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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF PIMA**

STATE OF ARIZONA,

Plaintiff,

vs.

LANE JEFFERY MYERS,

Defendant.

Case No. CR20251454-001

**RESPONSE TO MOTION TO  
DISMISS AGGRAVATED  
HARASSMENT COUNTS ON  
GROUNDS OF VAGUENESS,  
OVERBROAD AND THE FIRST  
AMENDMENT**

Hon. D. Douglas Metcalf

Division 16

COMES NOW the State of Arizona, by and through the Pima County Attorney, LAURA CONOVER, and her Deputy, RACHEL STILES, and hereby requests this Court deny Defendant's Motion to Dismiss Aggravated Harassment Counts on Grounds of Vagueness, Overbroad, and the First Amendment, for the reasons set forth in the following Memorandum of Points and Authorities.

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **RELEVANT FACTS/PROCEDURAL HISTORY:**

The Defendant, Lane Myers, had pending charges in Tucson City Court starting in June of 2024. The prosecutor assigned to his cases was Matthew Walker. On September 12, 2024, Mr. Myers called Matthew Walker's spouse, Shannon Walker, at her place of work stating he wanted her assistance in helping her husband not be a "crooked-ass prosecutor." Ms. Walker did not know Mr. Myers.

Following that date, Mr. Myers began posting YouTube videos displaying Ms. Walker's name, picture, and public contact information for her work including her physical office number. He put out information that suggested that Ms. Walker was involved in corruption with the Tucson City Prosecutor's Office.

In early October of 2024, Mr. Myers began putting on YouTube that Ms. Walker had his "wife"<sup>1</sup> fired. Ms. Walker did not know Mr. Myers' partner and had never met her. Mr. Myers continued posting Ms. Walker's work contact information while spreading misinformation about her on YouTube. He also encouraged his YouTube followers to contact her. Ms. Walker was receiving voicemails from people calling her offensive names and were threatening and harassing in tone. Mr. Myers also went to the law school where Ms. Walker worked and was looking for her. He livestreamed this on YouTube and showed her office number.

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<sup>1</sup> Lane Myers and Katherine Henricks, who he refers to as his wife, are not married.

On October 10, 2024, Ms. Walker obtained an injunction against harassment against Mr. Myers. The injunction ordered him to have no contact with Ms. Walker through any form of social media and he was prohibited from posting any messages or content regarding her via any social media platform. The injunction was served on Mr. Myers on October 17, 2024.

Following the service of the injunction, Mr. Myers continued going on YouTube making multiple videos and posting about Ms. Walker on his account, spreading misinformation, and posting her contact information. He also went on another YouTuber's account and discussed the injunction and Ms. Walker's contact information was posted leading to further phone calls and voicemails of a threatening and harassing tone.

On November 14, 2024, a hearing was held where Mr. Myers contested the injunction against harassment. At the hearing, Mr. Myers heard evidence that people from his YouTube were leaving threatening and harassing voicemails for Ms. Walker. The injunction was upheld but was modified to prohibit Mr. Myers from any direct or indirect contact with Ms. Walker through any form of social media, to prohibit him from posting her contact information including her work information on any social media platform, and to prohibit him from directly or indirectly through social media or otherwise encouraging third parties to contact her or go to a protected location. The court found that he had engaged in a series of acts that constituted harassment and that he did not have a legitimate purpose to contact her. The injunction was served on him in court.

Following that date, Mr. Myers kept on his YouTube page the videos with Ms. Walker's contact information. In January of 2025, Mr. Myers posted a phone call with

Officer Valenzuela during which he references that if there had been no case with Matthew Walker no calls would have been made to Shannon Walker. In that discussion, he states that Ms. Walker should be fired for the actions of her husband like his wife was fired because of him. He also continued posting videos regarding Ms. Walker on YouTube, posting her contact information, and encouraging people to take action against her throughout January and another one mid-February.

On March 13, 2025, Mr. Myers received a Summons for the charges in CR20251060. On that date, he emailed the State and copied Ms. Walker.

On March 14, 2025, Lane Myers was arraigned on charges for Harassment, Aggravated Harassment, and Stalking. Release conditions were imposed that day. Following that hearing, Mr. Myers posted two more videos on March 16<sup>th</sup> and March 17<sup>th</sup>, 2025, with the victim's contact information causing further harassing contact with Ms. Walker by Mr. Myers' YouTube followers.

On March 25, 2025, Mr. Myers was indicted for additional charges of Aggravated Harassment, Interfering with Judicial Proceedings, Intimidate/Threat/Harass with an Electronic Communication Device, and Stalking. He was held without bond following a No Bond Hearing based on committing new felonies while on felony release. On April 4, 2025, he was arraigned on the new charges. The next hearing in this matter is scheduled for April 21, 2025.

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## **LAW AND ARGUMENT:**

### **I. HARASSMENT STATUTE DOES NOT REGULATE CONSTITUTIONALLY PROTECTED SPEECH NOR EXPRESSIVE CONDUCT AND DOES NOT IMPLICATE FIRST AMENDMENT**

The Defendant argues that the current harassment statute in Arizona is unconstitutional as it does not have an intent requirement. A.R.S. § 13-2921(A)(1) provides a person commits harassment if the person knowingly “[c]ontacts or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means” in a manner that harasses. Harass means “conduct that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, humiliated or mentally distressed and the conduct in fact seriously alarms, annoys, humiliates or mentally distresses the person.” A.R.S. § 13-2921(E).

In *State v. Brown*, 207 Ariz. 231 (2004), the Court of Appeals noted that “it is well established that “[r]esort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution, and its punishment as a criminal act . . . raise[s] no question under that instrument.”” *Id.* at ¶ 8 (quoting *Cantwell v. Connecticut*, 310 U.S. 296, 309-10 (1940)). In *Brown*, the Court also noted that statutes similar to the harassment statute do not implicate the First Amendment. *Id.* at ¶ 9. The Court in *Brown* held that A.R.S. § 13-2921 did not implicate the First Amendment. *Id.* at ¶14.

While the statute has been amended since *Brown* to not include the intent language, the version of the statute in effect at the time of *Brown* required an “intent to harass” or “with knowledge the person is harassing another person.” *Id.* at ¶ 5. The current version

of the statute still requires the person act “knowingly.” A.R.S. § 13-2921. “Knowingly is defined as “with respect to conduct or to a circumstance described by statute defining an offense, that a person is aware or believes that the person’s conduct is of that nature or that the circumstance exists.” A.R.S. § 13-105(10)(b).

As in *Brown*, the harassment statute still requires that there be both subjective and objective components requiring it to focus on a specific person as well as a reasonable person. *Brown*, 207 Ariz. at ¶ 10; A.R.S. § 13-2921(E). “[C]riminal liability under the statute is based on the ‘manner’ in which certain communication is conveyed and the underlying purpose for the communication.” *Brown*, 207 Ariz. at ¶ 10. The statute does not regulate constitutionally protected speech nor expressive conduct. *Id.* at ¶ 14.

In this case, Mr. Myers posts regarding the victim did not contain any particularized political or social messages warranting First Amendment protection. Mr. Myers conduct in causing communication with the victim was for the purpose to harm her and her employment because he felt his “wife” was harmed when she lost her job because of Mr. Myers’ behavior. His conduct was also retaliatory to criminal charges being pursued against him. None of his videos causing communications with the victim by posting her contact information were for a legitimate purpose and were purely done to harm the victim. There is no First Amendment Protection for his actions.

## **II. THE DEFENDANT DOES NOT HAVE STANDING TO CHALLENGE HARASSMENT STATUTE ON GROUNDS OF VAGUENESS OR OVERBREADTH**

In reviewing challenges of a statute being vague and overbroad, the presumption is that a statute is constitutional. *Id.* at ¶15. The challenging party is required to “establish

beyond a reasonable doubt that the statute violates some provision of the constitution.” *Id.* (quoting *Bird v. State*, 184 Ariz. 198, 203 (App. 1995)). “Generally, a defendant may raise a vagueness or overbreadth challenge to a criminal statute only if he or she actually was injured by the allegedly unconstitutional statute.” *Id.* at ¶17. “[I]f a defendant’s conduct is not constitutionally protected and falls within a statute’s legitimate scope, he or she generally does not have standing to challenge the statute on vagueness or overbreadth grounds.” *Id.*

There is a narrow exception that applies in First Amendment cases. *Id.* at ¶18. “[T]hat exception to the standing requirement applies only if the statute’s deterrent effect on legitimate expression is both ‘real’ and ‘substantial.’” *Id.* In this case, Mr. Myers’ conduct was not constitutionally protected as there was no legitimate purpose for his conduct. As held in *Brown*, A.R.S. § 13-2921 “regulates conduct as well as speech.” *Id.* at ¶21. Mr. Myers’ conduct falls within the scope of the statute. Thus, he does not have standing to challenge the statute for vagueness or overbreadth as his conduct was not constitutionally protected and is within the statute’s legitimate scope.

### **CONCLUSION:**

For the foregoing reasons, it is respectfully requested the Defendant’s motion be denied.

RESPECTFULLY SUBMITTED this 18th day of April, 2025.

LAURA CONOVER  
PIMA COUNTY ATTORNEY

/s/ Rachel Stiles  
Rachel Stiles, Deputy County Attorney

ORIGINAL of the foregoing filed  
with the Clerk of the Court  
this 18<sup>th</sup> day of April, 2025.

COPY of the foregoing delivered  
this 18<sup>th</sup> day of April, 2025, to:

Honorable D. Douglas Metcalf  
Division 16  
Pima County Superior Court

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