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**IN THE PIMA COUNTY SUPERIOR COURT,
FOR THE STATE OF ARIZONA**

STATE OF ARIZONA,

Plaintiff,

vs.

LANE JEFFERY MYERS

Defendant

Case No.: CR2025-1454-001

**MOTION TO DISMISS COUNT SIX,
STALKING, AS MULTIPLICITOUS TO
ALREADY CHARGED OFFENSE IN
CR2025-1060-001**

(Assigned to Hon. D. Douglas Metcalf)

Date: TBD
Time: TBD

Defendant, Lane Myers, by and through counsel, William J. Parven, respectfully moves to dismiss Count Six in the indictment because it is multiplicitous and involves the same course of conduct already charged in Count Fourteen of the charged indictment in case number CR2025-1060-001, as discussed in the following memorandum of points and authorities.

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1 13, 2025, and March 28, 2025. The State neglected to mention that this is the same
2 course of conduct already charged and ongoing. This motion to dismiss now follows.

3 4 **II. ARGUMENT**

5 **A. The Court Must Dismiss The Additional Charged Offense of Stalking** 6 **Because It Involves the Same Ongoing Course of Conduct Already Charged** 7 **As Stalking in Case No. 2025-1060 And Implicates Double Jeopardy.**

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9 Multiplicity occurs when an indictment charges a single offense in multiple
10 counts. *State v. Powers*, 200 Ariz. 123 ¶5, 23 P.3d 668, 670 (App 2001). Multiplicity
11 raises the potential for multiple punishments, which implicates double jeopardy. *Id.*
12 Stalking requires a person to engage in a course of conduct. ARS §13-2923(A). A course
13 of conduct means more than one occasion. *Id.*(D)(1).

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15 In this case it is alleged the conduct is ongoing. Mr. Myers has been fully upfront
16 that he believes his actions are protected speech. Mr. Myers will be raising this defense
17 under ARS §13-2923(D)(b). Mr. Myers maintains his belief that he had a legitimate
18 purpose under ARS§13-2923(D)(1)(a)(iii).

19 The State somehow asserts that Mr. Myers stalked Ms. Walker between
20 September 12, 2024, and February 22, 2025, then stopped his conduct, and then started it
21 up again on March 13, 2025. This argument fails. The State alleges Mr. Myers
22 supposedly committed the crime of aggravated harassment on October 21, 2025, and then
23 again on January 22, 2025, and then again on February 22, 2025. The State did not
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1 charge Mr. Myers separately for two counts of stalking between September 12 and
2 February 22, 2025, because the State is fully aware this was one course of action.

3 The next alleged incident of stalking called for in this new charge occurred on
4 March 13, 2025. It involves the same conduct, and it is only nineteen days later than the
5 previous alleged incident. If the State acknowledges that a break of three months
6 between incidents is still within the same course of conduct, then how can the State
7 possibly allege that a break of only nineteen days is not? This new count of stalking
8 impermissibly charges Mr. Myers for the same conduct already charged in case number
9 CR2025-1060-001. It illegally has the potential to enhance Mr. Myers's sentence if the
10 jury does not believe his defense and convicts him twice for the same course of conduct.
11 This Court must dismiss this count because it violates double jeopardy.
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13 **B. The State Can Amend Their Indictment Under Rule 13.5**

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15 The State is permitted to amend an indictment under *Arizona Rule of Criminal*
16 *Procedure* 13.5(b) to correct mistakes in fact or conform to the evidence admitted during
17 any court proceeding.
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19 Mr. Myers is not prejudiced if the State amends the original charge of stalking in
20 case number CR2025-1060-001 to reflect an end date of March 28, 2025, or another date,
21 instead of February 22. Rather, the opposite is true. Mr. Myers is now prejudiced
22 because he faces two indictments for the same exact charge and the same course of
23 conduct. It is requested that this Court dismiss Count Six of the indictment in this case
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1 number. The State is free to amend the dates in the already filed charge as discussed
2 above.

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4 **III. CONCLUSION**

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6 Wherefore, for the reasons discussed above, it is requested that this Court dismiss
7 Count Six, stalking, because the charge is multiplicitous with the already filed charge in
8 case number CR2025-1060 and implicates double jeopardy.

9
10 RESPECTFULLY SUBMITTED this 7th day of April , 2025
11

12 By: /s/ William J. Parven
13 WILLIAM J. PARVEN, ESQ.
14 Attorney for Defendant

15 Original of the foregoing filed
16 with Clerk of Court
17 Pima County Superior Court
18 this 7th day of April, 2025

19 Copy of the foregoing delivered
20 This 7th day of April, 2025

21 Pima County Attorney Office
22 The Hon. D. Douglas Metcalf
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