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## Officer's Conviction in Cannibalism Case Overturned

By BENJAMIN WEISER JULY 1, 2014

The 2013 conviction of a former New York City police officer in a plot to kidnap, torture, kill and eat women was overturned late Monday by a federal judge who said there was not sufficient evidence to support it.

The judge, Paul G. Gardephe of Federal District Court in Manhattan, granted the former officer, Gilberto Valle, a verdict of acquittal on the most serious count that he faced, kidnapping conspiracy. He could have faced life in prison on that count.

“The evidentiary record is such that it is more likely than not the case that all of Valle’s Internet communications about kidnapping are fantasy role-play,” Judge Gardephe said in a 118-page opinion issued late Monday night.

Mr. Valle, who was convicted in March 2013, had not yet been sentenced, and his federal public defenders had asked Judge Gardephe to grant him a new trial, arguing that the Constitution granted people — including police officers — “the right to fantasize about whatever and whomever they like, free from government interference.”

No women were ever abducted or harmed in the plot, but prosecutors told the jury that Mr. Valle had “crossed the line” while immersing himself in a fetish website where he communicated electronically with others about how he wanted to abduct women, butcher and cook them, and eat them.

Mr. Valle’s lawyers had argued that his plot was all part of a twisted fantasy — “no more real than the alien invasion” featured in the 1938 radio drama “War of the Worlds,” one defense lawyer, Julia L. Gatto, said in her closing argument.

But federal prosecutors argued that Mr. Valle had taken “concrete steps” to further his plans, including illegally looking up potential victims in a law

enforcement database, carrying out surveillance of them, and using the Internet to research ways to abduct, subdue and cook potential victims.

“He left the world of fantasy; he entered the world of reality,” one prosecutor, Hadassa Waxman, said in her closing argument.

But Judge Gardephe wrote that “once the lies and the fantastical elements are stripped away, what is left are deeply disturbing misogynistic chats and emails written by an individual obsessed with imagining women he knows suffering horrific sex-related pain, terror and degradation.

“Despite the highly disturbing nature of Valle’s deviant and depraved sexual interests, his chats and emails about these interests are not sufficient — standing alone — to make out the elements of conspiracy to commit kidnapping.”

The case had drawn widespread attention both because it involved a police officer and because it raised the question of when does a virtual crime, discussed and plotted in Internet chat rooms, cross over into actual criminal activity, including what kinds of additional steps are needed to create an actual crime.

The judge said in “the unique circumstances of this extraordinary case,” he had concluded that the evidence offered by prosecutors at trial was not “sufficient to demonstrate beyond a reasonable doubt that Valle entered into a genuine agreement to kidnap a woman, or that he specifically intended to commit a kidnapping.”

The judge said in an order issued earlier on Monday that he would hold a hearing on Tuesday, presumably to discuss the status of Mr. Valle, who has been imprisoned since his arrest in late 2012.

Judge Gardephe upheld Mr. Valle’s conviction on a second count, of illegally gaining access to the law enforcement database, which carried a maximum sentence of one year. Mr. Valle was fired by the Police Department upon his conviction.

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