IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN RE GEORGE T., A Minor Coming Under the Juvenile Court Law.	
PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, vs. GEORGE T., Defendant and Appellant.	Supreme Court No. S111780 Sixth Appellate Dist. Court of Appeal No. H023080 Santa Clara County Juvenile Court No. J122537

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GEORGE T.

AND

AMICUS CURIAE BRIEF OF YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GEORGE T.

ON APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT OF SANTA CLARA COUNTY, HONORABLE NAZARIO A. GONZALES, JUDGE PRESIDING

YOUTH LAW CENTER

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Attorney for Amicus Curiae Youth Law Center

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN RE GEORGE T.,	)	
	)	
A Minor Coming Under the Juvenile Court Law.	)	
	)	
	)	Supreme Court No.
PEOPLE OF THE STATE OF CALIFORNIA,	)	S111780
	)	
Plaintiff and Respondent,	)	Sixth Appellate Dist.
	)	Court of Appeal
vs.	)	No. H023080
	)	
GEORGE T.,	)	Santa Clara County
	)	Juvenile Court
Defendant and Appellant.	)	No. J122537
	)	

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GEORGE T.

TO THE HONORABLE RONALD M. GEORGE, CHIEF JUSTICE OF THE CALIFORNIA SUPREME COURT:

Susan L. Burrell, acting on behalf of Youth Law Center, respectfully requests this Court to grant leave, pursuant to California Rules of Court, rule 14(b), to file a brief as amicus curiae on behalf of Defendant and Appellant, George T. The proposed brief is included with this request.

Youth Law Center, based in San Francisco, is a national public interest law firm specializing in issues relating to at-risk children, especially those in out-of-home confinement through the juvenile justice or

child welfare systems. Since 1978, Youth Law Center attorneys have represented children in civil rights and juvenile justice cases in California and two dozen other states. Over the years, Youth Law Center attorneys have participated as amicus curiae in cases around the country involving important juvenile justice issues, and have appeared as amicus curiae several times in this Court.

Apart from our litigation work, Youth Law Center staff have provided research, training, technical assistance, and legislative support to public officials in almost every State to improve juvenile court practice; maintain legally required conditions of institutional confinement; enhance educational services for children in the juvenile justice and child welfare systems; assure appropriate detention practices in the juvenile justice system; provide for the needs of child welfare children at risk of crossing over into juvenile justice; identify and access funding to augment juvenile justice and child welfare services; improve mental health services for children in juvenile justice and child welfare; and educate justice system professionals on adolescent development. Staff attorneys have written dozens of articles on a range of juvenile justice and educational issues, and authored Representing the Child Client (Matthew Bender, 2003, originally by Mark I. Soler, et. al, and now updated by Michael Dale).

The Center is currently engaged in a national six-year project "Expanding Educational Opportunities for Vulnerable Youth," through the Charles Stewart Mott Foundation and the Walter B. Johnson Foundation. The project seeks to identify the barriers that keep children in the juvenile justice and child welfare systems from completing their secondary education and going on to college or meaningful employment. A significant barrier the project has identified as affecting educational outcomes is the inappropriate criminalization of school behavior.

This case asks the Court to determine whether George T. was properly found to have violated California Penal Code section 422, for making a criminal threats in giving a poem to two girls at his high school. One of the areas the Court will be considering is the context in which the disputed activities took place. Youth Law Center is well-qualified to address the contextual issues, because of our more than 25 years working with adolescents in school settings and the juvenile court system.

The amicus curiae brief provides additional information to the Court on school safety and risk assessment of potential threats. It presents additional background information to assist the Court in evaluating the thoughts and behavior of George T. in relation to that of other high school students. Finally, the brief discusses the facts of this case in a First Amendment context – with the benefit of our more than two decades of

work as children's advocates, working to assure a proper balance between the need to protect children from harm and the obligation not to trample on protected liberties in so doing.

Youth Law Center is familiar with the questions involved in this case and the scope of their presentation. Counsel for George T. is aware of Youth Law Center's interest in the case and welcomes our participation.

For all of these reasons, we respectfully request that this Application for Leave to File Amicus Curiae Brief of Youth Law Center on Behalf of Defendant and Appellant, George T., be granted, and that the Brief of Amicus Curiae Youth Law Center on Behalf of Defendant and Appellant, George T., be filed.

Dated this 27th day of August, 2003, at San Francisco, California.

Respectfully submitted,

YOUTH LAW CENTER
Susan L. Burrell, Staff Attorney

Susan L. Burrell

SUSAN L. BURRELL, State Bar No. 74204

Attorney for Amicus Curiae Youth Law Center
On Behalf of Defendant and Appellant, George T.

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AMICUS CURIAE BRIEF OF YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GEORGE T.

ON APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT OF SANTA CLARA COUNTY, HONORABLE NAZARIO A. GONZALES, JUDGE PRESIDING

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INTRODUCTION[1]

This Court has repeatedly balanced the necessity to punish criminal threats with the need to make room for constitutionally protected expression. In *People v. Mirmirani* (1981) 30 Cal.3d 375, 388, the Court found that earlier versions of California Penal Code sections 422 and 422.5, penalizing "terrorist" threats, were unconstitutionally vague. The Court relied on language in *United States v. Kelner* (2d Cir. 1976) 534 F.2d 1020, 1027, that a threat may be penalized only if "'on its face and in the circumstances in which it is made [it] is so unequivocal, unconditional, immediate and specific as to the person threatened, as to convey a gravity of purpose and imminent prospect of execution...'" (*People v. Mirmirani*, *supra*, 30 Cal.3d at p. 388, fn. 10 (plur. opn. of Bird, C.J.) The Legislature subsequently repealed the sections and adopted current Penal Code section 422, incorporating this language from *Kelner.* (Stats. 1988, ch. 1256, § 4, pp. 4184-4185.) Just two years ago, the Court scrutinized the current version of section 422, in the context of an attempted criminal threat case,

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[1] We hereby adopt and incorporate by reference the Statement of the Case and Statement of Facts contained in the Brief on the Merits submitted by Defendant and Appellant, George T. Although the young man goes by his middle name, Julius, in daily life, we will call him by his first name, George, in this brief. (See Reporter's Transcript, hereafter "RT" 226.)

and upheld it against a First Amendment challenge for overbreadth. (*People v. Toledo* (2001) 26 Cal.4th 221, 235.)

But while the statute itself now meets constitutional muster, its application still requires this Court's close attention. George T., the teenager in this case, was incarcerated for several months and made a ward of the court after giving his "dark poetry" to girls at school who interpreted it as threatening. (RT 349, 351.) We do not wish to suggest that the girls' apprehension should be discounted. In post-Columbine high schools (and after September 11th), we are all in a perpetual state of heightened awareness. But even in these anxious times, every incident at school does not rise to the level of a crime.[2] The requisite elements for "criminal threat" simply were not present in this case.[3]

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[2] This Court set forth the elements required for violation of section 422 in *People v. Toledo*: "(1) that the defendant 'willfully threaten[ed] to commit a crime which will result in death or great bodily injury to another person,' (2) that the defendant made the threat 'with the specific intent that the statement...is to be taken as a threat, even if there is no intent of actually carrying it out,' (3) that the threat – which may be 'made verbally, in writing, or by means of an electronic communication device' – was 'on its face and under the circumstances in which it [was] made, ...so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat,' (4) that the threat actually caused the person threatened 'to be in sustained fear for his or her safety or for his or her immediate family's safety,' and (5) that the threatened person's fear was 'reasonabl[e]' under the circumstances." (*People v. Toledo*, *supra*, 26 Cal.4th at pp. 227-228, citing generally, *People v. Bolin* (1998) 18 Cal.4th 297, 337-340, and fn. 13.)

[3] In presenting this brief we have not repeated the arguments and authorities set forth in George T.'s Brief on the Merits; we have included

I. WHERE, AS HERE, FIRST AMENDMENT ISSUES ARE INVOLVED, THE COURT MUST INDEPENDENTLY REVIEW THE RECORD

A. Independent Review in Cases Involving Free Speech Is a Longstanding Rule

This Court has long recognized a doctrine firmly embedded in our constitutional law -- that the reviewing court must make an *independent examination* of the whole record in cases involving the constitutional issue of free speech. (*Zeitlin v. Arnebergh* (1963) 59 Cal.2d 901, 909; *Los Angeles Teachers Union v. Los Angeles County Board of Education* (1969) 71 Cal.2d 551, 557.) This is consistent with well-established holdings of the United States Supreme Court, recognizing that First Amendment questions demand independent appellate review of the facts. (*Bose Corporation v. Consumers Union of the United States* (1984) 466 U.S. 485, 509-510 fn. 27, and cases cited therein.) Accordingly, the Court must independently review whether every element necessary to constitute the alleged offense has been proved beyond a reasonable doubt. (*In re Winship* (1970) 397 U.S. 358, 364, 368.)

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here only such additional authorities and information as may be helpful to the court in deciding this case.

B. While Even The Substantial Evidence Rule Would Require Reversal in This Case, the Court Should Provide Guidance on the Appropriate Appellate Standard

In this case, the juvenile court findings should be overturned irrespective of the standard of review. Here, the court's own remarks revealed doubt whether George was "guilty" of making criminal threats. In summing up the evidence, the court stated:

> You know, I'm also concerned about the idea that these thoughts are rambling around in your head and that it becomes necessary for you – it must have been tormenting to have these thoughts rambling around inside your head going around and around. In some ways, it was intended as a threat; in other words, Look folks, look girls, this is who I am: I'm dark, I'm destructive, I'm dangerous. This is who I am. Be careful. And at the same time, perhaps underneath it all – but the evidence isn't clear in that light – that you're scared of yourself and what you might do." (RT 318-319.)

These statements reflect the juvenile court's own uncertainty about intent of the poems,[4] and that alone indicates that the court was not convinced beyond a reasonable doubt. Moreover, the juvenile court articulated the required elements of the offense (RT 313-315), but failed to make findings with respect to certain elements (e.g., whether there was a threat to commit a crime resulting in death or great bodily injury, and the

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[4] The court's uncertainty that the poems were threatening was underscored even further at the disposition hearing, at which the court encouraged George to study the poets and write more poetry: "Julius [George], you know, to be honest with you, that dark poetry wasn't very good poetry. It's an attempt on your part, and that's good you attempt to write poetry. But why don't you study the poets? And darkness sometimes or sadness, there's pain, all kinds of things. But dark, death, destruction, destroying others, that doesn't inspire." (RT 351.)

immediacy of the threats, RT 315-317), and this too, would require reversal under any standard of review.

However, the present case provides a good vehicle for this Court to continue the work it began in *People v. Mirmirani* and *People v. Toledo*, in assuring careful review in cases where First Amendment protections are implicated. The fact that the majority and dissenting opinions in the Court of Appeals disagreed so vehemently about the contextual facts demonstrates a need for independent review.

Unfortunately, a number of our State appellate courts have already reviewed cases involving section 422 as though they were routine criminal appeals, applying the substantial evidence rule as would be proper in most criminal cases. (*People v. Allen* (1995) 33 Cal.App.4th 1149, 1155-1157; People *v. Martinez* (1997) 53 Cal.App.4th 1212, 1217; *People v. Butler* (2000) 85 Cal.App.4th 745, 752; *In re Ricky T.* (2001) 87 Cal.App.4th 1132, 1136; *People v. Gaut* (2002) 95 Cal.App.4th 1425, 1430.) Of the recent cases, only *In re Ryan D.* (2002) 100 Cal.App.4th 854, 862, recognizes that review of section 422 cases implicates first Amendment protected expression, and that independent review of the facts must be undertaken by the appellate court.

Again, the United States Supreme Court has noted that, in each of the categories where speech may be limited, such as libelous speech, incitement to riot, obscenity, and child pornography, "...the limits of the

unprotected category, as well as the unprotected character of particular communications have been determined by judicial evaluation of special facts that have been determined to have constitutional significance." (*Bose Corporation v. Consumers Union of the United States*, *supra*, 466 U.S. at pp. 1961-1962.) In such cases, the Court "...has regularly conducted an independent review of the record both to be sure that the speech in question actually falls within the unprotected category and to confine the perimeters of any unprotected category within acceptably narrow limits in an effort to ensure that protected expression will not be inhibited." (*Id.*, at p. 1962.) Prosecutions under Penal Code section 422 are exactly the kinds of cases requiring this kind of independent review. We urge the Court to provide guidance to the Courts of Appeal on this issue, to assure that proper review occurs in future cases.

II. DARK THOUGHTS ARE A NATURAL AND PROBABLE CONSEQUENCE OF READING HEMINGWAY

The juvenile court made much of the fact that George's English class was not studying poetry at the time he wrote the dark poem and presented it to Mary. (RT 316.) What the court failed to observe was that what the class *was* studying might certainly have contributed to George's angst-ridden outpourings. As George and his teacher testified, the class was reading Ernest Hemingway's *The Sun Also Rises* (RT 55-56) -- the quintessential handbook for the post-World War I "lost generation." The

novel follows Jake Barnes, an American expatriate writer, who travels with a hard drinking group (all of whom seem to be in love with the beautiful, but unattainable, Brett) from the bars of Paris to the bars and bullfighting fiestas of Pamplona, Spain, where the violence and death involved in bullfighting catapult Jake into stark thoughts about the human condition. Introductory notes for the novel discuss the melancholy glamour with which young people have embraced the book. (Hemingway, *The Sun Also Rises* (1926), in *The Hemingway Reader*, p. 102, Charles Scribner's Sons (1961), pp. 89-292, notes by Charles Poore, at p. 88.)[5] The piece is rife with musings on violence, death, angst, unrequited love, and the meaning of life. For example:

> "I was very angry. Somehow they always made me angry. I know they are supposed to be amusing, and you should be tolerant, but I wanted to swing on one, any one, anything to shatter that superior, simpering composure." (Jake Barnes, in *The Sun Also Rises*, in *The Hemingway Reader*, *supra*, p. 102.)

Viewed in this context, it does not seem so strange that George would engage in a similar moody exercise in self-expression. Hemingway spoke in the metaphors of the early 20th Century, and George used the metaphors of the 21st.

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[5] Interestingly, George's English teacher claimed never to have assigned dark literature, and never to have come into contact with adolescents writing dark poetry or dark literature in his 29 years of teaching. (RT 67-70.)

George's poems are quite mild compared to many of the entries on The Diary Project (www.diaryproject.com), an Internet site specifically designed for adolescents to express their feelings and fears. On July 10, 2003, the site included 47 entries mentioning Columbine (including several in which the writers empathized with what happened); 320 discussing violence and feelings about wanting to be violent; and thousands on the theme of feeling that one does not "fit in." The prosecutor also made much of the fact that George and his friends joked about Columbine (RT 233-234), but perverse humor is very much within the mainstream of how youth respond to frightening situations. On the Internet, it is quite easy to locate a full range of web sites featuring Columbine jokes, and one site offering a t-shirt commemorating all of the school shootings. (e.g., Google search for "Columbine" + "jokes," search performed July 16, 2003.) [This is mentioned, not to support such endeavors, but to confirm that humor about Columbine is widespread.]

III. IN WRITING DARK POETRY, GEORGE WAS DOING WHAT YOUTH HAVE BEEN ENCOURAGED TO DO IN POST-COLUMBINE AMERICAN SCHOOLS

A. Violence Prevention Requires Risk Assessment of Alarming Facts, Open Communication, and Intervention Through Skilled Professionals

The incidence of targeted school violence is actually quite low. Out of 119,000 schools nationally, schools in only 37 communities were touched by such violence between 1994 and 2000. (United States Secret

Service and United States Department of Education, *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates* (May 2002), p. 3.)

Nonetheless, the handful of horrific school shootings, such as those that occurred at Columbine High in 1999, have generated tremendous fear among students, teachers, law enforcement and members of the greater community. One very positive result of this widespread concern is that education, mental health and law enforcement professionals have mobilized to develop school violence prevention programs to reduce the risk of future violence. George's case shows the harm that can occur when vigilance is not matched with proper risk assessment.

The joint report of United States Secret Service and United States Department of Education, *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, sets forth a methodology for threat assessment in schools to use when a student says something or behaves in a way that causes concern. (*Threat Assessment in Schools*, *supra*, p. 3.) The report encourages open communication: "When a member of the school community shows personal pain that might lead them to harm themselves or others, someone is available. Young people can find someone to trust with this information, so that it does not remain ''secret' until it is too late." (*Threat Assessment in Schools*, *supra*, p. 4.) The significance of listening and encouraging the

expression of feelings and pain is important both to identify students who may pose a risk, and to teach students that expressing their feelings may itself provide a release that replaces the compulsion to act them out: "Adults who listen to behavior and assist students in learning to articulate their feelings and experiences provide students with critical skills that can contribute to preventing and reducing violence." (*Threat Assessment in Schools*, *supra*, p. 70.)[6]

Significantly, the joint Secret Service/Department of Education report does not recommend calling the police every time an indicator of concern surfaces. Instead, it urges schools to develop policies to help decide how to react to potentially threatening situations, whether the information merits further attention, or whether there should be a more thorough inquiry and law enforcement investigation. Such policies help the school principal to decide, for example, whether to call the student to the school office, and whether to talk to other students about the matter of concern. (*Threat Assessment in Schools*, *supra*, p. 34.) The report also suggests employment of a multidisciplinary risk assessment team with representation from the school administration, mental health professionals,

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[6] The California Department of Education and Office of the Attorney General's guide, *Safe Schools, A Planning Guide for Action* (2002 Edition), p. 2, also emphasizes the need to connect with students and refer students to agencies and professionals who can deal with specific behavioral or family problems that interfere with their education.

school resource officers or other assigned officers, counselors, coaches, teachers, and others who know the student in question. (*Threat Assessment in Schools*, *supra*, pp. 37-38.) The report emphasizes that not all threat assessments need law enforcement involvement, and that this should be determined on a case-by-case basis. (*Threat Assessment in Schools*, *supra*, pp. 43-44.)

Similarly, the United States Department of Education's *Early Warning, Timely Response: A Guide to Safe Schools* (United States Department of Education, Office of Special Education and Rehabilitative Services (1998), p. 7), cautions that there is a real danger that early warning signs of school violence behavior will be misinterpreted. The guide urges school staff not to exclude, isolate or punish a child based on their exhibiting one or more of the early warning signs for violence, since effective schools recognize the potential in every child to overcome difficult experiences and to control negative emotions. (*Early Warning, Timely Response*, *supra*, pp. 7, 11.) As in *Threat Assessment in Schools,* discussed above, this guide recommends the use of a team of specialists trained in evaluating and addressing behavioral concerns. The guide suggests that, normally, the school principal would be the first point of contact, but that a school psychologist or other professional would be brought in to immediately address the concern. If the concern is determined to be serious, but not to pose a threat of imminent danger, the

child's family is to be contacted, and the family should be consulted before any interventions are implemented with the child. (*Early Warning, Timely Response*, *supra*, p. 11.) Only when there are imminent warning signs such as a detailed plan (time, place, and method), or the child has a weapon, does the guide suggest that law enforcement may be needed. Except for those imminent threats, the guide urges involvement of parents, and intervention through school psychologists, other mental health specialists, counselors and special educators, and other agencies such as community mental health or child and family services. (*Early Warning, Timely Response*, *supra*, pp. 11, 13.) Central to all of these recommendations is the need for students to freely express their emotions and fears, in order to facilitate appropriate intervention.

B. Risk Assessment Did Not Occur in George's Case

This kind of skilled risk assessment was noticeably missing in George's case. No one talked to George about the poems, or talked to his parents. There was no discussion at the school about how to handle the situation. Instead, the English teacher simply called the police after talking with Mary on the telephone, two days after she received the poem. (RT 65.) He had not seen the actual poem, only Mary's description of it an e-mail. (RT 63.) Erin, one of the girls who received a poem, testified that she had not even read the poem (or told anyone she felt threatened), until

the police were already on campus. (RT 39-40, 50.) George was arrested and detained the same day. (RT 128-129.)

While vigilance among students, teachers and families is essential to prevent and intervene in potentially dangerous situations, this case demonstrates that jumping to conclusions may have seriously damaging consequences. In simply arresting and detaining George, the system missed the opportunity to connect with this young man in a positive way. The juvenile court's belated attempt to encourage him to write poetry, after he had spent two months in juvenile hall, and was about to spend at least one more, could not make up for the completely inappropriate way this situation was handled.

Moreover, as a matter of public policy, we cannot afford to turn every troubling expression by a student into a criminal prosecution. This Court has recently recognized the broad supervisory and disciplinary powers available to California schools to act without law enforcement. (*In re Randy G.* (2001) 26 Cal.4th 556, 563-564, 566.) And, as the opinion in *In re Ricky T., supra*, 87 Cal.App.4th 1132, 1141, observed, "...section 422 was not enacted to punish an angry adolescent's utterances, unless they otherwise qualify as terrorist threats under that statute." George's case should have stayed where it belonged, in the school.

IV. IN REVIEWING THE RECORD, THE COURT SHOULD FOCUS ON GEORGE'S OWN THOUGHTS ABOUT THE POEMS

The juvenile court relied heavily on its belief that the minor's testimony was that anybody – including his own mother – if she saw this poetry of his, would deem it to be a threat; that she would be concerned about it. (RT 315.) However, the minor's actual testimony was that his mother would be concerned, something quite different from viewing the poems as a threat: "I don't know if she would have thought that I was really threatening people, like, actually. But she would probably ask me, yeah, Julius [George], is there anything going on at school that I should know about?" (RT 306, bracketed material added.)

And although the court interpreted the facts as showing that George had no relationship with these girls (RT 317), the pertinent point is that *George* thought he knew them. He had talked to Mary several times in class on "friendly terms." (RT 17, 22.) He had talked to Erin several times and knew her through his friend, Natalie. (RT 44-46.) He thought that, "... by giving the poem to Erin and Nicole, since they're my friends they could understand the way I am." (RT 235, and see RT 237-238.) He said that the poetry could be interpreted as threatening *if* a person didn't know him. (RT 242-243.) But in George's mind, the girls *did* know him: "...I thought they were my friends." (RT 306.)

In addition, George was clearly trying to make contact with the girls on an emotional level. The poem he gave Mary had an appended note that said, "These poems describe me and my feelings. Tell me if they describe you and your feelings." (RT 19.) He said he wrote "Dark Poetry" at the top of the poem, so his readers would know that this was going to be dark. (RT 296, 342.) He included the terms "dark, dangerous and destructive" in the poem because he had heard another girl talk about the "3 D's" and thought it sounded "cool." (RT 297.) He included the language about parents watching their children because he could be the next Columbine kid, since "...um, I just wanted to – kind of like a dangerous ending, like, a – um, just like ending a poem that would get like, like, -- like, whoa, that's really something. " (RT 298.) He explained, "It's a creative poem. It's just creativity." (RT 298.) This is the testimony of a fifteen year-old trying to show the girls that he is a sensitive, artistic person -- not that of a dangerous purveyor of criminal threats.

In fact, George was shocked that the girls were scared: "...this is stuff that friends usually do. They just show each other their things. I never thought there would be, like, no one would be scared of it." (RT 300.) George did not have the specific intent to threaten Mary or Erin.

CONCLUSION

While we know the Court will consider each element of the offenses herein with great precision, the over all impression left by this case must be mentioned. These facts do not look like the facts in any of the other cases where a criminal threat was sustained on appeal. In the other cases, the action constituting the threat was coupled with heated arguments, threats to kill specific victims, violent assaults, throwing furniture, punching holes in doors, setting fires, and pointing knives or guns at the victim. (*People v. Toledo*, *supra*, 26 Cal.4th at p. 225 [attempted threat]; *People v. Allen*, *supra*, 33 Cal.App.4th at pp. 1155-1156; *People v. Solis* (2001) 90 Cal.App.4th 1002, 1010; *People v. Butler, supra*, 85 Cal.App.4th at p. 752; *People v. Gaut*, *supra*, at p. 1431.) The facts in this case do not even look as menacing as those in the cases where no threat was found. (*In re Ryan D.*, *supra*, 100 Cal.App.4th at pp. 858-859; *In re Ricky T.*, *supra*, 87 Cal.App.4th at p. 1135.) We fully agree with George T's. Brief on the Merits, that the essential elements of section 422 were lacking.

We are also left with the troubling conclusion that George has been punished for doing exactly what we have asked of young people: to express their fears and anxieties to other people, so we can help them to understand and resolve their feelings. Punishing George for criminal threats offends the very values that make this particular kind of speech important to protect: "...[T]he freedom to speak one's mind is not only an

aspect of individual liberty – and thus a good unto itself – but is also essential to the common quest for truth and the vitality of society as a whole." (*Bose Corporation v. Consumers Union of the United States*, *supra*, 466 U.S. at pp. 503-504.) If young people like George are not allowed to express what is on their minds, we will not be likely to learn which young people need help, and that may truly result in tragedy. This case should never have been brought to court. The juvenile court findings should be reversed.

Dated this 27th day of August, 2003, at San Francisco, California.

Respectfully submitted,

YOUTH LAW CENTER
Susan L. Burrell, Staff Attorney

Susan L. Burrell

SUSAN L. BURRELL, State Bar No. 74204

Attorney for Amicus Curiae Youth Law Center
On Behalf of Defendant and Appellant, George T.

PROOF OF SERVICE BY U.S. MAIL

Case Name: In Re George T
Case No.: Supreme Court No. S111780
Sixth Appellate District Court of Appeal No. H023080
Santa Clara County Juvenile Court No. J 122537

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to this action. My business address is 417 Montgomery Street, Suite 900, San Francisco, California 94104.

On the date indicated below I sent the following document:

Application for Leave to File Amicus Curiae Brief of Youth Law Center on Behalf of Youth Law Center on Behalf of Defendant and Appellant, George T. and Amicus Curiae Brief of Youth Law Center on Behalf of Defendant and Appellant, George T.

to the parties hereinafter listed by placing a true and correct copy of such document in an envelope and placing such envelope in a United States Post Office box, postage prepaid:

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I, Robin Bishop, declare under penalty of perjury that the foregoing is true and correct. Served and executed on this 27th day of August, 2003

Robin Bishop