

cause (that person) to be in fear of imminent death or serious bodily injury". So if you call some old lady on the phone and say "i'm going to kill you, bitch!", you are probably guilty of criminal threats. However, this is not what happened at all on Sept. 11th, 2015 in the conversation between Gibbs and Feser. So, if Gibbs said "I want to kill cops or I'm going to go down to the road and shoot at cars or I'm going to shoot up a school, so that everyone knows what these sheriff's did to me ", then Mr. Gibbs is not guilty of criminal threats. Remember, the statute calls for threats to be made against "a specific person" and that they be conveyed to that person, with the specific intent that the words invoke fear in that person (not in Feser, or Brickwood, or the community or the sheriff's dept. THE PERSON!!!!). The statute is also an "intent-specific crime" as defined by the legislature, which means that the prosecution must prove and have evidence of the specific intent of the person using the words. Presumption of intent is unconstitutional (see Sandstrom v. Montana or Patterson v. New Jersey or many others case laws). If I am not speaking to specific people, but am speaking on a private phone call, with a lawyer about a case (lawyer-client confidentiality), then the prosecution would have to offer some evidence that I wanted or knew that the "threatened persons" would know or find out about my "threats" and would be fearful. There was no evidence of this whatsoever. There never was any evidence that i intended my words to be heard by anyone except Feser. In fact, i believed that Feser couldn't tell anyone anything about our conversation because of attorney client privilege. I believed I was speaking on a private phone call. Thankfully, Feser surreptitiously recorded most of the conversation and so I have proof of what was said and not said.

Regardless of the Calif. State bar rule barring lawyers from secretly recording conversations (it is considered deceitful and unethical) and despite Calif. Penal code 634 which makes it illegal to record a private telephone call, the Shasta sheriff's thought they had "all the proof they would need" when Feser told them he had recorded the call. OH yeah, the failure to investigate thing. Turns out, they never bothered to listen to the recording before they arrested me. If they had, they would have realised, that while i made general threats to do nasty things on that call, i never once came even close to threatening any specific person. Feser was just spooked and characterized the call with an emphasis on what the cops wanted to hear (that I had said threatening things while discussing the law suit against the deputies and fish and game officers). The sheriff's never asked him specifically what was said or the context or subtext or the emotional content. While this may seem unimportant (i admit i was making violent threats), it actually is quite important. Remember, this is a statute that is intended to punish specific words aimed at specific people, with the intent to frighten them. It was never intended to punish emotional outburst (there are case laws that rule out emotional outburst). It was never intended to punish people for making threats in private (there is case law ruling out the use of 422 against people making threats in private). There is specific case law that says there must be evidence (in 2nd party threat-making) of the alleged offender intending for his threats to be passed on to the victims. Nevermind that Penal Code 632-634 makes it illegal for any private phone call which is recorded to even be allowed as evidence in a court of law.

Were the sheriff's aware of any of these case laws or even the specific requirements of a violation of 422 p.c. Of course not. Do you think cops really understand the law in it's totality? They understand much of the law, but 422 is just complicated enough to make the average cops eyes glaze over, And they damn sure haven't read the case law. But you see, that is why cops have an obligation to fully and fairly investigate all facts relating to a criminal accusation. All facts, I guess facts don't matter