

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

SHAUN D. FRATANGELO,

Defendant-Appellee.

UNPUBLISHED

June 6, 2000

No. 222535

Wayne Circuit Court

LC No. 99-005961

Before: Hoekstra, P.J., and Holbrook, Jr. and Zahra, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting defendant's motion to quash a charge of making a false bomb report, MCL 750.411a(2); MSA 28.643(1)(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The charge against defendant arose out of a confrontation in which defendant allegedly told a teacher that he would blow up her van. The circuit court granted defendant's motion to quash the charge, finding that the activity was not proscribed by the statute. MCL 750.411a; MSA 28.643(1) provides:

(1) Except as provided in subsection (2), a person who intentionally makes a false report of the commission of a crime to a member of the Michigan state police, a sheriff or deputy sheriff, a police officer of a city or village, or any other peace officer of this state knowing the report is false is guilty of a crime as follows:

(a) If the report is a false report of a misdemeanor, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(b) If the report is a false report of a felony, the person is guilty of a felony punishable by the lesser of the following:

(i) The penalty for the felony falsely reported.

(ii) Imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(2) If the false report of a crime relates to a bombing, attempted bombing, or threat to bomb and the report is intentionally communicated to an individual described in subsection (1) or to any other person knowing the report is false, the person making the false report is guilty of a crime punishable by the lesser of the following:

(a) The penalty for bombing, attempted bombing, or threat to bomb falsely reported.

(b) Imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature. *People v Webb*, 458 Mich 265, 273-274; 580 NW2d 884 (1998). The Legislature is presumed to have intended the meaning it plainly expressed. *Id.* “Criminal statutes must be strictly construed, with each word interpreted according to its ordinary usage and common meaning.” *People v McCullough*, 221 Mich App 253, 255; 561 NW2d 114 (1997). “In interpreting penal statutes, courts cannot expand the scope of the statutory prohibition.” *People v Sartor*, 235 Mich App 614, 623; 599 NW2d 532 (1999). If any doubt exists regarding whether the act charged is embraced in the prohibition, that doubt is to be resolved in favor of the defendant. *Id.*

Here, there is doubt regarding whether defendant’s act is embraced in the statute. Subsection (2) concerns false reports related to a bombing or threat to bomb. However, defendant’s conduct was not a false report of a threat to bomb, it was a threat itself. In interpreting penal statutes, courts require clarity and explicitness in the defining of the crime and the classification of the acts that may constitute the crime. *People v Reeves*, 448 Mich 1, 13; 528 NW2d 160 (1995). This Court cannot usurp the Legislature’s role by expanding the scope of the proscribed conduct. *Id.* If the Legislature intended to criminally sanction the making of a threat to bomb, rather than the false report of a threat to make a bomb, it must state this more clearly. The circuit court did not err in dismissing the charge.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra