

Michelle Carter case: ACLU, state public defender agency file brief in support of teenager accused of encouraging boyfriend to kill himself

The American Civil Liberties Union of Massachusetts and the youth advocacy division of the state's Committee for Public Counsel Services have filed a brief supporting the appeal of Michelle Carter, the Plainville teenager accused of encourage her boyfriend to kill himself.

Carter, who is charged with manslaughter, is appealing her case before the state's Supreme Judicial Court. Her defense attorney Joseph Cataldo is seeking both to have her tried as juvenile and to have the charge dismissed, arguing that encouraging suicide via text message does not meet the definition of manslaughter.

Carter stands accused of involuntary manslaughter for a series of text messages that encouraged Mattapoisett native Conrad Roy, with whom she had a romantic but largely online relationship, to kill himself. He did so with carbon monoxide in a Kmart parking lot in 2014. And over a year later, the case is still unsettled, with the defense making a free speech argument that will be heard before the Supreme Judicial Court on Thursday.

Now, the ACLU and the Committee for Public Counsel Services -- a state agency for public defenders -- have filed an amicus brief to support Carter's appeal.

"The Massachusetts and American legal systems have typically treated juveniles differently under the law. This different treatment recognized what every parent understands: children are different from adults," the brief says. "The law should not ignore the tradition of different treatment, validated by science, even where conduct is alleged to have resulted in tragic consequences."

The brief also argues that Carter's encouragement of suicide does not meet the standard of inflicting "serious bodily harm" required to try her as a "youthful offender" -- a category that both allows more severe punishment and for Carter's court case to be public record

The criminal case has stretched on for over a year. Carter was charged with involuntary manslaughter in February of 2015. In September Taunton Juvenile Court Judge Bettina Borders rejected Cataldo's motion to dismiss the charge, allowing the case to move forward and for Carter to be charged as a "youthful offender." Free speech, Borders ruled, does not extend to encouraging suicide.

Cataldo then filed an appeal to a single justice of the state Supreme Judicial Court and the district attorney's office filed a response in November. The full court announced it would hear the case in February.

The text messages leave little doubt that Michelle Carter not only encouraged her boyfriend to commit suicide, but did so relentlessly.

The lengthy proceedings could make prosecutors' jobs more difficult, according to South Coast Today. If the Supreme Judicial Court rules that Carter should be tried as a juvenile, her trial must begin before her 20th birthday on Aug. 11. Prosecutors

said in a court hearing Tuesday that such a time frame could limit their ability to prepare for the case, South Coast Today reported.

In the defense's appeal brief, Carter's attorneys wrote that prosecutors had overcharged Carter to compensate for a lack of applicable law against encouraging suicide in Massachusetts.

"Charging her with manslaughter was a transparent effort calculated to circumvent the fact that the legislature has not criminalized words that encourage suicide," the brief argued.

In a second brief, the defense also argued that the prosecution had taken text messages out of context to allege that Carter had encouraged Roy to delete their conversations. The brief cited sealed grand jury records to argue that it was Roy's idea to delete their communications.

The defense also argues that unlike in other cases where a suicide led to manslaughter charges, Carter did not physically assist Roy in carrying out the act.

"Regardless of how one may feel about Carter's conduct, no Massachusetts case holds or in any way suggests that words encouraging someone to take his life, no matter how forceful, can support a guilty finding of involuntary manslaughter by the infliction of serious bodily harm," the brief says.

In early December the Bristol County District Attorney's office denied a request from MassLive for the prosecution's response to the appeal, saying that it referenced grand jury minutes and was a sealed filing.

Roy drove from his mother's house to a Kmart parking lot in July, 2014. He started a portable engine inside the cabin of his truck, and left it running until he died of carbon monoxide poisoning. A trail of text messages, released in an unsealed indictment, show that Carter repeatedly encouraged him to kill himself, and urged him to follow through when in his last minutes he exited the truck, afraid of dying.

Prosecutors allege that Carter led a campaign of encouragement that directly led to the death of Roy, who had graduated from Old Rochester Regional High School that June.

"Carter assisted Conrad's suicide by counseling him to overcome his doubts," the indictment reads. "Her counsel took the form of positive direction, where she told him he was 'strong' enough to execute the suicide plan and would be happy once he was dead."

The text messages included in court filings show Carter, in between professions of love, advocating for suicide as Roy's best option after an extended period of depression. "It's painless and quick," she wrote in one text. "Everyone will be sad for a while but they will get over it and move on," she wrote in another. She urged him not to delay the act, and advised him to find alternative methods of producing carbon monoxide when it became clear his truck's diesel engine would not work.

She also allegedly cajoled him back into the truck over the phone after he had second thoughts in the middle of the act, the prosecution said

The prosecution has portrayed Carter as an active participant in Roy's death -- one who, after the fact, pretended to have no knowledge of the plan. She texted with Roy's

relatives, asking where he was in the hours before his body was found in the Kmart parking lot.

According to New York Magazine, Roy and Carter had met years ago on vacation in Naples, Florida. As court documents show, they communicated and professed their love through a prolific stream of text messages, but rarely met in person. Roy's family told New York Magazine they only knew of a couple of meetings, and Joseph Cataldo, Carter's attorney, told MassLive last year that the relationship was almost entirely digital.

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