CRIMINAL LAW IN THE NEWS

Gilberto Valle, age thirty-one, the so-called "Cannibal Cop," was convicted of conspiracy to kidnap. A New York police officer, Valle was convicted in March 2013 based on his alleged secret plotting on "dark" Internet sites to abduct several women, including his own wife. He used online identities like Girlmeat Hunter and searched for methods of kidnapping, subduing, torturing, and killing women and used a law enforcement database to collect information about his victims. Valle also conducted Internet searches on topics such as "how to chloroform a girl."

Valle's wife discovered his postings about women on fetish chat rooms. In one e-mail, Valle described hanging a victim by her feet and "cutting her throat" and "[l]etting her bleed . . . [and] butcher[ing] her while she hangs." Other messages stated that "part of me wants to put her in the oven while she is still alive, but at a very low heat," and expressed a desire to "make some bacon strips off her belly."

Federal District Court Judge Paul G. Gardephe overturned Valle's conspiracy conviction, finding that he only engaged in "fantasy role-play." "No one was ever kidnapped, no attempted kidnapping [occurred] . . . and no real-world, non-Internet-based steps were ever taken to kidnap anyone." Judge Gardephe acknowledged that Valle's "depraved, misogynistic sexual fantasies about his wife, former college classmates and acquaintances undoubtedly reflected a mind diseased." However, Valle never met and did not know the men with whom he communicated and took no "non-Internet-based steps" to implement the plan. The dates for the kidnappings passed without comment or discussion or implementation.

Valle did receive a one-year sentence for using a law enforcement database to learn about the women about whom he fantasized and was required to continue mental health treatment. At the time of his sentencing, Valle had already been jailed for twenty months while awaiting trial.

In December 2015, the Second Circuit Court of Appeals affirmed Judge Gardephe's reversal of Valle's conviction. Judge Barrington D. Parker Jr. wrote that "fantasizing about committing a crime, even a crime of violence against a real person whom you know, is not a crime." Judge Parker cautioned that Valle's rhetoric was not harmless because it is both a "symptom of and a contributor to a culture of . . . massive social harm that demeans women." Valle in an interview following the reversal of his conviction recognized that the anonymity of the computer screen contributes to a culture in which "you try . . . [to] outdo the other person [as to] who can be the sicker one." Why did the appellate courts consider Valle to have engaged in fantasy? Do you agree with the decision to acquit Valle?