELAP.	TIME CLOCK	
						OFF	
						ON	
						OFF	
						ON	
NIGHT (HRS.)	FLAT RATE PRICE	R. O. NO.			TIME	OFF	
2.0		EMP. NO. 18	OPER. NO. 30419			17.3 DEC 2 13.9 DEC 2	
						OFF	
						ON	
						OFF	
						ON	
						OFF	
						ON	
						OFF	
						ON	
						OFF	
						ON	
						OFF	
						ON	
						OFF	
						ON	
						OFF	
						ON	
						OFF	
						ON	
TOTAL						RATE	COST

1. TECHNICIAN COMMENTS ON ADDITIONAL NEEDED REPAIRS

- DELRAGE MOTOR
- DIAGNOSIS FOR OIL LEAK
- REPAIR SEPARATOR BOX - BLOWING OIL OUT

2. RESULTS OF SERVICE ADVISOR'S CONTACT WITH CUSTOMER



LAUREL FORD

101 Third Street
WINDBER, PA 15963
(814) 467-5565



TERMS: STRICTLY CASH UNLESS ARRANGEMENTS MADE
I hereby authorize the repair work hereinafter set forth to be done along with the necessary material and agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft or any other cause beyond your control or for any delay caused by unavailability of parts or delays in parts shipments by the supplier or transporter. I hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on below vehicle to secure the amount of repairs thereto.

SIGN X _____

DATE: 20197	VEHICLE ID NO.	MILEAGE: 58349	DELIVERY DATE	LICENSE NO.	YR: 83	MAKE AND MODEL: FORD TRUCK	CROSS REFERENCE	R.O. NUMBER: 0030419
STIMATED REPAIRS: 0.00		NAME		SMOG INSPECTION NO.		COLOR: BLUE	SWR NO. 41	DATE 120197 TIME PROMISED 0000
AMOUNT APPROVED	DATE	TIME	CITY/STATE/ZIP: JOHNSTOWN PA 15904		INSPECTION MONTH: 00		BUSINESS PHONE	
CUSTOMER SIGNATURE	P.O. NUMBER		CUSTOMER NO. 0004689	STOCK NO.	SELLING CODE	LABOR RATE PER HOUR: \$ 41.00	TAG NUMBER: 0000	
D. NO.		SUBLET REPAIRS	PRICE	COMMENTS:		TECH. NUMBER	DOCUMENT NUMBER	

LINE	OPERATION CODE	DESCRIPTION	LABOR INSTRUCTIONS	TYPE	RECOMMENDED MAINTENANCE
		CHECK FOR OIL LEAKS			01 LUBE, OIL, FILTER
		OIL SEPARATOR BOX FOR PCV SYSTEM OUT OF HERE			02 CHECK EXHAUST SYS.
		NO BUBBLE BLOCK ARE INSTALLED			03 MANUAL TRANS. SERVICE
					04 TRIP CHECK
					05 SAFETY CHECK
					06 AUTOMATIC TRANSMISSION SERV.
					07 COOLING SYSTEM FLUSH
					08 FRONT END ALIGNMENT
					09 WHEEL BALANCE
					10 AIR COND. SERVICE
					11 BRAKE SERVICE
					12 AIR FILTER
					13 ROTATE TIRES
					14 STEERING, CHASSIS INSP.
					15 TUNE UP
					16 AIM HEADLIGHTS
					17 SERVICE WHEEL BEARING
					18 FUEL SYSTEM
					19 HOSES & BELTS

LABOR RECORD

CUSTOMER'S NAME _____

1. TECHNICIAN COMMENTS ON ADDITIONAL NEEDED REPAIRS

2. RESULTS OF SERVICE ADVISOR'S CONTACT WITH CUSTOMER

CONCERN NO START

CAUSE Blown cylinder head Gasket

CORRECTED TEAR DOWN ENGINE FOR INSPECTION
DISCOVERED BAD HEAD GASKET CARB + INTAKE LOOSE
INSTALLED PARTS, SET TIMING + ADJUSTED

STRAIGHT TIME (HRS.)		FLAT RATE PRICE		R. O. NO.		TIME		OFF		ON		TIME CLOCK	
STRAIGHT TIME (HRS.)	FLAT RATE PRICE	R. O. NO.	TIME	OFF	ON	TIME CLOCK							
0.8		25	27338										
1.5		25	27338										
1.3		25	27338										
1.0		25	27338										
1.6		25	27338										
6.4		25	27338										
				TOTAL									

LAUREL FORD

101 Third Street
WINDBER, PA 15963
(814) 467-5565



I hereby authorize the repair work hereinafter set forth to be done along with the necessary material and agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft or any other cause beyond your control or for any delay caused by unavailability of parts or delays in parts shipments by the supplier or transporter. I hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on below vehicle to secure the amount of repairs therefor.

'SIGN. X

TE	VEHICLE ID NO.	MILEAGE	DELIVERY DATE	LICENSE NO.	YR	MAKE AND MODEL	CROSS REFERENCE	R.O. NUMBER
70797		53605			83	FORD TRUCK		0027338
ESTIMATED REPAIRS		0.00		NAME		SMOG INSPECTION NO.	COLOR	SWR NO.
AMOUNT APPROVED		DATE		TIME			BLUE	41
						b6 b7C	PAYMENT METHOD	HOME PHONE
							CASH	
						INSPECTION MONTH		BUSINESS PHONE
CUSTOMER SIGNATURE		JOHNSTOWN		PA 15904		00		
D. NO.		SUBLET REPAIRS		PRICE		P. O. NUMBER	CUSTOMER NO.	STOCK NO.
							0004689	
						LABOR RATE PER HOUR		TAG NUMBER
						\$ 38.00		
						TECH. NUMBER		DOCUMENT NUMBER

LINE	OPERATION CODE	DESCRIPTION	LABOR INSTRUCTIONS	TYPE	RECOMMENDED MAINTENANCE
01		VEHICLE TOWED-IN / NO START	F322 - 60S1-C FS72-6584A F322-6065-FA	C S	LUBE, OIL, FILTER
02					CHECK EXHAUST SYS.
03					MANUAL TRANS. SERVICE
04					TRIP CHECK
05					SAFETY CHECK
06					AUTOMATIC TRANSMISSION SERV.
07					COOLING SYSTEM FLUSH
08					FRONT END ALIGNMENT
09					WHEEL BALANCE
10					AIR COND. SERVICE
11					BRAKE SERVICE
12					AIR FILTER
13					ROTATE TIRES
14					STEERING, CHASSIS INSP.
15					TUNE UP
16					AIM HEADLIGHTS
17					SERVICE WHEEL BEARING
18					FUEL SYSTEM
19					HOSES & BELTS
UNIT INV# 24173 PO# 22294					\$5000

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/20/98

[redacted] for
Congressman JOHN P. MURTHA, 12th Congressional District,
P.O. Box 780, Johnstown, PA 15907, [redacted] provided a
copy of a letter received at the offices of Congressman MURTHA.
The letter, dated May 11, 1998, from [redacted] was received
on May 13, 1998. A copy of the letter is attached and made a
part hereto.

b6
b7CInvestigation on 5/13/98 at Johnstown, PAb6
b7CFile # 89A-PG-64410Date dictated 5/20/98by SA [redacted]89A-PG-64410-62
SEARCHED 21 INDEXED 21
(SERIALIZED) (FILED)
FILED 21

MAY 29 1998

FBI - PITTSBURGH

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Honorable John P. Murtha**U.S. House of Representatives****Post Office Box 780****Johnstown, PA 15907****(814) 535-2642****Fax: (814) 539-6229****Internet - <http://www.house.gov/murtha/>****E-Mail - murtha@mail.house.gov****FAX**

To	[Redacted]	SPECIAL AGENT
From	[Redacted]	
Date	5-13-98	b6 b7C
Regarding	[Redacted]	LAH
Fax #	536 8107	
Pages	4	Including Cover Sheet

Notes:

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/1/98

[redacted] Prothonatary, Clearfield County,
P.O. Box 549, Clearfield, PA 16830, [redacted] was contacted
regarding [redacted] advised a review of his records
reflected several incidents in Clearfield County, where charges
had been filed against [redacted] advised copies would be
provided; however a formal request by letter would have to be
submitted.

b6
b7C

[redacted] in response to a formal request, subsequently
provided copies of appropriate documents regarding [redacted]
These copies are attached and made a part hereto.

6/11/2

Investigation on 4/14/98 at Johnstown, PAFile # 89A-PG-64410

b6

b7C

Date dictated 4/30/98

by SA [redacted]

89A-PG-64410-63

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 29 1998	
FBI - PITTSBURGH	

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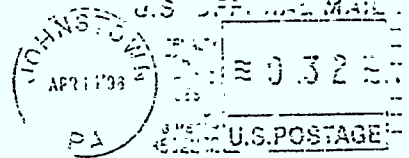
Department of Justice
Bureau of Investigation
Special Agent, FBI
U.S. Dept. of Justice
P.O. Box 129
Johnstown, Pa. 15301
Use S300

POSTAGE DUE.



0000

Special Agent, FBI
U.S. Dept. of Justice
P.O. Box 129
Johnstown, Pa. 15301
ATTN: SA



U.S. POSTAGE
PAID
JOHNSTOWN, PA
APR 21 1998
AMOUNT
\$0.23
0007288-06

b6
b7C

APR 20 1998

Honorable John P. Murtha

U.S. House of Representatives

Post Office Box 780

Johnstown, PA 15907

(814) 535-2642

Fax: (814) 539-6229

Internet - <http://www.house.gov/murtha/>

E-Mail - murtha@mail.house.gov

fax

TO:	SPEC AGENT [redacted] FBI
b6 b7C	
FAX #:	536-8107
FROM:	[redacted] DIST. A/A
DATE:	980218
RE:	CONGRESSMANAL SCHEDULE
PAGES:	3, including cover sheet.

NOTES: JUST REALISED THAT MY STAFF
DIDNT FORWARD YOU A COPY OF
THE CONGRESSMAN'S SCHEDULE

Murtha, John

Monday, February 16, 1998

8:00 AM-8:30 AM

(Jtown Office) Mtg Dr [REDACTED]

8:30 AM-9:00 AM

(Jtown Office) Mtg [REDACTED] and [REDACTED]

9:00 AM-9:30 AM

(Jtown Office) Mtg Drs [REDACTED] and Mr [REDACTED]

814 472 3001

9:30 AM-10:00 AM

(Jtown Office) Mtg Mr [REDACTED]

Laurel Tech - [REDACTED]

11:00 AM-12:00 PM

(121 W Second Ave, Latrobe) Visit to Emergency Room - Latrobe Hospital - [REDACTED]

Dr [REDACTED] Medical Director

b6
b7C

Tuesday, February 17, 1998

9:00 AM-9:30 AM

(Jtown Office) Mtg Mr [REDACTED] et al - [REDACTED] - Ext 11

9:30 AM-10:00 AM

(Jtown Office) Mtg Mr [REDACTED]

10:00 AM-10:30 AM

(Jtown Office) Mtg Mr [REDACTED]

10:30 AM-11:00 AM

(Jtown Office) Mtg Ms [REDACTED] Ex Dir and Mr [REDACTED] Fin Dir -

Community Home Health Care [REDACTED]

b6
b7C

1:00 PM-1:45 PM

(Kuchera Industries, 345 Hillside Dr, Windber) Press Conference - Official kick off of Raytheon

[REDACTED] Surface

Search Radar Coast Guard and Navy contacts

[REDACTED] - Dr [REDACTED] will be bringing

Ms [REDACTED] EX Dir of OVR for PA

Wednesday, February 18, 1998

8:30 AM-9:30 AM

(495 Country Club Road, Indiana) Breakfast - Executive Committee - Indiana Chamber of Commerce

Contact [REDACTED]

Indiana Country Club - 724 465 5322

b6
b7C

6:00 PM-7:30 PM

(University Room, Living/Learning Center/UPJ, Jtown) Dinner with Dr and Mrs [REDACTED]

8:00 PM-9:30 PM

(UPJ, Jtown) Attending DAMN YANKEES! - Pasquerilla Center for the Performing Arts - to be preceded by dinner - further details to follow

Friday, February 20, 1998

Murtha, John

8:00 AM-8:45 AM

Depart Union Station on Metroliner - Club Car - for Philadelphia — Arriving 9:43 am

2:11 PM-4:00 PM

(2:11 pm) Departs Philadelphia on Metroliner Club Car for Union Station arriving 3:59 pm

Saturday, February 21, 1998

12:00 PM-1:30 PM

(Army-Navy Club, Washington) Originals' Luncheon -

Tuesday, June 2, 1998

Prosecution is dealt a blow

By DEBRA S. MOFFITT
THE TRIBUNE-DEMOCRAT

A federal court judge has thrown out statements made by the man accused of threatening to kill U.S. Rep. John Murtha, D-Johnstown, because it's unclear if Donald Lee Fenton understood his rights before he started talking with police.

The ruling, which could weaken the prosecution's case, suppresses statements Fenton made to law enforcement officers in December 1997.

Federal prosecutor Leon Rodriguez couldn't be reached for comment Monday.

Federal Public Defender Marketa Sims, who represents Fenton, said only that the ruling "speaks for itself."

Judge tosses Fenton's statements

Three police officers visited Fenton at the Orchard Hotel on Dec. 3, but never read him his Miranda rights, federal Judge D. Brooks Smith said in the ruling. Fenton allowed them to enter but likely did not feel free to leave, Smith wrote.

Stonycreek Township Police Officer Kevin Price went to Fenton's residence at the hotel with the hope of detaining him while they waited for officials from Crisis, Cambria County's mental health agency, Smith wrote. Fenton was then taken to Memorial Medical Center for a psychiatric evaluation.

The day he was to be released from the hos-

pital, Price arrested Fenton, 41, on charges of terroristic threats and harassment. Price read Fenton his Miranda rights then, but failed to confirm that he understood them, Smith said. He also didn't have Fenton sign a waiver of his rights, as is customary, Smith said.

Price may have contributed to Fenton's confusion by telling him, "It's no big deal" at District Magistrate Leonard Grecek's office, Smith wrote.

After his arrest, Fenton spoke with two FBI agents and two Capitol police officers at Grecek's office. Smith also suppressed statements Fenton made in that interview.



Fenton

In January, Fenton was indicted on federal charges of threatening to assassinate Murtha and kill one of his aides.

Fenton, who spent three months in jail, has been released, but must wear an electronic monitoring device. His trial is scheduled for July 6 in Johnstown's federal court.

Fenton, riled by mechanical problems with his truck, allegedly threatened to kill an insurance agent and "blow Congressman Murtha's head off," according to the charges against him.

(Mount Clipping in Space Below)

Incident page, name of
no. (date)
THE TRIBUNE-DEMOCRAT
JOHNSTOWN, PA
Date: 6/2/98
Ddt: [redacted]
John P. Murtha, member of
Congress, W.D.C. - Victoria
12/9/97
Character: CC SCALA - THREATS
or
Classification:
Submitting Office: BQA-PC - CYYHO

b6
b7C

PAGE 23

DEMOCRAT

FBI/DOJ

PHC

Accomplishment Report

Accomplishment must be reported and loaded into IS
within 30 days from date of accomplishment)Date Prepared 7/8/98Date Loaded 7/13/98Data Loader's Initials DMYSquad supervisor approval
(please initial)Accomplishment involves:
(check all that apply)

- Drugs ☐
 A Fugitive ☐
 Bankruptcy Fraud ☐
 Computer Fraud/Abuse ☐
 Corruption of Public Officials ☐
 Forfeiture Assets ☐
 Sub Invest Asst by FO (s) ☐

Asst. FO(s)
A, B, C, D

Task Force

Assisting Agencies x •
1.
2. File Number
89A-PG-64410

Stat Agent Soc. Sec. No.

Stat Agent Name

RA JRA Squad 10

Assisting Agents Soc. Sec. No. x

1.

Name:

2.

Name:

Investigative Assistance or Technique Used

Rate FO			Rate FO			Rate FO			Rate FO		
IAT			IAT			IAT			IAT		
Fin. Analyst			Lab. Div. Exam			UCO - Group I			Ft. Mon. - NRCS		
Aircraft Asst.			Lab. Field Sup			UCO - Group II			For. Lang Asst.		
Computer			Pen Registers			UCO - Nat. Back			Non FBI Lab Ex		
Consen Mon.			Photo Cover.			NCAVC / VI - CAP			Vict-Withn Coor		
Elsur / FISC			Polygraph			Crim Intel Asst					
Elsur / T. III			Search Warrant			Crisis Neg. - Fed.					
Eng. Field Spt.			Show Money			Crisis Neg. - Local					
Eng. Tape Ex			SOG Asst.			ERT Asst.					
Legats Asst.			Swat Team			Butte - ITC					
Evid Purchase			Tech. Ag/Equip			Sav - ITC					
Inf/CW Info.			Phone Toll Rec			Poc - WRCS					

A. Complaint / Information / Indictment

☐ Federal ☐ Local ☐ InternationalComplaint Date Check if Civil Rico Complaint ☐Information Date Indictment Date

B. Locate/ Arrest

☐ Federal ☐ Local ☐ InternationalSubject Priority: ☐ A ☐ B ☐ CLocate Date Arrest Date ☐ Subject Resisted Arrest☐ Subject Arrested was Armed

C. Summons

☐ Federal ☐ LocalSummons Date

H. Conviction

☒ Federal ☐ Local ☐ InternationalConviction Date: 7/8/98Subject Description Code: BA ()

For 6F, G, H-Include Agency Code

☒ Felony Or ☐ Misdemeanor☐ Plea Or ☒ TrialState: PA Judicial District: WD

D. Hostage(s) Released Date

Released by: ☐ Terrorist ☐ OtherNumber of Hostages: Child Located Date

E. Recovery / Restitution / PELP x

☐ Federal ☐ Local ☐ InternationalRecovery Date

Code • Amount

	\$
	\$

Restitution Date ☐ Court Ordered☐ Pretrial Diversion

Code • Amount

	\$
--	----

PELP Date

Code • Amount

	\$
--	----

I. U.S. Code Violations

Required for Sections A, B, F, and H
(Federal only)

Title	Section	# of Counts
18	1192.1B	1

F. Civil Rico Matters Date

Also Complete Section I

or

Other Civil Matters Date Judgment Judicial Outcome x •Amount: \$

Suspension:

Years	Months

G. Administrative Sanctions Date

Subject Description Code

Type: Length:

☐ Suspension ☐ Permanent☐ Debarment ☐ Years Months☐ Injunction

J. Sentence Date:

Sentence type:

In-Jail	Suspended	Probation
Years	Months	Years

Fines: \$

K. Acquittal / Dismissal / Pretrial Diversion

Acquittal Date Dismissal Date Pretrial Diversion Date

L. Subject Information (Required for all Sections excluding Section D (Hostages) and E (Recovery/PELP))

	Race •	Sex	Date of Birth	Social Security No. (if available)
<u> </u>	<u>W</u>	<u>M</u>	<u> </u>	<u> </u>

For Indictments/Convictions only:

- ☐ Subject related to an LCN, Asian Organized Crime (AOC), Italian Organized Crime (IOC), Russian/Eastern European, Caribbean, or Nigerian Organized Crime Group - Complete FD-515a, Side 1 and Side 2.
- ☐ Subject related to an OC/Drug Organization, a VCMO Program National Gang Strategy target group, or a VCMO Program National Priority Initiative target group - Complete FD-515a, Side 2.

x Additional information may be added by attaching another form or a plain sheet of paper for additional entries.

• See codes on reverse side.

Serial No. of FD-515

Serialized Indexed

89A-PG-64410-67

For Further Instructions See: MAOP, Part 1, Sections 3-5 thru 3-5.3.

PROPERTY CODES

01 Cash
02 Stocks, Bonds or Negot. Instruments
03 General Retail Merchandise
04 Vehicles
05 Heavy Machinery & Equipment
06 Aircraft
07 Jewelry
08 Vessels
09 Art, Antiques or Rare Collections
11 Real Property
20 All Other

SENTENCE TYPES

CP Capital Punishment
JS Jail Sentence
LS Life Sentence
NS No Sentence (Subject is a Fugitive, Insane, has Died, or is a Corporation)
PB Probation
SJ Suspension of Jail Sentence
YC Youth Correction Act

PELP CODES

22 Counterfeit
Stocks/Bonds/Currency/
Negotiable Instruments
23 Counterfeit/Pirated Sound
Recordings or Motion Pictures
24 Bank Theft Scheme Aborted
25 Ransom, Extortion or Bribe
Demand Aborted
26 Theft From or Fraud Against
Government Scheme Aborted
27 Commercial or Industrial
Theft Scheme Aborted
30 All Other

ORGANIZED CRIME SUBJECTS

1F Boss
1G Underboss
1H Consigliere
1J Acting Boss
1K Capodecina
1L Soldier

KNOWN CRIMINALS

2A Top Ten or I.O. Fugitive
2B Top Thief
2C Top Con Man

FOREIGN NATIONALS

3A Legal Alien
3B Illegal Alien
3C Foreign Official W/out
Diplomatic Immunity
3D U.N. Employee W/out
Diplomatic Immunity
3E Foreign Student
3F All Others

OTHERS

8A All Other Subjects
8B Company or Corporation

RACE CODES

A Asian/Pacific Islander
B Black
I Indian/American
U Unknown
W White
X Nonindividual

AGENCY CODES

ACIS Army Criminal Investigative Service
BATF Bureau of Alcohol, Tobacco & Firearms
BIA Bureau of Indian Affairs
DCAA Defense Contract Audit Agency
DCIS Defense Criminal Investigative Service
DEA Drug Enforcement Administration
DOC Department of Corrections
DOI Dept. of Interior
EPA Environmental Protection Agency
FAA Federal Aviation Administration
FDA Food and Drug Administration
HHS Dept. of Health & Human Services
HUD Dept. of Housing & Urban Development
INS Immigration and Naturalization Service
IRS Internal Revenue Service
NASA Nat'l Aeronautics & Space Admin
NBIS Nat'l NARC Border Interdiction
NCIS Naval Criminal Investigative Service
RCMP Royal Canadian Mounted Police
SBA Small Business Administration
USEP U.S. Border Patrol
USCG U.S. Coast Guard
USCS U.S. Customs Service
USDS U.S. Department of State
USMS U.S. Marshals Service
USPS U.S. Postal Service
USSS U.S. Secret Service
USTR U.S. Treasury
LOC Local
CITY City
COUN County
ST State
OTHR Other

SUBJECT DESCRIPTION CODES

TERRORISTS

4A Known Member of a
Terrorist Organization
4B Possible Terrorist Member
or Sympathizer

UNION MEMBERS

5D President
5E Vice-President
5F Treasurer
5G Secretary/Treasurer
5H Executive Board Member
5I Business Agent
5J Representative
5K Organizer
5L Business Manager
5M Financial Secretary
5N Recording Secretary
5P Office Manager
5Q Clerk
5R Shop Steward
5S Member
5T Trustee
5U Other

JUDGMENT CODES

CJ Consent Judgment
CO Court Ordered Settlement
DF Default Judgment
DI Dismissal
JN Judgment Notwithstanding
MV Motion Verdict
SJ Summary Judgment
VD Verdict for Defendant
VP Verdict for Plaintiff

JUDICIAL OUTCOME

AG Agreement
BR Barred/Removed
CC Civil Contempt
DC Disciplinary Charges
FI Fine
PI Preliminary Injunction
PR Temporary Restraining Order
PS Pre-filing Settlement
RN Restitution
SP Suspension
VR Voluntary Resignation
OT Other

SUBJECT PRIORITY

A Subject wanted for crimes of violence
(i.e., murder, manslaughter, forcible
rape) against another individual or
convicted of such a crime in the past
five years
B Subject wanted for crimes involving
loss or destruction of property valued in
excess of \$25,000 or convicted of such
a crime in the past five years.
C All other subjects.

GOVERNMENT SUBJECTS

(6F, 6G, 6H- Include Agency Code)

6A Presidential Appointee
6B U.S. Senator/Staff
6C U.S. Representative/Staff
6D Federal Judge/Magistrate
6E Federal Prosecutor
6F Federal Law Enforcement Officer
6G Federal Employee - GS 13 & Above
6H Federal Employee - GS 12 & Below
6J Governor
6K Lt. Governor
6L State Legislator
6M State Judge/Magistrate
6N State Prosecutor
6P State Law Enforcement Officer
6Q State - All Others
6R Mayor
6S Local Legislator
6T Local Judge/Magistrate
6U Local Prosecutor
6V Local Law Enforcement Officer
6W Local - All Others
6X County Commissioner
6Y City Councilman

BANK EMPLOYEES

7A Bank Officer
7B Bank Employee

07/15/98

***** CONVICTION *****

SENSITIVE / UNCLASSIFIED

Case Number: 89A-PG-64410
Serial No.: 67

Stat Agent Name:

Stat Agent SOC:

Report Date: 07/15/1998

Accom Date.: 07/08/1998

Does Accomplishment Involve	Assisting Joint Agencies	Assisting Agents SOC	Subject Name
Drugs : N			
A Fugitive. : N			
Bankruptcy Fraud. : N			
Computer Fraud/Abuse. : N			RA Squad Task Force
Corruption of Public Officials: N			-----
Forfeiture Assets : N			JOHN 10

b6
b7C

Sub. Invest. Asst by Other FOs:

1 = Used, but did not help
2 = Helped, Minimally
3 = Helped, Substantially
4 = Absolutely Essential

Investigative Assistance or Technique Used

FINAN ANALYST	LAB DIV EXAMS	UCO-GROUP I	FT. MON-NRCSC
AIRCRAFT ASST	LAB FIELD SUP	UCO-GROUP II	FOR. LANG ASST
COMPUTER ASST	PEN REGISTERS	UCO-OTHER	NON FBI LAB EX
CONSEN MONITR	PHOTO COVERGE	NCAVC/VI-CAP	VICT-WITN COOR
ELSUR/FISC	POLYGRAPH	CRIM INTEL ASST	
ELSUR/III	SRCH WAR EXEC	CRIS NEG-FED	
ENG FIELD SUP	SHOW MONEY	CRIS NEG-LOC	
ENG TAPE EXAM	SOG ASST	ERT ASST	
LEGATS ASST.	SWAT TEAM	BUTTE-ITC	
EVIDNCE PURCH	TECH AG/EQUIP	SAVANNAH-ITC	
INFORMANT/CW	TEL TOLL RECS	POC-WRCSC	

Date of Conviction (MM/DD/YYYY) : 07/08/1998
Date of Sentencing (MM/DD/YYYY) :
Subject Description Code. : 8A

Federal, Local, or International (F/L/I) : F
Felony or Misdemeanor (F/M) : F

Plea or Trial (P/T) : T
Judicial State. : PA
Judicial District. : WD
Type of Sentence :

Year	Month	U. S. Code Violation(s)		
----	-----	Title	Section	Counts
Time in Jail. . :		18	115A1	1
Time Suspended.:				
Probation Time.:				

Form FD-515a Side 2:
Investigative Efforts = N/A OR NONE
Subject's Role = N/A OR NONE
Scope = N/A OR NONE

Total Fines. . :\$

Accomplishment Narrative

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/10/98

[redacted] Fox Channel 8 News,
Johnstown, Pennsylvania (PA) [redacted] was contacted.
[redacted] was advised of the identity of the contacting Agent and the
nature of the inquiry regarding [redacted] provided
the following information:

b6
b7C

[redacted] advised on Tuesday, May 26, 1998, [redacted]
Fox Channel 8 Newsman, was contacted by [redacted]
added [redacted] occasionally calls the station and speaks to
[redacted] During this particular call, [redacted] related he was to
appear in court at District Magistrate MUSELIN's office on
May 29, 1998, at 10:30 a.m. [redacted] added to her knowledge, no
press conference had been scheduled by [redacted] In addition,
[redacted] advised in her position as assignment editor, she assigns
coverage to news worthy events. [redacted] added she had not assigned
any coverage regarding [redacted]

Investigation on 5/29/98 at Johnstown, PA (telephonically)File # 89A-PG-64410-68 b6 Date dictated 5/29/98
b7Cby SA [redacted] /phw

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/10/98

[redacted] for
Congressman JOHN P. MURTHA, 12th Congressional District,
Johnstown, Pennsylvania (PA), [redacted] provided the
following information:

[redacted] advised his office had been contacted by [redacted]
[redacted] Fox Channel 8 News, regarding information concerning
[redacted] [redacted] had been telephonically contacted by
[redacted] who related "he had something to announce" and was going
to hold a press conference on May 29, 1998, at 11:00 a.m. at the
office of District Magistrate MUSELIN.

b6
b7C

[redacted] advised Congressman MURTHA was also scheduled to
hold a press conference at 10:30 a.m. at the Cambria County War
Memorial, Johnstown, PA. [redacted] expressed some concern regarding
the substance of [redacted] press conference and any possible link
to Congressman MURTHA.

Investigation on 5/29/98 at Johnstown, PA (telephonically)
File # 89A-PG-64410-69 b6 Date dictated 5/29/98
by SA [redacted] b7C phw

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/10/98

On May 29, 1998, Special Agent (SA) [redacted] contacted the office of District Magistrate Judge MICHAEL MUSELIN, 401 Washington Street, 5th Floor, Johnstown, PA, [redacted]. The purpose of the contact was to verify a scheduled court appearance for [redacted]. A secretary in the District Justice MUSELIN's office, [redacted] confirmed [redacted] was scheduled to appear in court at 10:30 a.m. in reference to a civil suit regarding his occupation as a private contractor.

b6
b7CInvestigation on 5/29/98 at Johnstown, PA (telephonically)File # 89A-PG-64410-70 ^{DAY} Date dictated 5/29/98by SA [redacted] hwb6
b7C

Fed trial continuing for man charged in threats

By JASON GREEN
THE TRIBUNE-DEMOCRAT

The trial of a Geistown man, charged with threatening to kill U.S. Rep. John Murtha, will continue in federal court today as defense attorneys cross examine an insurance agent who also was allegedly threatened after problems flared over truck repairs.

Donald Lee Fenton, 41, of the 2400 block of Bedford Street, is standing trial on one count of assault, stemming from a January indictment.

In a Dec. 3 telephone conversation, Fenton allegedly threatened to kill Murtha, D-Johnstown, John Hugya, who serves as the congressman's aide, insurance agent Randy Leventry and other employees in the insurance office after Fenton had mechan-

ical problems with his truck.

On Monday afternoon, a jury of 10 women and two men were selected to hear the case, being presented before District Judge D. Brooks Smith in Johnstown.

The prosecution moved forward with its case in the trial, expected to last about three days.

A second assault charge against Fenton, for threatening Hugya, was dismissed last week by Smith, as he ruled Hugya is not a protected government official. Under federal law, it is illegal to threaten assault, kidnap or murder a United States official.

Officials include the president, president-elect, vice president, vice president-elect, a member of Congress, a member-elect of Congress, a

member of the executive branch who is the head of a department and the CIA director.

While dismissing the charge in federal court because it didn't fall under his jurisdiction, Smith said the threats still are deserving of punishment and should be dealt with by the Cambria County District Attorney's office.

In a February plea agreement, Fenton was released from Cambria County jail on \$25,000 recognizance bond.

The court ordered Fenton to look for a job and keep all scheduled medical appointments.

He also must wear a monitoring device.

Fenton's trial had been scheduled for May in Pittsburgh, but was postponed when defense attorney Mar-



Donald Fenton

Released on \$25,000 bond

ta Sims of the federal public defender's office filed a motion to dismiss the charges against her client.

Brooks' latest ruling cleared the way for the trial to begin.

(Mount Clipping in Space Below)

(Indicate page, name of newspaper, city and state)
Pg A3
The Tribune-Democrat
Johnstown, Pa
Date: 7/7/98

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
CCS/CAICA - THREAT
Classification:
Submitting Office:
89A-PC-64410
Indexing:

b6
b7C

SEARCHED
SERIALIZED
INDEXED
FILED

JUL 10 1998

FBI - PITTSBURGH

89A-PC-64410-71

pkw

(Mount Clipping in Space Below)

The Tribune-Democrat

Wednesday, July 8, 1998

Suspect: I can beat politician

Fenton takes witness stand

By TED ZELLEM
THE TRIBUNE-DEMOCRAT

A 41-year-old self-employed Geis-town general contractor denied Tuesday that he physically wanted to kill U.S. Rep. John P. Murtha, D-Johnstown, but admitted saying, "I could kill him in the election."

Donald Lee Fenton testified unshakingly in his own defense in U.S. District Court, Johnstown, on a charge of threatening to assault and murder a federal official.

The prosecution and defense rested their cases after his testimony and the case is expected to go to the jury of 10 women and two men today.

Testimony also revealed Fenton verbally threatened to kill Randy Leventry, an insurance adjuster for Erie Insurance Co. in Richland Township, and employees of an auto dealership and "going to The Tribune-Democrat with guns ablazing."

Fenton denied all charges and contended his use of the word "kill" was a figure of speech.

The defendant began his testimony by telling of his own exclusive plan to revitalize the Johnstown area, complete with a mass transit system and ski resort to attract tourists. His plan including building a National Football League Stadium between Johnstown and Pittsburgh to coincide with the plan for high-speed rail service between the two cities.

He said he presented his plans last year to an executive of Johnstown Area Regional Industries, former Johnstown City Manager Ken Gearhart, and a Richland Township manager.

Although he contended his economic development plan required no government money, he said he also wanted to consult with Murtha. After writing three letters to Murtha's office, he arranged to meet

with John Hugya, the congressman's aide, at the Incline Station Restaurant.

Fenton said he was disappointed Murtha was not present. He contended that, during the session, Hugya indicated he wanted to "steal" the plans while two unidentified men arrived and watched the discussion. Fenton said Hugya went outside to his car and he later followed, fearing the two men would shoot him.

While trying to promote his economic development plan with government officials, Fenton said he was discouraged by government "red tape," and decided to campaign for Murtha's office.

"I've always been a career Republican," he explained. "I changed to

"I've always been a
career Republican.
I changed to
Democrat. I was
going after Murtha
from day one."

Donald Lee Fenton

Democrat. I was
going after
Murtha from
day one."

Fenton's federal public defender attorney asked him to clarify.

"I was going after his job," he responded.

And Fenton

told of many mechanical problems with his truck that he needed for his contracting jobs. He maintained he was being followed and there was a conspiracy to prevent him from running for Murtha's congressional seat.

Leventry was handling an insurance claim for what Fenton claimed was damage to his truck by Carmen Wholesale Tires. The defendant said he grew frustrated that repeated repairs had to be made after the garage failed to refill the truck's engine with new oil after removing the old oil.

Before cross-examination began, Fenton's attorney asked: "Did you ever threaten to kill Murtha?"

The defendant said, "absolutely not."

The trial continues at 9:30 a.m. today with closing arguments.

(Indicate page, name of newspaper, city and state.) PG. A3
THE TRIBUNE-DEMOCRAT
JOHNSTOWN, PA
Date: 7/8/98
Edition:

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

Classification:
Submitting Office:

89A-PG-64410

Indexing:

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89A-PG-64410-72

SEARCHED GEN	FOIMS
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JUL 10 1998	
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Fenton convicted of threat

By TED ZELLEM

THE TRIBUNE-DEMOCRAT

A jury of 10 women and two men deliberated less than two hours Wednesday before convicting Donald Lee Fenton, 41, of threatening to assault and murder U.S. Rep. John P. Murtha, D-Johnstown.

Fenton, attired in a white sport coat and dark shirt, was convicted in U.S. District Court, Johnstown.

The self-employed general contractor from Geistown is free on bond.

He must wear an electronic monitoring device until pre-sentencing proceedings are completed within 60 days and he is sentenced by District Judge D. Brooks Smith.

Fenton could receive up to five years in prison and a \$250,000 fine for the federal crime.

"We are satisfied. The verdict speaks for itself," said Leon

Man said he would kill Murtha

Rodrigues, prosecuting U.S. attorney.

Marketa Sims, Fenton's public defender, immediately filed a motion to dismiss the verdict. But Sims would not comment on the case publicly.

Both attorneys will file briefs on whether sufficient evidence was presented to support the verdict, and Smith will rule. An appeal or sentencing will follow.

When Fenton testified in his own defense Tuesday, he denied that he wanted to kill Murtha. However, he admitted using the word "kill" during a Dec. 3, 1997, heated conversation with Randy Leventry, an insurance adjuster for Erie Insurance Co.

in Richland Township. But Fenton said it was "a figure of speech."

The case evolved in 1996 when Fenton brainstormed ideas about revitalizing what he described as the economically distressed, flood-prone Johnstown region.

He told the jury his plans included introducing a mass transit system, developing a ski resort and building a National Football League Stadium between Johnstown and Pittsburgh.

Fenton said he could accomplish his goals without government money and by selling \$100 individual shares of stock.

Fenton testified that he met with John Hugya, an aide to Murtha, at the Incline Station Restaurant on his

ideas and was disappointed Murtha didn't attend.

Fenton switched his voter registration from Republican to Democrat and decided to become a candidate for Murtha's seat.

Meanwhile, Fenton testified to having numerous mechanical problems with his work truck and he implicated "dirty tricks" service by two local garages. He became suspicious and perceived he was being followed. He was unhappy with Leventry's handling of an insurance claim.

The case focused on the telephone conversation with Leventry. The insurance agent testified that he took notes during the conversation, which included threats by Fenton

that he would kill Murtha. Leventry called Stonycreek Township police. Charges of making terroristic threats and harassment were filed. The FBI was contacted.

Rodrigues claimed that evidence revealed that Fenton blamed Murtha for his problems and perceived a conspiracy to prevent him from running for Congress. Rodrigues exhibited a chart containing words such as "shoot Murtha," "kill," "guns and bullets," "guns blazing," and additional words taken from Fenton's conversation with Leventry.

Sims countered that the evidence revealed no violence or intent to kill.

"Fenton didn't pick up the phone and call Murtha. He didn't write threatening letters," she stated. "Butch (Fenton) lost his temper on the phone (to Leventry). He never intended to kill anyone."



Donald Fenton
Facing more charges

Fenton still faces charges in Cambria County Court of making terroristic threats and harassing an insurance agent.

SEARCHED GEN. INDEXED
SERIALIZED FILED
JUL 10 1998
FBI - PITTSBURGH

89A-PC-64410-73

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT
Classification:
Submitting Office:
Indexing:
89A-PC-64410

b6
b7C

(Indicate page, name of newspaper, city and state.)
Page 172, Tribune-Democrat
Date: 7/9/98
Edition:

Wednesday, July 1, 1998

Fenton trial begins on Monday

Accused of death threats on Murtha, others

By JASON GREEN
THE TRIBUNE-DEMOCRAT

A Geistown man won another victory in federal court this week, but still will stand trial on charges he threatened to kill U.S. Rep. John Murtha, D-Johnstown.

Donald Lee Fenton, 41, of the 2400 block of Bedford Street, asked District Judge D. Brooks Smith to dismiss two federal counts of assault filed against him, stemming from a January indictment.

In a Dec. 3 telephone conversation, Fenton allegedly threatened to kill Murtha; John Hugya, the congressman's aide; insurance agent Randy Leventry; and others employed in an insurance office. Fenton was dealing with the office because of mechanical problems with his truck.

While Fenton still must stand trial on a charge that he threatened to kill Murtha, a charge that he threatened to kill Hugya was dismissed. Smith ruled that Hugya is not a protected government official.

Under federal law, it is illegal to threaten to kidnap, kidnap or murder a United States official. Those officials include the president, president-elect, vice president, vice president-elect, a member of Congress, a member-elect of Congress, a member of the executive branch who is the head

of a department and the CIA director.

"Hugya's role is to assist Congressman Murtha in the exercise of his congressional, sovereign power, not to exercise independently," Smith wrote in his ruling.

"Accordingly, Hugya cannot be deemed a federal officer or official..."

While dismissing the charge in federal court because it didn't fall under his jurisdiction, Smith said the threats still are deserving of punishment and should be dealt with by the Cambria County district attorney's office.

In a February plea agreement, Fenton was released from Cambria County jail on \$25,000 recognizance bond and ordered to look for a job and keep all scheduled medical appointments. He also must wear a monitoring device.

Fenton's trial had been scheduled for May in Pittsburgh, but was postponed when defense attorney Marketa Sims of the federal public defender's office filed a motion to dismiss the charges against her client. Brooks' latest ruling

clears the way for trial to begin Monday.

But prosecutors will be unable to use some of the statements Fenton made to police, because it's unclear whether he understood his rights prior to talking with officers in December.

Three officers visited Fenton at a hotel room on Dec. 3, but never read him his Miranda rights, Smith said in an earlier ruling.

Fenton allowed them to enter, but likely did not feel free to leave, Smith wrote.

Stonycreek Township Police Officer Kevin Price went to Fenton's residence at the hotel with the hope of detaining him until officials from Crisis, Cambria County's mental health agency, could arrive.

Fenton was then taken to Memorial Medical Center for a psychiatric evaluation.

The day he was released from the hospital, Price arrested Fenton on charges of terroristic threats and harassment. Price read Fenton his Miranda rights, but failed to confirm he understood them, Smith said.

He also did not have Fenton sign a waiver of his rights, which is a customary practice.

Price may have contributed to Fenton's confusion by telling him, "It's no big deal" at District Justice Leonard Grecek's office, Smith wrote.

After his arrest, Fenton spoke with a pair of FBI agents and two Capitol police officers at Grecek's office. Smith also suppressed statements Fenton made during that interview.



Fenton

(Mount Clipping in Space Below)

Indicate page, name of newspaper, city and state.
12/03/1997
WASHINGTON, D.C. - VICTIM;
CCSCAKA-THREAT
Classification:
Submitting Office: 67A-PC-CR-1000

Date: 7/1/98

Page A-3
Fenton - Democrat
Johnstown, Pa

b6
b7C

FBI/DOJ

JUL 10 1998

FBI - PITTSBURGH

Page

File

74

67A-PC-CR-1000

PG. 2
(Indicate page, name of newspaper, city and state.)
THE INDIANA GAZETTE
INDIANA, PA

(Mount Clipping in Space Below)

Date: 7/9/98
Edition:

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

or
Classification:
Submitting Office: 89A-PG-64410

The Indiana Gazette / Thursday, July 9, 1998

News briefs

Man guilty of threatening Murtha

JOHNSTOWN, Pa (AP) — A self-employed general contractor was convicted of threatening to assault and kill U.S. Rep. John Murtha because he was angry over what he perceived as attempts to keep him from running for Murtha's seat.

A U.S. District Court jury on Wednesday found Donald Lee Fenton, 41, guilty of threatening Murtha's life during a telephone conversation with an insurance adjuster.

His lawyer, Marketa Sims, immediately filed a motion to dismiss the verdict. She argued that the word "kill" was used only as a figure of speech during the conversation last December.

Fenton, who was free on bail, could be sentenced to up to five years in prison and a \$250,000 fine.

Fenton believed he was being followed after he announced he would run for Murtha's seat, according to testimony. He complained about Murtha during a conversation with insurance adjuster Randy Leventry. Leventry said he took notes, then called police.

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b7C

89A-PG-64410-75

SEARCHED	GEN	FOIMS
SERIALIZED	INDEXED	
FILED		
JUL 22 1998		

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wp

PHW
FBI/DOJ



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

P.O. Box 1315
Pittsburgh, PA 15230
August 28, 1998

J. Scott Robinette, Esq.
Deputy Attorney General
Criminal Prosecutions Section
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

Re: Commonwealth v. [redacted]

Dear Mr. Robinette:

Reference is made to:

1) your August 26, 1998 letter and accompanying subpoena of Special Agent [redacted] for information and records in possession of the Federal Bureau of Investigation (FBI) relating to the captioned case; and

2) my August 26, 1998 telephone call to Assistant United States Attorney [redacted] Chief, Civil Division, United States Attorney's Office, Western District of Pennsylvania.

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b7C

Enclosed is a copy of a December 11, 1997 FD 302 which relates to the captioned case.

In the referenced telephone call, I was informed that pursuant to Title 28, Code of Federal Regulations (C.F.R.), Section 16.24(b), the appearance of Special Agent [redacted] and the release of the enclosed document in the captioned case have been approved. Special Agent [redacted] testimony is limited

1 - Addressees
1 - 87A-PG-64410
1 - 197-80
JPK/jbk
(4)

89A-PG-64410-76
Search Gen. [redacted]
Firms [redacted]
S. [redacted]
Index [redacted]
Filed [redacted]

I:\1 [redacted] 240ABX01.LTR (WP61)

J. Scott Robinette, Esq.

to his investigation relating to the defendant, [REDACTED] in
the captioned case.

I can be reached at [REDACTED] for additional
information or assistance.

Very truly yours,

b6
b7C

[REDACTED]
Chief Division Counsel

Enclosure

1 - [REDACTED] Esq. (Encl.)
Assistant Chief, Civil Division
United States Attorney's Office
633 U.S. Post Office and Courthouse
Pittsburgh, PA 15219



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

August 26, 1998

MIKE FISHER
ATTORNEY GENERAL

CRIMINAL PROSECUTIONS SECTION
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(412) 880-0104

VIA FACSIMILE AND
FIRST CLASS U.S. MAIL

[REDACTED]
Chief Division Counsel
Federal Bureau of Investigation
P.O. Box 1315
Pittsburgh, PA 15230

b6
b7C

Re: Commonwealth v [REDACTED]

Dear Mr. [REDACTED]

As you know, the Pennsylvania Office of Attorney General is prosecuting [REDACTED] for charges arising from a telephone call which also served as the basis for federal charges. It is my understanding that FBI Agent [REDACTED] produced a 302 report as a result of an interview conducted with Mr. [REDACTED] at or about the time of his preliminary arraignment. Based upon a review of the transcript of [REDACTED] federal trial, it is also my understanding that Mr. [REDACTED] made certain admissions during the course of his interview with Agent [REDACTED].

The purpose of this letter is to request an opportunity to review the 302 report generated by Agent [REDACTED] on that occasion. Agent [REDACTED] was questioning Mr. [REDACTED] about the same telephone call which forms the basis of the state prosecution against him. At this time I doubt that I will seek to introduce any evidence in state court about agent [REDACTED] interview with Mr. [REDACTED]. However, I request the opportunity to review his report so that I may make an informed decision regarding the potential utility of Agent [REDACTED] testimony.

[redacted]

Chief Division Counsel
August 26, 1998
Page 2

b6
b7C

[redacted] As soon as possible, I will obtain and forward to you a subpoena *duces tecum* for Agent [redacted] and his 302 report. The trial in this case is imminent, scheduled to commence on Tuesday, September 1, 1998.

Thank you for your cooperation and attention to this matter. Do not hesitate to contact me directly if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Scott Robinette', with a stylized flourish at the end.

J. Scott Robinette
Deputy Attorney General

JSR/mbc

COMMONWEALTH
VS.

IN THE COURT OF COMMON PLEAS
OF
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

[REDACTED]

JURY TRIAL

No. 1386-1997

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CAMBRIA

TO: AGENT [REDACTED] F.B.I.

b6
b7C

1. You are hereby ordered by the Court to come to the Cambria County Courthouse at Ebensburg, Pennsylvania on the 1st day of Sept. thur Sept. 16, 1998 next at 9:00 o'clock, A M., prevailing time, to testify on behalf of the Commonwealth in the above captioned case, and there to remain until excused by the Court.

2. You are also required to bring with you the following: Any and all reports from the [REDACTED] Trial, also provide the District Attorney's Office with the written statement and the note book received into evidence provided by [REDACTED]

August 26, 19 98

BY THE COURT:

(Affix Court Seal Here)

BY

[Signature]
Clerk of Courts

(Mount Clipping in Space Below)



ROGER VOGEL FOR THE TRIBUNE-DEMOCRAT

City Councilman Todd Rastall brought a gun to council's meeting after hearing a man convicted of threatening Rep. John Murtha would be there.

(Indicate page, name of newspaper, city and state.)

PAGE 1
THE TRIBUNE-DEMOCRAT
JOHNSTOWN, PA

Date: FRIDAY 8/28/98
Edition:

Title: [REDACTED] AKA;
JOHN T. MURTHA - MEMBER OF
CONGRESS, WASH. D.C. -
Character: VICTIM
or
Classification: CCSCALA - THREAT
Submitting Office:
89A-PG-64410

Indexing:

b6
b7C

'I'm not paranoid'

City councilman a pistol-packer

By JASON GREEN
THE TRIBUNE-DEMOCRAT

Saying he feared for his safety, Johnstown City Councilman Todd Rastall was prepared to take matters into his own hands.

No shots were fired.

Rastall, who has a gun permit and carries a handgun, packed his revolver before heading to Wednesday night's city council meeting.

He knew that Donald Fenton, who was convicted of threatening to kill U.S. Rep. John Murtha, D-Johnstown, was likely to be in the audience.

Worried that something might happen, Rastall said he wanted to be prepared.

"The city can't protect me. If they're not going to protect council and me, I'm going to exercise my Second Amendment rights," he added in a telephone interview from his store.

"There are graveyards filled with people who weren't considered a threat. I'm not paranoid, but I'm careful," the councilman said.

But federal officials do not consider

Please see PISTOL, A4

PISTOL

Continued from A1

Fenton, who wears a monitoring device, dangerous and allowed him to attend the meeting, City Manager Karl Kilduff said. Because of that decision, there is nothing council can do to keep him out of the public session.

"They gave him permission to come out," Kilduff said in a telephone interview from his office. "In their opinion, he's safe."

But Rastall, who says he always carries a gun because he often has money from his businesses with him, argues that Fenton, who also addressed city council during an Aug. 12 meeting, should not have been given a second opportunity to speak to the body.

Reached at his home, Fenton called Rastall's reaction "irrational."

"I'm trying to do the right thing," he said in a telephone interview. "This thing is nothing but a complete and utter attempt to destroy me."

Fenton said he's not trying to scare anyone and wanted to apologize to Rastall and anyone else whom he has made afraid.

"Everyone's walking around scared that I'm going to kill somebody," he added. "I'm not about that."

As a convicted felon, he's given up his rights and should not be permitted to attend meetings, Rastall said.

"It's a total breach of security," he added, citing the Capitol shooting last month in Washington as an example of what could have gone wrong.

"It's not like all of a sudden he came up. We knew he'd be there."

Fellow Councilman Ron Stevens said he has no prob-

lem with Rastall having a gun at the meeting if he has a permit.

"I guess he has a license to carry it," Stevens added in a telephone interview from his home. "It isn't a problem."

Kilduff said it's Rastall's prerogative to arm himself and didn't have a problem with the councilman packing heat.

"He has a right to carry it," Kilduff added. "We'd like to think these sessions don't warrant carrying a gun."

At Wednesday's meeting, after Fenton said his peace and left without incident, council discussed safety issues.

Mayor Don Zucco said the city shouldn't exclude people from meetings, but must ensure they have a salient point to make and stick to it.

"It's a delicate balance. We want to treat everyone who comes with courtesy," he said toward the end of the one-hour meeting. "I also don't want that podium to become a platform."

During his address to council, Fenton rambled about a plan, which he called "perfect and flawless in every way" and "not pie-in-the-sky" for Johnstown's prosperity.

But Fenton was unable to cite specific steps that should be taken or present his proposal in writing.

When he previously addressed council, Fenton was asked to submit his ideas in writing. He never has.

Fenton, 41, of Geistown was convicted of threatening to kill a federal official in July. No sentencing date has been set.

A trial also is scheduled in Cambria County Court, as Fenton allegedly threatened Murtha's aide and an insurance agent.

Jury selection is slated next week.

"I'm trying to do the right thing. This is nothing but a complete and utter attempt to destroy me ... Everyone's walking around scared that I'm going to kill somebody. I'm not about that."

Donald Fenton

m v r q

(Indicate page, name of newspaper, city and state.)
PAGE 3
THE TRIBUNE-DEMOCRAT
JOHNSTOWN, PA

Date: **9/2/98**
 Edition:



JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

Classification:
 Submitting Office:
89A-PG-64410

Indexing:

b6
 b7C

(Mount Clipping in Space Below)

Geistown man awaits his fate

Fenton phone call in question

By **SANDRA K. REABUCK**
 TRIBUNE-DEMOCRAT NORTH CAMBRIA BUREAU

EBENSBURG - A Cambria County jury could decide today whether Donald Fenton intended to terrorize an insurance adjustor when he made threats to kill the insurance company's employees, U.S. Rep. John Murtha and others in a Dec. 3 telephone call.

Fenton, 42, of Geistown, already has been convicted in U.S. District Court in Johnstown for making threats to kill Murtha, D-Johnstown, in the telephone call and is awaiting sentencing on that charge. The conviction carries a maximum penalty of five years in prison and \$250,000 in fines.

On Tuesday, Fenton's trial on state charges of terroristic threats, harassment and harassment by communications opened in county court with Randy Leventry, the Erie Insurance Co. adjustor, telling the jury about Fenton's threats "to start killing people" in a telephone call that lasted less than 10 minutes.

The state rested its case after calling Officer Kevin Price of the Stonycreek Township police to testify about Fenton's admitting in a July proceeding that he had made the call and saying he had been "absolutely" in control of himself when he talked to Leventry. The jury was not told, however, that Fenton's admission came during his federal trial.

Public defender Richard Corcoran in his opening to the jury said that under law, a defendant cannot be convicted of terroristic threats if the statements are made "in transitory anger." Corcoran did not say whether Fenton will take the witness stand as he had at his federal trial.

The jury is expected to get the case by noontime after the defense

wraps up its case and Judge Thomas Swope gives instructions in the law.

In testimony Tuesday, Leventry said Fenton called about 6:30 p.m. Dec. 3 to complain about another problem with his truck, which had been in and out of repair shops for months ever since a garage - which had liability insurance with Erie - failed to replace the oil during an oil change and the engine was destroyed.

Fenton, who said he needed his truck for his construction business, complained he was broke and had not eaten for three days, the adjuster recalled.

When told to take the truck back to a Windber garage to be checked, Fenton told him he "had guns and bullets and was going to start killing people," Leventry testified.

"He stated he believed congressman Murtha was in a conspiracy with Erie Insurance and The Tribune-Democrat to ruin him....He stated congressman Murtha had stolen his ideas about the economic recovery of Johnstown," Leventry said.

Fenton claimed Murtha was "using psychological tactics" to steal his business, said the insurance adjustor.

"He stated he was going to shoot Mr. Murtha's head off and Mr. (John) Hugya's head off," Leventry said. Hugya is an aide to the congressman.

Fenton was upset that The Tribune-Democrat

had taken three months to publish a letter that he had written to the Readers' Forum, said Leventry. The letter was in the paper on the day of the phone call, he said.

"He said that he was going to go down there (the newspaper) with guns blazing," Leventry recalled.

"He stated he was going to shoot Mr. Murtha's head off and Mr. (John) Hugya's head off."

Randy Leventry,
Erie Insurance Co.
adjustor

89A-PG-64410-78

SEARCHED	GEN	FOIMS
SERIALIZED	INDEXED	
SEP - 4 1993		
FBI - PITTSBURGH		



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(Mount Clipping in Space Below)



TODD BERKEY/THE TRIBUNE-DEMOCRAT

Donald Fenton leaves a Cambria County courtroom in Ebensburg on Monday. A jury could decide today whether Fenton intended to terrorize an insurance adjustor.

According to Leventry, Fenton talked about "the government being against the people and that the people would have to take things in their own hands. He stated that Timothy McVeigh was my hero. He stated if the government declared war on him, he'd have to take a body count. He stated he'd kill until he was killed. It may not happen today or tomorrow, but it will happen."

Leventry also recalled, "He said he'd kill all Erie employees. He said I should keep my doors locked. I was definitely afraid."

Afterward, Leventry said that he

called his wife and two children together to tell them "we have a problem." In an emotional moment, Leventry nearly broke down when he told the jury that he then instructed his wife and his 15-year-old son how to use a firearm.

But on cross-examination, the adjustor admitted his first call was not to police but to his manager to warn him of the threats against Erie employees. And Leventry said he took the time to look in the telephone book for the Stonycreek Township police's office number rather than dialing 911.

(Indicate page, name of newspaper, city and state.)

PAGE 3
THE TRIBUNE-DEMOCRAT
JOHNSTOWN, PA

Date: 9/2/98
Edition:

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b7C

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

Classification:
Submitting Office:

89A-PG-64410

Indexing:

(Mount Clipping in Space Below)

(Indicate page, name of newspaper, city and state.)

PAGE 1
THE INDIANA GAZETTE
INDIANA, PA

Date: 8/22/98
Edition:

The Indiana Gazette / Saturday, August 22, 1998—

McVeigh is his 'hero'

EBENSBURG, Pa. (AP)—A man convicted of threatening to kill U.S. Rep. John Murtha, D-Johnstown, is accused of threatening to kill an insurance agent as well, saying Oklahoma City bomber Timothy McVeigh is his "hero."

Cambria County Judge Timothy Creany ruled on Friday that prosecutors can let jurors know the Donald L. Fenton, 42, of Geistown, made the comment about McVeigh during Fenton's trial.

Fenton is charged with making terroristic threats and harassment by communications.

He is accused of threatening to kill Randy Leventry, an Erie Insurance

Co. agent, and everyone in the company's Johnstown office during a telephone call to Leventry on Dec. 3. He also is accused of saying "Timothy McVeigh is my hero" during the call.

Police said Leventry was handling an insurance claim for damage to Fenton's truck. Workers who repaired it failed to refill the truck's oil, which ruined the vehicle.

Last month Fenton was convicted in federal court for threatening to assault and kill Murtha in the same Dec. 3 telephone call. According to previous testimony, Fenton blamed Murtha for the truck damage and other problems in his life.

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

Submitting Office:

89A-PG-64410
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89A-PG-64410-79

SEARCHED	GEN	FOIMS
SERIALIZED	INDEXED	
FILED		
AUG 31 1998		
FBI - PITTSBURGH		

(Mount Clipping in Space Below)

The Indiana Gazette / Friday, September 4, 1998—Page 9

Man convicted of threatening insurance agent

PITTSBURGH (AP) — A Cambria County jury convicted a man of threatening to kill his insurance agent over a claim on his pickup truck.

Last month, a federal jury convicted the defendant, Donald Lee Fenton, of threatening to kill U.S. Rep. John Murtha. He faces up to six years in prison on that count.

Dec. 3, Fenton called Randy Leventry of Erie Insurance Co. and said he was angry about the claim. Workers who repaired damage to the truck failed to refill the truck's oil, ruining the vehicle, Fenton said.

He threatened to kill Leventry and everyone in the company's Johnstown office and also threatened employees of the Tribune-Democrat newspaper of Johnstown. Prosecutors said Fenton also told Leventry that Oklahoma City bomber Timothy McVeigh was his hero.

During the same phone call, Fenton threatened to kill Murtha. Fenton testified that "kill" was a "figure of speech" and that he called McVeigh a baby killer, not a hero.

(Indicate page, name of newspaper, city and state.)
PAGE 9
THE INDIANA GAZETTE
INDIANA, PA

Date: 9/4/98
Edition:

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

Classification:

Submitting Office:

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Indexing:

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b7C

89A-PG-64410-80

SEARCHED	GEN	FOIMS
SERIALIZED	INDEXED	
FILED		

SEP 10 1998

FBI - PITTSBURGH

PAW

The Tribune-Democrat, Johnstown, Pa.

Sunday, September 27, 1998

Council muzzles Fenton

Law might not hold up in court.

By JASON GREEN
THE TRIBUNE-DEMOCRAT

Johnstown Mayor Don Zucco has banned Donald Fenton from speaking at council meetings, but a civil liberties spokesman said the law used to keep him out might not withstand a court challenge.



Zucco

City council has already passed on one read, and then backed off, a gun ordinance that the state Attorney General's Office said would probably not pass constitutional muster.

The ordinance would have banned firearms from all city government-owned buildings.

The gun proposal was also inspired by Fenton. Councilman Todd Rastall had brought a handgun for protection to a council meeting that he believed Fenton would attend. Fenton awaits sentencing after having been convicted of threatening the life of U.S. Rep. John Murtha, D.-Johnstown.

City Manager Karl Kilduff initially said it was Rastall's prerogative to arm himself. Later, Kilduff supported the gun ban and said the ordinance



Fenton

would help make members of council feel safer.

Now, the mayor has imposed a gag order on Fenton.

Citing an ordinance adopted in October 1993 and council's "house rules," adopted last month, Zucco banned Fenton from voicing his opinion at council meetings.

But Larry Frankel, American Civil Liberties Union of Pennsylvania's executive director, says the 1993 ordinance is too broad to be effective and legal.

The ordinance says: "Any person making offensive, insulting, threatening, insolent, slanderous or obscene remarks or who becomes boisterous or who makes threats against any person or against public order and security while in the council chambers" shall be barred "from further audience."

The action can be overturned by a majority vote of council.

A person can be banned for making threats, but not insulting some-

(Indicate page, name of newspaper, city and state.)
PAGE 1
THE TRIBUNE-DEMOCRAT
JOHNSTOWN, PA

Date:
Edition:

9/27/98

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

Character:

or

Classification:

Submitting Office:

89A-PG-64410

Indexing:

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b7C

21

PHW

(Indicate page, name of newspaper, city and state.)

(Mount Clipping in Space Below)

Date:
Edition:

Title:

Character:
or
Classification:
Submitting Office:

Indexing:

COUNCIL

Continued from A1

one, Frankel said.

"There may be something they can do with your time, place and manner on some of these things," he added in a telephone interview from his Philadelphia office. "You cannot do it on content."

The vagueness of the ordinance also invites problems, he said.

For instance, Frankel wanted to know, who determines what's offensive or insulting speech.

The statute probably could be defeated in court, he added.

"You can't silence those you disagree with or those who disagree with you," he added. "To hold public office, you can't have thin skin."

Councilmen supported Zucco's action to ban Fenton, who called Murtha and one of his aides "murderers" in a previous address to council, from speaking.

Councilwoman Nancy Malloy said speakers should not be allowed to give insulting or offensive remarks.

"I don't think anyone should be able to talk about any elected or nonelected official, past or present," she said in a telephone interview from her home.

The purpose of citizens speaking at a meeting is to convey information, Malloy said, adding that city residents have a right to share their opinions. Sometimes they shed light on other ideas that council hadn't

thought about.

"That's what we want," she said. "It helps us make our decisions."

Fenton called the Zucco-imposed ban censorship.

"It's a violation of my constitutional rights," he said in a telephone interview from his home. "Nobody cares but me."

But Councilman Brian Subich said the ordinance is not intended to keep people out. Instead, it is meant to keep civility and hold discussions to city business.

"Someone who comes in and says some of the stuff Mr. Fenton said is way off the mark," Subich added in a telephone interview from his office.

Subich agreed that offensive and insulting remarks can be seen in different ways by different people. The ordinance, he said, should be used in "very rare" cases.

"It was put there before (we were elected)," he added.

"We have the right to use it."

Zucco imposed the ban during Wednesday's council meeting.

Fenton was scheduled to speak, but did not attend the session in the Johnstown Public Safety Building.

Neither Zucco nor Johnstown Solicitor Dick Green could be reached for comment.

Manager Kilduff said this is the first time the ordinance had been used to ban speakers at meetings during his year and a half working for the city.

He was unsure if it had ever been used before and didn't know what prompted the ordinance to be enacted.

Councilmen supported Zucco's action to ban Fenton, who called Murtha and one of his aides "murderers" in a previous address to council, from speaking.

FD-515 (Rev. 10-29-97)
☒ Squad supervisor approval
(please initial)

Accomplishment Report
Accomplishment must be reported and loaded
within 30 days from date of accomplishment)

Date Prepared 10/15/98
Date Loaded 10/29/98
Data Loader's Initials Wing

Accomplishment involves:
(check all that apply)

Drugs ☐
A Fugitive ☐
Bankruptcy Fraud ☐
Computer Fraud/Abuse ☐
Corruption of Public Officials ☐
Forfeiture Assets ☐
Sub Invest Asst by FO (s) ☐

File Number
89A-PG-64410

Stat Agent Soc. Sec. No.
[Redacted]

Stat Agent Name
[Redacted]

RA JRA Squad 10

Assisting Agents Soc. Sec. No. X

1. - -

Name:

2. - -

Name:

Investigative Assistance or Technique Used											
1-Used, but did not help						3 - Helped, substantially					
2 - Helped, minimally						4 - Absolutely essential					
For Sub. Invest. Asst. by other FO (s) indicate A,B,C,D for corresponding FO											
Rate	FO	IAT	Rate	FO	IAT	Rate	FO	IAT	Rate	FO	IAT
		Fin. Analyst			Lab. Div. Exam			UCO - Group I			Fl. Mon.- NRCSC
		Aircraft Asst.			Lab. Field Sup			UCO - Group II			For. Lang Asst.
		Computer			Pen Registers			UCO - Nat. Back			Non FBI Lab Ex
		Consen Mon.			Photo Cover.			NCAVC / VI - CAP			Vict-W/in Coor
		Elsur / FISC			Polygraph			Crim Intel Asst			
		Elsur / T. III			Search Warrant			Crisis Neg. - Fed.			
		Eng. Field Spt.			Show Money			Crisis Neg. - Local			
		Eng. Tape Ex			SOG Asst.			ERT Asst.			
		Legats Asst.			Swat Team			Butte - ITC			
		Evid Purchase			Tech. Ag/Equip.			Sav - ITC			
		Inf/CW Info			Phone Toll Rec			Poc - WRCSC			

Asst. FO(s) A, B, C, D

Task Force

Assisting Agencies X •

1. LOC

2. ST

A. Complaint / Information / Indictment
☐ Federal ☐ Local ☐ International
Complaint Date _____
Check if Civil Rico Complaint ☐
Information Date _____
Indictment Date _____

B. Locate/ Arrest
☐ Federal ☐ Local ☐ International
Subject Priority: ☐ A ☐ B ☐ C
Locate Date _____
Arrest Date _____
☐ Subject Resisted Arrest
☐ Subject Arrested was Armed

C. Summons
☐ Federal ☐ Local
Summons Date _____

H. Conviction
☐ Federal ☒ Local ☐ International
Conviction Date: 9/2/98
Subject Description Code: 8A • (ST) •
For 6F, G, H - Include Agency Code
☐ Felony Or ☒ Misdemeanor
☐ Plea Or ☒ Trial
State: PA Judicial District: 47th

D. Hostage(s) Released Date _____
Released by: ☐ Terrorist ☐ Other
Number of Hostages: _____
Child Located Date _____

E. Recovery / Restitution / PELP X
☐ Federal ☐ Local ☐ International
Recovery Date _____
Code • Amount
\$ _____
\$ _____
Restitution Date _____
☐ Court Ordered
☐ Pretrial Diversion
Code • Amount
\$ _____
PELP Date _____
Code • Amount
\$ _____

I. U.S. Code Violations
Required for Sections A, B, F, and H
(Federal only)

Title	Section	# of Counts

F. Civil Rico Matters Date _____
Also Complete Section I
or
Other Civil Matters Date _____
Judgment _____
Judicial Outcome _____ X •
Amount: \$ _____
Suspension:

b6	ars	Months
b7C		

G. Administrative Sanctions Date _____
Subject Description Code _____
Type: _____ Length: _____
☐ Suspension ☐ Permanent
☐ Debarment ☐ Years Months
☐ Injunction

J. Sentence Date: _____
Sentence type: _____

In-Jail	Suspended	Probation			
Years	Months	Years	Months	Years	Months

Fines: \$ _____

K. Acquittal / Dismissal / Pretrial Diversion
Acquittal Date _____
Dismissal Date _____
Pretrial Diversion Date _____

L. Subject Information (Required for all Sections excluding Section D (Hostages) and E (Recovery/PELP))

	Race •	Sex	Date of Birth	Social Security No. (if available)
	<u>W</u>	<u>M</u>		

☐ Subject related to an LCN, Asian Organized Crime (AOC), Italian Organized Crime (IOC), Russian/Eastern European, Caribbean, or Nigerian Organized Crime Group - Complete FD-515a, Side 1 and Side 2.
☐ Subject related to an OC/Drug Organization, a VC/MO Program National Gang Strategy target group, or a VC/MO Program National Priority Initiative target group - Complete FD-515a, Side 2.

X Additional information may be added by attaching another form or a plain sheet of paper for additional entries.
• See codes on reverse side.

Serial No. of FD-515
Indexed
Filed

89A-PG-64410-82

On September 2, 1998, in the Court of Common Pleas, Cambria County, Ebensburg, PA, [] was found guilty in a jury trial of Harassment by Communication, a third degree misdemeanor, and Terroristic Threats, a first degree misdemeanor, under the laws of the Commonwealth of Pennsylvania, regarding telephonic threats directed toward Insurance Agent, [], on December 3, 1997. During this telephone call, [] also made threats directed toward U.S. Congressman John P. Murtha, Johnstown, PA, and his aide, [] for which [] was subsequently convicted in U.S. District Court, Johnstown, PA. [] currently awaiting sentencing on the federal conviction.

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b7C

10/29/98

***** CONVICTION *****

SENSITIVE / UNCLASSIFIED

Case Number: 89A-PG-64410

Stat Agent Name:

Report Date: 10/29/1998

Serial No.: 82

Stat Agent SOC.:

Accom Date.: 09/02/1998

b6
b7C

Does Accomplishment Involve	Assisting Joint Agencies	Assisting Agents SOC	Subject Name
Drugs : N	LOC		
A Fugitive. : N	ST		
Bankruptcy Fraud. : N			
Computer Fraud/Abuse. : N			RA Squad Task Force
Corruption of Public Officials: N			-----
Forfeiture Assets : N			JOHN 10

Sub. Invest. Asst by Other FOs:

1 = Used, but did not help
2 = Helped, Minimally
3 = Helped, Substantially
4 = Absolutely Essential

Investigative Assistance or Technique Used

FINAN ANALYST	LAB DIV EXAMS	UCO-GROUP I	FT. MON-NRCSC
AIRCRAFT ASST	LAB FIELD SUP	UCO-GROUP II	FOR LANG ASST
COMPUTER ASST	PEN REGISTERS	UCO-OTHER	NON FBI LAB EX
CONSEN MONITR	PHOTO COVERGE	NCAVC/VI-CAP	VICT-WITN COOR
ELSUR/FISC	POLYGRAPH	CRIM INTEL AST	
ELSUR/III	SRCH WAR EXEC	CRIS NEG-FED	
ENG FIELD SUP	SHOW MONEY	CRIS NEG-LOC	
ENG TAPE EXAM	SOG ASST	ERT ASST	
LEGATS ASST.	SWAT TEAM	BUTTE-ITC	
EVIDNCE PURCH	TECH AG/EQUIP	SAVANNAH-ITC	
INFORMANT/CW	TEL TOLL RECS	POC-WRCSC	

Date of Conviction (MM/DD/YYYY) : 09/02/1998

Date of Sentencing (MM/DD/YYYY) :

Subject Description Code. : 8A

Federal, Local, or International (F/L/I) : L

Felony or Misdemeanor (F/M) : M

Plea or Trial (P/T) : T

Judicial State. : PA

Judicial District :

Type of Sentence :

U. S. Code Violation(s)

Year Month

=====

Form FD-515a Side 2:

Time in Jail. . :

Title Section Counts

Investigative Efforts = N/A OR NONE

Time Suspended.:

Subject's Role = N/A OR NONE

Probation Time.:

Scope = N/A OR NONE

Total Fines. . :\$

Accomplishment Narrative

Accomplishment Report

Accomplishment must be reported and loaded in (b) (6) within 30 days from date of accomplishment)

Date Prepared 10/16/98

Date Loaded 7/7

Data Loader's Initials _____

Accomplishment involves: (check all that apply)	
Drugs	<input type="checkbox"/>
A Fugitive	<input type="checkbox"/>
Bankruptcy Fraud	<input type="checkbox"/>
Computer Fraud/Abuse	<input type="checkbox"/>
Corruption of Public Officials	<input type="checkbox"/>
Forfeiture Assets	<input type="checkbox"/>
Sub Invest Asst by FO (s)	<input type="checkbox"/>

Asst. FO(s) , , ,
A, B, C, D

Task Force

Assisting Agencies x •
1. LOC
2. ST

File Number
89A-PG-64410

Stat Agent Soc. Sec. No.Stat Agent Name _____

RA	Squad
JRA	10

Assisting Agents Soc. Sec. No. ^x

1. - -

Name: _____

2.	-	-
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Name: _____

Investigative Assistance or Technique Used											
1-Used, but did not help						3 - Helped, substantially					
2 -Helped, minimally						4 - Absolutely essential					
For Sub. Invest. Assist. by other FO (s) indicate A,B,C,D for corresponding FO											
Rate	FO	IAT	Rate	FO	IAT	Rate	FO	IAT	Rate	FO	IAT
		Fin. Analyst			Lab. Div. Exam			UCO - Group I			Fl Mon.- NRCS
		Aircraft Asst.			Lab. Field Sup			UCO - Group II			For. Lang Asst.
		Computer			Pen Registers			UCO - Nat. Back			Non FBI Lab Ex
b6		Consens Mon.			Photo Cover.			NCAVC / VI - CAP			Vic/Witn Coord
b7C		Elsur / FISC			Polygraph			Crim Intel Asst			
		Elsur / T. III			Search Warrant			Crisis Neg. - Fed.			
		Eng. Field Spl.			Show Money			Crisis Neg. - Local			
		Eng. Tape Ex			SOG Asst.			ERT Asst.			
		Legats Asst.			Swat Team			Butte - ITC			
		Evid Purchase			Tech. Ag/Equip.			Sav - ITC			
		Int/CW Info			Phone Toll Rec			Poc - WRGSC			

A. Complaint / Information / Indictment
☐ Federal ☐ Local ☐ International
Complaint Date _____
 Check if Civil Rico Complaint ☐
Information Date _____
Indictment Date _____

B. Locate/ Arrest

☐ Federal ☐ Local ☐ International

Subject Priority: ☐ A ☐ B ☐ C

Locate Date _____

Arrest Date _____

☐ Subject Resisted Arrest

☐ Subject Arrested was Armed

C. Summons
☐ Federal ☐ Local
Summons Date _____

H. Conviction
☐ Federal ☐ Local ☐ International

Conviction Date: _____

Subject Description Code: ____ • (____) •

For 6F, G, H--Include Agency Code

☐ Felony Or ☐ Misdemeanor

☐ Plea Or ☐ Trial

State: _____ **Judicial District:** _____

D. Hostage(s) Released Date _____
Released by: ☐ Terrorist ☐ Other
Number of Hostages: _____
Child Located Date _____

E. Recovery / Restitution / PELP X
☐ Federal ☐ Local ☐ International

Recovery Date _____

Code • Amount

	\$
	\$

Restitution Date _____ <input type="checkbox"/> Court Ordered <input type="checkbox"/> Pretrial Diversion Code * Amount	
	\$

PELP Date _____

Code * Amount

	\$
--	----

I. U.S. Code Violations
Required for Sections A, B, F, and H
(Federal only)

Title	Section	# of Counts

F. Civil Rico Matters Date _____
Also Complete Section I

or

Other Civil Matters Date _____

Judgment _____ *

Judicial Outcome _____ X *

Amount: \$ _____

Suspension: _____

G. Administrative Sanctions Date _____

Subject Description Code _____

Type: _____ **Length:** _____

☐ Suspension ☐ Permanent

☐ Debarment ☐

Years	Months

☐ Injunction

J. Sentence Date: 10/15/98
Sentence type: SS, PB.

In-Jail		Suspended		Probation	
Years	Months	Years	Months	Years	Months
		1	-	5	-

Fines: \$

K. Acquittal / Dismissal / Pretrial Diversion
 Acquittal Date _____
 Dismissal Date _____
 Pretrial Diversion Date _____

L. Subject Information (Required for all Sections excluding Section D (Hostages) and E (Recovery/PELP))

Race *		Sex	Date of Birth	Social Security No. (if available)
W		M		

For Indictments/Convictions only:

- ☐ Subject related to an LCN, Asian Organized Crime (AOC), Italian Organized Crime (IOC), Russian/Eastern European, Caribbean, or Nigerian Organized Crime Group - Complete FD-515a, Side 1 and Side 2.
- ☐ Subject related to an OC/Drug Organization, a VCMO Program National Gang Strategy target group, or a VCMO Program National Priority Initiative target group - Complete FD-515a, Side 2.

X Additional information may be added by attaching another form or a plain sheet of paper for additional entries.

- See codes on reverse side.

Serialized
Indexed
Filed

89A-PG-64410-83

On September 2, 1998, in the Court of Common Pleas, Cambria County, Ebensburg, PA, [] was found guilty in a jury trial of Harassment by Communication, a third degree misdemeanor, and Terroristic Threats, a first degree misdemeanor, under the laws of the Commonwealth of Pennsylvania, regarding telephonic threats directed toward Insurance Agent, [], on December 3, 1997. During this telephone call, [] also made threats directed toward U.S. Congressman John P. Murtha, Johnstown, PA, and his aide, [] for which [] was subsequently convicted in U.S. District Court, Johnstown, PA. [] currently awaiting sentencing on the federal conviction.

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On October 15, 1998, [] was sentenced in Cambria County Court on the above related charges, to a term of 60 months probation with conditions that he have no contact with [] or his family and U.S. Congressman Murtha and his staff, among others. In addition, [] was ordered to undergo a mental health evaluation, specifically relating to anger management. [] also ordered to pay court costs in the amount of \$25.00/month for the duration of his probation.

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/27/1998

To: Pittsburgh

From: Pittsburgh

Squad 10/JRA

Contact: SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: 89A-PG-64410 (Pending)

b6
b7C

Title: [redacted]

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997
CCSCAKA - THREAT

Synopsis: EC to report state-related conviction and sentence of Fenton.

Administrative: Due to an administrative oversight, the FD-515 reporting [redacted] state related conviction in captioned matter was not submitted within 30 days as required. In the future, every effort will be made to ensure that FD-515s are submitted on a timely basis.

Details: By way of background, on 12/3/1997, [redacted] was arrested on charges he made a threatening telephone call to [redacted] an insurance agent. [redacted] was upset with [redacted] regarding repairs to his truck. During the call [redacted] also directed threats toward U.S. Congressman John P. Murtha and his aide, [redacted]

On 7/8/1998, in USDC, Johnstown, PA, [redacted] was convicted in a jury trial of threatening the life of Congressman Murtha. [redacted] is currently awaiting sentence in relation to his Federal conviction.

b6
b7C

On 9/2/1998, in Cambria County District Court, Ebensburg, PA, in a jury trial, [redacted] was found guilty of Harassment By Communication, 3rd degree misdemeanor, and Terroristic Threats, a 1st degree misdemeanor, regarding his threats directed to [redacted] FD-515 submitted.

[redacted]

300PHW02, EC

89A-PG-64410-84
Search [redacted]
Filing [redacted]
Searched [redacted]
Indexed [redacted]
Filed [redacted]

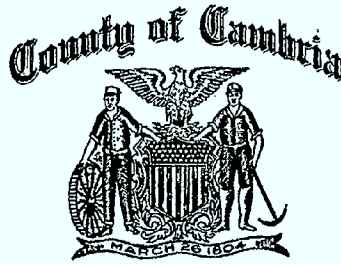
To: Pittsburgh From: Pittsburgh
Re: 89A-PG-64410, 10/27/1998

On 10/15/1998, in Cambria County District Court, Ebensburg, PA, District Court Judge Swope sentenced [] on the state-related charges. [] received a sentence of 60 months probation and was not have any contact with [] or his family, Laurel Ford, The Tribune-Democrat, or Congressman Murtha and his staff. In addition, [] was ordered to undergo a mental health evaluation, specifically related toward anger management. [] was also ordered to pay costs in the amount of \$25/month for the duration of his probation. FD-515 submitted. b6 b7C

[] Sentence pending in USDC, Johnstown, PA, regarding [] conviction of threatening U.S. Congressman Murtha. Will follow and report results.

♦♦

DAVID J. TULOWITZKI
DISTRICT ATTORNEY



PATRICK T. KINIRY
FIRST ASSISTANT

CHRISTIAN A. FISANICK
CHIEF DEPUTY, APPELLATE DIVISION

Office of the District Attorney
EBENSBURG, PENNSYLVANIA
(814) 472-5440

October 22, 1998

[Redacted]
P.O. Box 129
Johnstown, PA 15907

RE: COMMONWEALTH VS [Redacted]

Dear Mr [Redacted]

b6
b7C

Enclosed please find the copies which you requested on the above captioned case. If you have any questions, please feel free to contact me.

Very truly yours,

[Redacted Signature]
Secretary

enclosure

IN THE COURT OF COMMON PLEAS - CRIMINAL - OF CAMBRIA COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

No. 2336 1997

vs.

HARASSMENT BY
COMMUNICATION OR ADDRESS

DONALD L. FENTON

VERDICT

AND NOW, Sept 2, 19 98, we the Jurors empaneled in the
above entitled case, find the defendant, Guilty

Arnold Siskica

Foreman

IN THE COURT OF COMMON PLEAS - CRIMINAL - OF CAMBRIA COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

No. 2336 (A) 19 97

vs.

TERRORISTIC THREATS

DONALD L. FENTON

VERDICT

AND NOW, Sept. 2, 19 98, we the Jurors empaneled in the
above entitled case, find the defendant, GUILTY

Conrad Scherick

Foreman

IN THE COURT OF COMMON PLEAS -- CRIMINAL -- OF CAMBRIA COUNTY, PENNSYLVANIA
TRIAL

Defendant: DONALD L. FENTON No: 2336-97 OTN: F 118539-1

Charge: HARASSMENT BY COMMUNICATION OR ADDRESS

Date of Verdict: SEPT. 2, 1998 Judge: THOMAS A. SWOPE, JR. Clerk: J. KOVACH

Defense Counsel: R. CORCORAN Commonwealth: SCOTT ROBINETTE Ct. Steno.: B. BEARER

Sentencing date is 15 day of OCT., 1998 Pre-sentence investigation report by the Cambria County Probation Office/Pennsylvania Board of Probation and Parole is due 5 day of OCT., 1998

Bond continued. Bond of \$ set. Defendant remanded to Jail

SENTENCE

NOW, OCTOBER 15, 1998, the defendant, DONALD L. FENTON

(Address) 2434 BEDFORD ST, JOHNSTOWN, PA 15904

☒ is sentenced to pay the costs of prosecution,

☐ restitution of \$

☐ the sum of \$ for the use of Cambria County

(COUNTY JAIL)

☐ and undergo imprisonment in the County Jail for a period of not less than

3 mo nor more than 12 mo

☐ Defendant is given automatic parole (credit for time served)

(STATE PRISON)

☐ and is to be committed to the Western Correctional, Diagnostic and Classification Center located at the State Correctional Institution, Pittsburgh, Pa. for a term of not less than years nor more than years. Defendant shall be delivered to said institution by the Sheriff of Cambria County.

(PROBATION)

☐ and is placed on probation for a period of , under the supervision of the Cambria County Probation Office/Pennsylvania Board of Probation and Parole.

☐ Sentence shall be served concurrently consecutively with 234(a) 97

(OTHER CONDITIONS)

(PAYMENT PLAN)

1. How much money can you pay a month on your bill?

2. Do you understand if you miss a payment it will be a violation of your sentence and you could be placed in jail?

3. Do you agree with this condition of your parole?

☐ The Court Orders the defendant to make monthly payments of which includes probation fees; collection fees; on costs, restitution and fines.

Payment will be due the day of each month beginning the day of , 1998. These payments are one of the conditions of the defendant's sentence. If the payments are not made, it will be a violation of the sentence and could cause incarceration of the defendant.

Car Used: ☐ Yes ☐ No
WHITE (CLERK OF COURTS)

BLUE (PROBATION OFFICE)

BY THE COURT:

YELLOW (JUDGE)

GREEN (MHR)

PINK (JAIL)

IN THE COURT OF COMMON PLEAS -- CRIMINAL -- OF CAMBRIA COUNTY, PENNSYLVANIA
TRIAL

Defendant: DONALD L. FENTON No: 2336-97 (A) OTN: F 118539-1
Charge: TERRORISTIC THREATS

Date of Verdict: SEPT. 2, 1998 Judge: THOMAS A. SWOPE, JR. Clerk: JOYCE KOVACH
Defense Counsel: R. CORCORAN Commonwealth: J. SCOTT ROBINETTE Steno: B. BEARER
Sentencing date is 15 day of OCT., 1998 Pre-sentence investigation report by the Cambria County
Probation Office/Pennsylvania Board of Probation and Parole is due 5 day of OCT., 1998
Bond continued. Bond of \$ set. Defendant remanded to Jail

SENTENCE

NOW, OCTOBER 15, 1998, the defendant, DONALD L. FENTON

(Address) 2434 BEDFORD ST., JOHNSTOWN, PA 15904

☒ is sentenced to pay the costs of prosecution,

☐ restitution of \$

☐ the sum of \$ for the use of Cambria County

(COUNTY JAIL)

☐ and undergo imprisonment in the County Jail for a period of not less than
nor more than

☐ Defendant is given automatic parole

(STATE PRISON)

☐ and is to be committed to the Western Correctional, Diagnostic and Classification
Center located at the State Correctional Institution, Pittsburgh, Pa. for a term of not less
than years nor more than years. Defendant shall be delivered to said insti-
tution by the Sheriff of Cambria County.

(PROBATION)

☐ and is placed on probation for a period of 60 mo., under the supervision
of the Cambria County Probation Office/Pennsylvania Board of Probation and Parole.

☐ Sentence shall be served concurrently/consecutively with

(OTHER CONDITIONS)

① no contact or communication with Randy Lovestry,
house or family. ② Picture Democrat ③ Congressman
murtha ④ Laurel Ford Undergo mental Evaluation -
anger management and follow their recommendations

(PAYMENT PLAN)

1. How much money can you pay a month on your bill?
2. Do you understand if you miss a payment it will be a violation of your sentence and
you could be placed in jail?
3. Do you agree with this condition of your parole?

☐ The Court Orders the defendant to make monthly payments of \$25 which
includes 0 probation fees; \$5 collection fees; \$20 on costs,
restitution and fines.

Payment will be due the 1 day of each month beginning the 1 day of
Oct, 1998. These payments are one of the conditions of the defendant's sentence.
If the payments are not made, it will be a violation of the sentence and could cause
incarceration of the defendant.

Car Used: ☐ Yes ☐ No

BY THE COURT:

WHITE (CLERK OF COURTS)

BLUE (PROBATION OFFICE)

YELLOW (JUDGE)

GREEN (MHMR)

PINK (JAIL)

(Indicate page, name of *Page 1*
newspaper, city and state.)

(Mount Clipping in Space Below)

Date:
Edition:

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b7c

The Tribune-Democrat, Johnstown, Pa.

Friday, October 16, 1998

JOHN P. MURTHA - MEMBER OF CONGRESS,
WASHINGTON, D.C. - VICTIM;
12/03/1997;
CCSCAKA-THREAT

or
Classification:
Submitting Office:

89A-PG-64410

Lots of judicial advice, no jail time for Fenton

By SCOTT HOVANYETZ
TRIBUNE-DEMOCRAT MAINLINE BUREAU

EBENSBURG - A Johnstown man convicted of threatening the lives of U.S. Rep. John Murtha, D-Johnstown, and others avoided more jail time Thursday but had to promise not to contact those people for five years.

Cambria County Judge Thomas Swope sentenced Donald L. Fenton, 52, to 60 months' probation but let him go free with three months he has already served in jail.

In September, a Cambria County jury convicted Fenton of threatening Randy Leventry, an adjuster with Erie Insurance Group; Murtha; and employees of The Tribune-Democrat.



Fenton

"This is something we just do not do to people," Swope told Fenton and his public defender, Richard Corcoran, at the sentencing. "You may think you may be doing right, Mr. Fenton. But you've got to straighten your thinking out."

During his probation, Fenton must have no contact with Leventry or his family, Murtha or his staff, Laurel Ford or The Tribune-Democrat.

Please see FENTON, A4

FENTON

Continued from A1

rat, Swope ruled. If Fenton does, Swope could put him in prison for up to five years.

"I'm forcing you to behave yourself," Swope told Fenton. "I don't want this to happen again. I'm doing this for your own good."

That means no more letters to the editor of The Tribune-Democrat, Swope added.

"You have a tendency to talk when you shouldn't be talking, and that's causing you problems," Swope told Fenton. "And you have an anger problem."

To correct that problem, Fenton must undergo a mental health evaluation with an emphasis on anger management, Swope said.

According to prosecutors, Fenton made the threats in December in a 10-minute telephone conversation with Leventry about problems with his truck and insurance coverage on repairs. Fenton claimed mechanics at a repair shop ruined the truck's engine when they forgot to fill it with oil.

A federal jury convicted Fenton in July on separate charges, stemming from the same incident, of threatening Murtha and his aide, John Hugya.

Fenton was made to wear an electronic-monitoring bracelet on his ankle as part of his federal bond conditions.

Fenton told Swope at the sentencing he was giving his word that he would obey the ruling.

"I never intended to hurt any-

Telephone threats lead to big trouble

THE TRIBUNE-DEMOCRAT

Donald L. Fenton got into trouble when he threatened to kill employees of an insurance company and others during a telephone interview with an insurance agent on Dec. 3.

Fenton apparently was upset that Erie Insurance did not cover all repairs to his vehicle.

On Dec. 3, Fenton called an insurance agent to complain about another problem with his truck. The vehicle had been in and out of repair shops for months ever since a garage - which had liability insurance with Erie - failed to replace the oil during an oil change and the engine was ruined.

Fenton, who said he needed the truck for his construction business, was told to take the truck back to a garage to be checked. Unhappy with how his claim was being handled, Fenton told the insurance agent that, if he went to the garage, he might kill employees there.

body," Fenton said.

At the sentencing, Corcoran pointed out that Fenton had a right to his opinion and that Tribune-Democrat Publisher Pamela J. Mayer had stated that Fenton didn't deserve jail time.

"The media attention has blown

Fenton also said he believed U.S. Rep. John Murtha, D-Johnstown, was in a conspiracy with Erie Insurance and The Tribune-Democrat to ruin him. He said Murtha had stolen his ideas about the economic recovery of Johnstown.

Fenton threatened to shoot Murtha, a Murtha aide, all the employees of Erie Insurance and employees of The Tribune-Democrat, the latter because it took three months to publish his letter to the Readers' Forum.

Fenton had testified in court that he used the word "kill" only as a figure of speech during a heated conversation.

In letters to the Readers' Forum, Fenton also accused other area leaders of stealing his economic recovery ideas.

Aspiring to being elected from the 71st District to the state House of Representatives in 1996, Fenton attempted a write-in campaign. He lost the election.

this way out of proportion," Corcoran said.

Fenton's alleged threats even affected Johnstown City Council. In August, Councilman Todd Rastall caused a controversy by bringing a gun to a council meeting because Fenton planned to attend.

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/05/1998

To: Pittsburgh

Attn: CDC, SA [redacted]

From: Pittsburgh

Squad 10/JRA

Contact: SA [redacted]

Approved By: [redacted]

Drafted By: [redacted] jr

b6
b7C

Case ID #: 89A-PG-64410 (Pending)-

Title: [redacted]

*Inadvertent Duplicate
Serialization of
this document.*

JOHN P. MURTHA - MEMBER OF CONGRESS
WASHINGTON, D.C. - VICTIM
12/3/97
CCSCAKA - THREAT

Synopsis: EC to report the recording and retention of two voice mail messages from [redacted] left on SA [redacted] office answering machine.

Administrative: Re telcal of SA [redacted] JRA, and SA [redacted] [redacted] CDC, on 10/30/98.

Details: For information, on 10/29/98, at approximately 3:30 PM, SA [redacted] recorded two (2) telephone messages from his office voice mail onto a cassette tape for retention. SA [redacted] had initially reviewed and then saved these messages left by [redacted] [redacted] first contacted SA [redacted] on 10/10/98, at approximately 4:43 PM and then again on 10/13/98, at approximately 8:22 PM.

Subsequent to the receipt of these messages, AUSA [redacted] [redacted] WDP, Pittsburgh, PA, was advised of the messages and their content. In addition, at the request of AUSA [redacted] FPD [redacted] Pittsburgh, PA, who represents [redacted] in captioned matter, was also advised of the messages.

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Based upon the referenced conversation with CDC [redacted] regarding the proper handling of recordings copied from office voice mail, the cassette tape containing a recording of the voice mail messages left by [redacted] on SA [redacted] office answering machine, to be handled in a manner that comports with Elsur regulations and policies to ensure compliance with Elsur

Search Gen. _____
Foims _____
Serialized _____
Indexed _____
Filed _____

89A - 16-64410-88

To: Pittsburgh From: Pittsburgh
Re: 89A-PG-64410 (Pending)

guidelines. In this regard, appropriate Elsur related paperwork has been prepared and submitted for approval.

♦♦

Automated Serial Permanent Charge-Out
FD-5a (1-5-94)

Date: 11/10/98 Time: 10:08

Case ID: 89A-PG-64410 Serial: 88

Description of Document:

Type : EC
Date : 11/05/98
To : PITTSBURGH
From : PITTSBURGH
Topic: EC TO REPORT THE RECORDING AND RETENTION OF TWO VOICE

Reason for Permanent Charge-Out:

INDAVERTANT DUPLICATE SERIALIZATION OF THIS DOCUMENT BY ELSUR CLERK

Employee:

b6
b7C

Judge: Threats weren't real

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(Indicate page, name of newspaper, city and state.)
PAGE 1
THE TRIBUNE-DEMOCRAT
JOHNSTOWN, PA

Date: **12/24/98**
 Edition:

TH **AKA**
JOHN P. MURTHA - MEMBER
OF CONGRESS - VICTIM
 Character: **12/3/97**
 or **CCSCAKA - THREAT**
 Classification:
 Submitting Office:
89A-PG-64410
 Indexing:

b6
 b7c

Fenton's federal conviction tossed

By JASON GREEN
 THE TRIBUNE-DEMOCRAT

A federal judge has thrown out the conviction of a Geilstown man on charges he threatened the life of U.S. Rep. John Murtha, D-Johnstown.

U.S. District Judge D. Brooks Smith ruled a jury's decision in July was incorrect and acquitted Donald Lee Fenton of threatening to assault and murder the congressman.

Smith said Fenton made no direct threat on the congressman's life.

Fenton, a 41-year-old self-employed contractor, had been free on bond awaiting sentencing, but was forced to wear an electronic monitoring device. He faced up to five years in prison and a \$250,000 fine.

When Fenton testified in his own defense, he denied wanting to kill Murtha.

But he admitted using the word "kill" during a heated conversation Dec. 8, 1997, with Randy Leventry, an insurance adjuster for Erie Insurance Co. in Richland Township. Fenton said it was "a figure of speech."

The case began in 1996 when Fenton suggested ways to rebuild the financially distressed Johnstown region.

He told the jury that he planned to introduce a mass transit system, develop a ski resort and build a National Football League stadium between Johnstown and Pittsburgh.

Fenton said he could accomplish his goals without government money and by selling shares of stock at \$100 each.

During testimony, Fenton said he met with John Hugya, an aide to Murtha, at the Incline Station restaurant to discuss his ideas and was disappointed the congressman didn't attend.

Fenton subsequently switched his voter registration from Republican to Democrat and decided to become a candidate for Murtha's seat.

Fenton testified to having numer-



Rep. John Murtha
 Supposed target of threat



Donald Fenton
 Admits using word 'kill'

ous mechanical problems with his work truck and he contended local garages were involved in "dirty tricks."

Unhappy with Leventry's handling of an insurance claim, he became suspicious and believed he was being followed.

The case focused on the telephone conversation with Leventry. The insurance agent testified that he took notes during the conversation, which he said included threats by Fenton that he would kill Murtha.

Leventry called Stonycreek Township police. Charges of making terrorist threats and harassment were filed. The FBI was contacted.

In his ruling, Smith gave two reasons for overturning Fenton's conviction:

■ Because the intimidation was directed at Leventry rather than Murtha, no direct threat was made on the congressman.

■ Murtha was not threatened in his capacity as a congressman.

Neither Fenton nor Marketa Sims, his public defender, could be reached for comment.

Leon Rodriguez, an assistant U.S. attorney who prosecuted the case, said he has a right to appeal the decision.

He said he must review details of the case before deciding whether to challenge the decision.

Fenton also has been convicted in Cambria County court for threatening Leventry, Murtha and employees of The Tribune-Democrat.

He was sentenced to 60 months probation in October, but allowed to go free with three months already served in jail.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

v.

Criminal No. 98-1J

DONALD LEE FENTON,
Defendant

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80

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MEMORANDUM OPINION and ORDER

D. BROOKS SMITH, District Judge.

Donald Lee Fenton was tried before a jury and found guilty of violating 18 U.S.C. § 115(a)(1)(B), threatening a federal official. At the close of the government's case, as well as at the conclusion of all the evidence, Fenton moved for a judgment of acquittal under Fed. R. Crim. P. 29, arguing that the evidence was insufficient to support his conviction. I deferred ruling on both motions. After careful consideration of the briefs and oral argument, I agree and will grant the motion.¹

I.

Fenton's conviction arises out of a heated conversation with insurance adjuster Randy Leventry, in which he made death threats against, *inter alia*, Leventry, the staff of the Johnstown, Pennsylvania office of Erie Insurance Company, United States Representative John Murtha and his aide, John Hugya. The evidence at trial revealed that this altercation arose, not over matters of political philosophy, but over a dispute concerning allegedly defective repairs to Fenton's fourteen-year-old pickup truck. How Congressman Murtha's name came to be

1

Fenton has also been prosecuted under state law for terroristic threats and harassment by communication. It goes without saying that his conviction in the Court of Common Pleas of Cambria County is unaffected by the instant adjudication.

10

involved in this otherwise private dispute bears further discussion.

Fenton, an odd jobs contractor by trade and a community activist by self-profession, developed a somewhat grandiose plan by which he believed he could rejuvenate Johnstown's flagging local economy. This plan, according to Fenton, required some \$60 million in federal funding. To secure that money, he contacted the offices of Congressman Murtha and was directed to Murtha's local aide, John Hugya. Hugya agreed to meet Fenton and discuss his plan sometime in July 1996 at a restaurant at the top of the Johnstown Inclined Plane. Fenton arrived at the meeting with his plan, contained in a pizza box, which involved various flood control, transportation and recreational "improvements." Hugya told Fenton that a plan of such size would normally require a partnership of federal, state and local governments and directed him to John Skiavo at Johnstown Area Regional Industries. Dkt. no. 127, at 66. The meeting then ended, and the two had no further contact.

Fenton, however, believed that Hugya and Murtha liked his "plan" and wanted to take credit for it themselves, even if that meant ruining him, discrediting him or driving him to suicide in the process. He therefore came to see both Murtha and Hugya as conspirators against him, although there existed no rational basis for such a conclusion.

Almost a year later, in June 1997, Fenton brought his pickup truck to Carmen's Wholesale Tires to get an oil change. The mechanic, however, failed to replace the oil, as a result of which the truck's engine was destroyed. Carmen's was insured by Erie Insurance Company, which assigned Randy Leventry to investigate the claim on June 5. Leventry authorized the installation of a rebuilt engine.

After Fenton's truck was returned on June 13, it was discovered that the mechanic who

installed the engine had not replaced the pilot bearing, which resulted in the destruction of the transmission. Leventry authorized the transmission to be replaced as well. Fenton's truck was serviced by John's Transmissions and returned to him on July 2. The very next day, the truck developed further problems involving oil leakage, which were repaired by Laurel Ford but which kept Fenton's vehicle out of operating condition until July 17. Erie Insurance did not pay for these repairs, as they were covered under the engine warranty. The same problem recurred on November 24, and Leventry instructed Fenton to bring his truck back to Laurel Ford. The malfunction was corrected and the truck was returned.

Unfortunately, the engine problem occurred again on December 3, and it proved to be too much for Fenton to take. He called Leventry and "said that the truck was leaking oil and spewing oil everywhere, that he was--he wanted something done. He's tired of all this, these problems with the truck. He said that he had gotten a gun and bullets and he was going to start killing people." Dkt. no. 126, at 64 (Leventry, direct). Fenton went on to tell Leventry that if Laurel Ford "said they repaired the truck, they're liars[]" and that the truck was worse than it was before the repairs were performed. Id. Fenton continued to discuss his claim with Leventry, who testified that his demeanor was, for the most part, "fairly matter of fact[]" in this portion of the conversation. Id. at 65.

As the discussion progressed, however, Fenton's tone became more agitated and he seemed desperate. Id. "[H]e said that Murtha, Congressman Murtha, was conspiring with the insurance company and the *[Johnstown] Tribune-Democrat* to ruin him and to cause him to commit suicide." Id. Fenton then stated "that he was going to shoot Congressman Murtha's head off. He also said that he was going to shoot John Hugya's head off." Id. at 66. Later in

the conversation, Fenton told Leventry "that he was going to kill all Erie [Insurance] employees." Id. at 67. He continued, I may not kill you, but if I were you, I would keep my doors locked because once this gets started, I don't know what's going to happen." Id. Fenton then elaborated further about the nature of the "conspiracy" he believed was operating against him:

He did say that Murtha stole his ideas for an economic recovery plan that he had drawn up. It had to do with an overhead rail transportation system and other ideas that he had. . . . He said that since Mr. Murtha stole Mr. Fenton's ideas, that now Mr. Murtha would have to see that Fenton's either killed or commit [sic] suicide.

Id. at 67. Fenton went on:

He said he had spoken to his pastor, and he had--he knows that God would forgive him for what he's going to do; that if the Government declares war on him, he was going to have to take a body count. . . . He said he was desperate, that he hadn't eaten for three days; that Congressman Murtha's trying to destroy his business and has succeeded in doing so. . . . Mr. Fenton told me that he had been to Vietnam, he said, in 1975. He said that he had seen people die there, that he's not afraid to die. He said that he would kill until he's killed. He said that when he dies, there would be a tape, that he had produced a videotape. It would be disseminated to the press, it would be detrimental to Mr. Murtha. It would lay out the entire conspiracy. . . .

Towards the end of the conversation I told Mr. Fenton that I hoped that this was his way of reaching out for help. He told me to tell that to CNN. I told him that I would not--I would not be able to keep this silent, that I would have to make a few calls. He understood that.

Id. at 68, 70.

Fenton did not tell Leventry to convey the message to Murtha, nor was there evidence to suggest that Fenton even implied that Leventry should do so. For his part, Leventry did not tell Fenton that he was going to relay the contents of the conversation to Congressman Murtha, nor did he contact the Congressman's office. See dkt. no. 127, at 42 (Leventry, cross). In response

to Fenton's agitated statements, Leventry called the local police department, resulting in Fenton's arrest. Officer Price subsequently contacted Hugya and apprised him of Fenton's statements. See dkt. no. 127, at 58. Hugya then called FBI Agent Dale Frye. Id. at 69.

Fenton was subsequently indicted under 18 U.S.C. § 115(a)(1)(B) for threatening Murtha (Count I) and Hugya (Count II). On Fenton's motion, I dismissed Count II, holding as a matter of law that Hugya was not an "official" within the group of protected persons enumerated in § 115. United States v. Fenton, 10 F. Supp.2d 501 (W.D. Pa. 1998).² The case was tried to a jury in July 1998, which returned a verdict of "guilty" at Count I, threatening Congressman Murtha.

II.

Fenton contends, under Fed. R. Crim. P. 29, that the evidence introduced by the government at his trial was insufficient to support his conviction under 18 U.S.C. § 115(a)(1)(B). In deciding the question of sufficiency, the evidence must be viewed in the light most favorable to the government, and the conviction must stand unless it appears that there was no substantial evidence from which a rational trier of fact could have found the defendant guilty beyond a reasonable doubt. United States v. Cooper, 121 F.3d 130, 133 (3d Cir. 1997); United States v. Obialo, 23 F.3d 69, 71-72 (3d Cir. 1994).

The statutory provision under which Fenton was indicted provides, in pertinent part:

2

I also granted in part Fenton's motion to suppress certain evidence, United States v. Fenton, Crim. No. 98-1J, 1998 WL 356889 (W.D. Pa. May 28, 1998), and denied his motion to dismiss the indictment on account of alleged prosecutorial misconduct before the grand jury, United States v. Fenton, Crim. No. 98-1J, 1998 WL 356891 (W.D. Pa. June 29, 1998). Familiarity with those opinions is helpful, but not necessary, to an understanding of this memorandum.

Whoever . . . threatens to assault, kidnap, or murder, a United States official. . . [i] with intent to impede, intimidate, or interfere with such official. . . while engaged in the performance of official duties, or [ii] with intent to retaliate against such official . . . on account of the performance of official duties, shall be punished as provided in subsection (b).

18 U.S.C. § 115(a)(1). This language contains an actus reus, specifically, making a threat, as well as two defined forms of mens rea: (1) intent to prospectively interfere with the victim's exercise of official duties; or (2) intent to retaliate against the victim for the past exercise of official duties. I will discuss these elements seriatim.

III.

Section 115(a)(1)(B) proscribes only threatening communications, recognizing that not all apparently threatening utterances fall into the category of "true threats." The words spoken by Fenton without question reeked of animus, but his statements regarding Congressman Murtha were made only to Leventry. The evidence shows merely that Leventry was an insurance adjuster with no connection to Murtha. The question that animates this case, then, is whether such remarks, spoken during a conversation with an unrelated third party and not directly to the victim, constitute a threat within the meaning of the statute. I conclude that, on these facts, they do not.

The statute criminalizes a form, albeit an unsavory one, of pure speech. As such, "it must be interpreted with the commands of the First Amendment clearly in mind," Watts v. United States, 394 U.S. 705, 707 (1969) (per curiam), "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." Id. at 708 (quoting New York Times Co. v.

Sullivan, 376 U.S. 254, 270 (1964)). Moreover, Anglo-American jurisprudence in recent centuries has rejected the notion that a person's mere thoughts, however evil, can be criminalized. See id. at 709-711 & nn.1, 2 (Douglas, J., concurring) (discussing English law of constructive treason and the American Alien and Sedition Acts); United States v. Alkhabaz, 104 F.3d 1492, 1494 (6th Cir. 1997) ("our law does not punish bad purpose standing alone").

Thus, in Watts, the Supreme Court reversed the defendant's conviction under 18 U.S.C. § 871 for threatening the life of President Johnson under circumstances clearly indicating that his remarks were nothing more than "a kind of very crude offensive method of stating a political opposition to the President."³ 394 U.S. at 708. On the other hand, true threats enjoy no legal protection. See United States v. Kosma, 951 F.2d 549, 553 (3d Cir. 1991).

At the polar opposites, this distinction is easily applied. Had Fenton accosted Congressman Murtha in person or written him a letter, there would be no question, based on the words he used, that a true threat was intended. The remarks need only be such that "a reasonable person would foresee that the statement would be interpreted by those to whom the maker communicates the statement as a serious expression of an intention to inflict bodily harm or take the life of the [object]." Id. at 557 (citing cases) (threatening communication mailed to President Reagan); accord United States v. Orozco-Santillan, 903 F.2d 1262, 1265 (9th Cir.

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In Watts, defendant was a young man who attended a protest rally in Washington. Speaking up in an open-air discussion group, he stated, "And now I have already received my draft classification as 1-A and I have got to report for my physical this Monday coming. I am not going. If they ever make me carry a rifle the first man I want in my sights is L.B.J. They are not going to make me kill my black brothers." 394 U.S. at 706. The other participants, as well as the speaker himself, responded to this statement with laughter." Id. at 707. In addition, the Court noted that defendant's "threat" was conditional, and based upon an event he vowed would never occur. Id.

1990). It seems equally clear that, had Fenton hiked alone several miles into a forest and recited his diatribe only to himself, convicting him under § 115 would be tantamount to punishing his mere thoughts rather than any actual threat. So too, had he uttered the words to a close friend or relative in strict confidence, conviction under this statute would be unjustified. But here, Fenton's words were spoken to a third party unrelated to their object, and whose relationship with Fenton was at least arguably adversarial, placing this case somewhere between these two extremes.

Two courts have recently dealt with this issue. In United States v. Bellrichard, 779 F. Supp. 454 (D. Minn. 1991), aff'd, 904 F.2d 1318 (8th Cir. 1993), defendant sent a series of threatening letters, most of them directly to their intended victims,⁴ and was indicted under 18 U.S.C. § 876 for mailing threatening communications. One letter, however, was mailed to the girlfriend of a defendant awaiting sentencing. In that letter, defendant threatened to kill the sentencing judge. Id. at 457-58. In holding that such a communication did not constitute a true threat because there was no connection between the recipient and the intended victim, the court opined:

In the present case, the postcard to Ms. Hoeper contains no request that it be communicated to the individuals allegedly threatened. There was no evidence at trial that Ms. Hoeper was likely to understand that the postcard was to be so communicated or that it was likely that it would be. Indeed, there was no evidence that Ms. Hoeper had any connection with the persons allegedly threatened which could make the language used by the defendant in his postcard to her a true threat against those persons. The specific language of the postcard should not be isolated from the whole context of the communication. No reasonable recipient, in light of the context, could interpret the defendant's statements about third parties as a true threat within the ambit of Watts. The

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The court upheld those convictions. Id. at 461.

statute should not be applied under these circumstances, and this count should not have been submitted to the jury.

Id. at 459.⁵

In Alkhabaz, the defendant was charged under 18 U.S.C. § 875(c) for sending messages over the Internet "which expressed a sexual interest in violence against women and girls." 104 F.3d at 1493. The messages contained stories, the content of which can only be described as horrific,⁶ depicting in graphic detail "the abduction, rape, torture, mutilation, and murder of

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The Bellrichard court went on to state:

The interpretation of the statute favored by the government could lead to absurd results since it does not take into account the particular context of third party threats. The First Amendment limits the reach of the statute as to third party threats by requiring consideration of the whole context of the communication. The statute should not be interpreted to cover every letter which, apart from its context, seems to threaten a person other than the addressee or letter recipient, as the government argues. For example, if a prosecutor mailed defendant's letters to another government official for analysis or review, that conduct could be covered by the statute--mailing a threat to injure the person of another. Similarly, if the court mails this opinion to West Publishing Company, having quoted verbatim the language used by defendant which is alleged to be threatening, that conduct could be covered by the statute. Also covered would be the conduct of a member of the general public, who, attending this trial of widespread interest, took notes of defendant's statements and mailed them to a family member, law professor, or newspaper for their information. Of course these results are absurd and reach constitutionally protected speech. More must be required for conviction under the statute. Conviction requires that the communication be a true threat. This means that a reasonable recipient, familiar with the context of the communication, would interpret it as a threat. It is this contextuality which prevents conviction under the hypothetical situations described.

Id. at 459 (footnotes, citations and internal quotation marks omitted).

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See id. at 1497-98 n.1 (Krupansky, J., dissenting) (setting forth one such message essentially verbatim). Because of the appalling content of this message and its publication elsewhere, I will not go into further detail here.

women and young girls.” Id. One of these accounts named an actual young woman, resulting in defendant’s prosecution under § 875(c) for interstate communications containing threats to injure another person. Id. The court considered whether these messages, which were not sent directly to the woman who was the purported victim, constituted true threats. It concluded they did not:

To determine what type of action Congress intended to prohibit, it is necessary to consider the nature of a threat. At their core, threats are tools that are employed when one wishes to have some effect, or achieve some goal, through intimidation. This is true regardless of whether the goal is highly reprehensible or seemingly innocuous.

For example, the goal may be extortionate or coercive. . . . Additionally, the goal, although not rising to the level of extortion, may be the furtherance of a political objective. . . . Finally, a threat may be communicated for a seemingly innocuous purpose. For example, one may communicate a bomb threat, even if the bomb does not exist, for the sole purpose of creating a prank. However, such a communication would still constitute a threat because the threatening party is attempting to create levity (at least in his or her own mind) through the use of intimidation. . . . Although it may offend our sensibilities, a communication objectively indicating a serious expression of an intention to inflict bodily harm cannot constitute a threat unless the communication also is conveyed for the purpose of furthering some goal through the use of intimidation. . . . If an otherwise threatening communication is not, from an objective standpoint, transmitted for the purpose of intimidation, then it is unlikely that the recipient will be intimidated or that the recipient's peace of mind will be disturbed.

...

Even if a reasonable person would take the communications between [defendant] and [the recipient] as serious expressions of an intention to inflict bodily harm, no reasonable person would perceive such communications as being conveyed to effect some change or achieve some goal through intimidation. Quite the opposite, [they] apparently sent e-mail messages to each other in an attempt to foster a friendship based on shared sexual fantasies.

Id. at 1495-96.

Under either standard, Fenton’s statements did not constitute threats. As in Bellrichard, there was simply no connection between Leventry, the recipient of the communication, and

Murtha, its intended object. Moreover, under the circumstances presented here, no jury could find anything truly "threatening" in Fenton's remarks because they could not influence Murtha's attitude or behavior in any way when spoken only to Leventry.

The government cites a number of cases in which threats were not made directly to the speakers' intended victims, yet convictions were upheld. Careful review, however, reveals those cases to be inapposite. In United States v. Fulmer, 108 F.3d 1486 (1st Cir. 1997), defendant threatened an FBI agent by leaving him a voicemail message, which the agent heard and "found chilling and scary." Id. at 1490. Other cases are in the same vein. In Orozco-Santillan, defendant threatened an Immigration and Naturalization Service officer over the telephone; once again, the agent heard the threat and was frightened. 903 F.2d at 1264. Likewise, in United States v. Stevenson, 126 F.3d 662 (5th Cir. 1997), defendant wrote a threatening letter to his probation officer, which "frightened and alarmed" her when she received it. Id. at 663. And in Kosma, defendant wrote a series of threatening letters to President Reagan. 951 F.2d at 550. These letters, while never seen by the President, no doubt caused considerable consternation to the officers responsible for his protection. 951 F.2d at 554. As the court noted, moreover, they were directed "at the exact person whom Section 871 was designed to protect." Id. at 555.

The government relies principally, however, on United States v. Snelenberger, 24 F.3d 799 (6th Cir. 1994), for the proposition that there need be no intent that defendant's statements be communicated to their target. There, the defendant told two mental health workers of his plans to kill an administrative law judge and was prosecuted under § 115. Id. at 801. On appeal, his conviction was affirmed. Id. at 803-04. In that case, however, defendant argued

only that his mens rea was insufficient to support conviction, and the court never passed on the issue of whether the actus reus was proven. See id. at 803. Thus, while this case is relevant to an analysis of Fenton's intent, it has no precedential value on whether he made a true threat.⁷

Accordingly, I conclude that Fenton's statements did not constitute true threats under § 115(a)(1)(B). For this reason alone, his motion for judgment of acquittal must be granted. In the interest of completeness, however, I will also address Fenton's argument that he did not, as a matter of law, possess the requisite intent to support his conviction.

IV.

Assuming arguendo that the evidence did support a finding that Fenton made a true threat to Murtha, it still must be determined whether he had the intent that § 115(a)(1)(B) requires:

[i] with intent to impede, intimidate, or interfere with such official . . . while engaged in the performance of official duties, or [ii] with intent to retaliate against such official . . . on account of the performance of official duties

I will address these two alternate forms of intent in turn.

A.

For the reasons set forth supra in my discussion of actus reus and the Alkhabaz case, it cannot seriously be concluded that Fenton had any intent to impede, intimidate or interfere with

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Likewise, in United States v. Patillo, 431 F.2d 293 (4th Cir. 1970), defendant stated to a co-worker his intention to kill President Nixon. Id. at 294-95. The court held that this statement amounted to a true threat, id. at 295, but significantly, defendant's defense was limited to a general denial of making the remark. Id. at 295-96. Thus, again, the court was never called on to decide the circumstances under which statements made to unrelated third parties constitute threats. Indeed, the government does not cite this case in its actus reus argument, but saves it for its discussion of Fenton's mental state.

Congressman Murtha. Murtha was not "in the audience" when Fenton spoke, and the government put on no evidence that Fenton,⁸ intended his words to be conveyed to Murtha. One simply cannot be intimidated by speech of which he is unaware. See Snellenberger, 24 F.3d at 803 (noting that district court made similar holding under § 115(a)(1)(B) and concluding, in dictum, "that the court's reading of the statute was entirely justified"). Cf. Patillo, 431 F.2d at 298 ("There is no danger to the President's safety from one who utters a threat and has no intent to actually do what he threatens.")

In addition, there is no evidence that Fenton wanted Congressman Murtha to take any official action, or refrain from taking any such action, as a result of his "threats." Fenton was not, for example, demanding that Murtha sponsor a certain piece of legislation, nor did he make his threats to disrupt, say, an official speech to a group of constituents. It is perhaps arguable that he wanted the Congressman to support his plan, yet the record shows that Fenton thought

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The government essentially contends that the jury was entitled to find objective intent to communicate, arguing that "the most natural consequence" of making a series of death threats over the phone will be that the recipient of the communication will notify law enforcement, who in turn will notify the intended target. Dkt. no. 131, at 24. I disagree; although whether a statement constitutes a threat is evaluated under an objective standard, the standard for determining specific intent under § 115(a)(1)(B) is subjective, as even the government argues elsewhere in its brief, dkt. no. 131, at 21. See Fulmer, 108 F.3d at 1494 (approving jury instruction to the effect that "[w]hen we are talking about the defendant's intent, we are talking about what he meant to do and what was in his mind[]"). Alternatively, the government may be seen as arguing that a jury could simply infer that Fenton intended for Leventry to warn Congressman Murtha as the "natural and probable consequence" of conveying the threat to Leventry. Again, I disagree. Leventry was not a law enforcement officer or member of the Congressman's staff. To assume that a private citizen will "naturally and probably" inform the target of the threat anytime a threat is made to a third party would effectively eviscerate § 115(a)(1)(B)'s intent requirement. All that can be inferred from this record is that Fenton intended to threaten Leventry, either to induce him to better handle his insurance claim or to retaliate for the way Leventry had already processed it.

that Murtha stole the plan from Fenton so he could bring it to fruition and take the credit for himself. Even under Fenton's distorted view of reality, there was no "official" action Murtha could take or not take that would satisfy Fenton's desires. At most, Congressman Murtha could have given Fenton the credit Fenton thought he deserved, but that is not an official duty. Accordingly, even if Fenton had intended to impede, intimidate or interfere with Murtha, that intent had absolutely no nexus with any of the Congressman's official duties.

The government argues that there is no nexus requirement; rather, it contends that the defendant need only intend to impede, intimidate or interfere with the Congressman "during the time that" he is performing official duties. That is simply not what the statute provides. Section 115(a)(1)(B) is quite clear that the defendant's intent must be "to impede, intimidate or interfere with such official. . . while engaged in the performance of official duties. . . ." (Emphasis added.) See United States v. Streich, 759 F.2d 579, 584 (7th Cir. 1985) (Whether an official is engaged in performance of official duties "turns on whether the federal officer is acting within the scope of what he is employed to do or is engaging in a personal frolic of his own."). Evidently, the government believes this condition is satisfied during the entire time that Congress is in session, or perhaps as long as the member holds office. This is implausible, leading as it does to absurd possibilities, for example, that a person could be convicted under § 115(a)(1)(B) for threatening a Member of Congress in response to an insult the Member made to that person's spouse during cocktail party conversation. Significantly, the government cites no useful authority for this novel proposition. The closest it comes is the case of United States v. Berki, 936 F.2d 529 (11th Cir. 1991), but that case is inapposite. There, the defendant clearly threatened a federal judge on account of her performance of official judicial duties. Id. at 531.

His defense was simply that he did not know that the object of his threat was a federal judge when he threatened her, a position which the Eleventh Circuit rejected under a plain error standard of review. *Id.* at 532. Accordingly, I reject the government's argument.

B.

That leaves the government's contention that Fenton intended to retaliate against Congressman Murtha. This too is problematic, and the question turns on how "retaliation" is defined. Fenton asserts that there can be no threat with intent to retaliate unless the threatening words are communicated to their intended target. Dkt. no. 130, at 50. The government, for its part, essentially argues that communication of the threat to the victim is unnecessary if the defendant has the present intention of carrying out the threat at the time it is made. Dkt. no. 131, at 18.

It seems clear that, aside from the unfortunate circumstance in which the threat is actually carried-out, no intent to retaliate can exist unless there are facts to support either the government's or Fenton's theory. A threat that is never communicated to the victim and is not intended to be carried out by its speaker is no retaliation at all. Indeed, it is no more than reciting lines of a play, in a closed room, to oneself. For the reasons already discussed, of course, there is no evidence that Fenton intended that his threats be communicated to Murtha. That squarely raises the question of whether a present intention to carry out a threat suffices to make out the intent to retaliate under § 115(a)(1)(B).

The government relies on Snellenberger, in which the court, with scant analysis and without reference to whether there was a present intent to carry out the threat, opined that there was no need for the threat to be communicated to the victim in order to have an intent to