

1 David S. Gingras, #021097  
2 **Gingras Law Office, PLLC**

3 [REDACTED]  
4 Phoenix, AZ 85044  
5 [REDACTED]

6 Attorney for Plaintiff Laura Owens

7 **MARICOPA COUNTY SUPERIOR COURT**  
8 **STATE OF ARIZONA**

9 **LAURA OWENS,**

10 **Plaintiff,**

11 **v.**

12 **ROBERT ANDREJEV,**

13 **Defendant.**

Case No: CV2026-002304

**NOTICE OF LODGING  
MEMORANDUM OPINIONS**

**(Assigned to Hon. Lindsey Coates)**

14 [REDACTED]  
15 Pursuant to Supreme Court Rule 111(c)(3), Plaintiff Laura Owens (“Ms. Owens”)  
16 respectfully lodges copies of the following memorandum decisions cited in her Response  
17 to Defendant’s Motion to Quash:

Exhibit	Case
A	<i>State v. Snyder</i> , 2024 WL 342301 (Ariz. App. 2024) Online: <a href="https://gingraslaw.com/Snyder.pdf">https://gingraslaw.com/Snyder.pdf</a>
B	<i>State v. Williams</i> , 2018 WL 3569309 (Ariz. App. 2018) Online: <a href="https://gingraslaw.com/Williams.pdf">https://gingraslaw.com/Williams.pdf</a>

22 DATED February 14, 2026.

23 **GINGRAS LAW OFFICE, PLLC**

24 

25 **David S. Gingras**

26 Attorney for Plaintiff Laura Owens  
27  
28

1 **Original** e-filed through [www.azturbocourt.com](http://www.azturbocourt.com)  
2 and **COPIES** e-delivered Feb. 14, 2026 to:

3 Matthew E. Kelly, Esq.  
4 BALLARD SPAHR LLP  
5 1 East Washington Street, Suite 2300  
6 Phoenix, AZ 85004-2555  
7 Attorney for Defendant Robert Andrejev

8   
9 \_\_\_\_\_



10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# Exhibit A

2024 WL 342301

Only the Westlaw citation is currently available.  
NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME  
COURT 111(c), THIS DECISION IS NOT  
PRECEDENTIAL AND MAY BE CITED ONLY AS  
AUTHORIZED BY RULE.  
Court of Appeals of Arizona, Division 1.

STATE of Arizona, Appellee,  
v.  
Geoffrey Joseph SNYDER, Appellant.

No. 1 CA-CR 23-0038

Filed January 30, 2024

Review Denied October 15, 2024

Appeal from the Superior Court in Maricopa County, No. CR2018-006515-001, The Honorable David J. Palmer, Judge. **AFFIRMED**

#### Attorneys and Law Firms

Arizona Attorney General's Office, Phoenix, By Joshua C. Smith, Counsel for Appellee

Maricopa County Public Defender's Office, Phoenix, By Jesse Finn Turner, Counsel for Appellant

Presiding Judge James B. Morse Jr. delivered the decision of the Court, in which Judge Cynthia J. Bailey and Judge Brian Y. Furuya joined.

#### MEMORANDUM DECISION

MORSE, Judge:

\*1 ¶1 Geoffrey Joseph Snyder appeals his convictions and sentences for one count each of harassment and aggravated harassment. For the following reasons, we affirm.

#### FACTS AND PROCEDURAL BACKGROUND

¶2 We recite the facts in the light most favorable to sustaining Snyder's convictions. *State v. Riley*, 196 Ariz. 40, 42, ¶2 (App. 1999). In March 2018, Snyder and B.B.<sup>1</sup> met on an online dating application and went on a date. Around that time, B.B. had opened her own interior design contracting firm and told Snyder about her business. By April 2018, B.B. and Snyder had gone on a few dates and spent Easter together.

¶3 Shortly after Easter, and while B.B. was out-of-town, Snyder created social media accounts for B.B.'s business without her knowledge, but later texted her about them. B.B. continued "to see" Snyder but began having "serious concerns" about him in May 2018. By this time, B.B. had not received any information regarding the social media accounts Snyder created for her business. B.B. ended the relationship with Snyder, stopped all contact with him on May 19, and "block[ed]" him on all her social media accounts.

¶4 After the relationship ended, Snyder began sending B.B. various communications, which scared B.B. She then contacted a private investigator specializing in computer forensics and cyber-crimes investigations, who recommended she hire an attorney.

¶5 On May 28, B.B. sought an ex parte order of protection against Snyder. A few days later, Snyder posted a series of videos on his social media accounts concerning the order of protection. On June 1, Snyder was served with the order of protection and posted several more videos about the order of protection, B.B.'s clients, and B.B.'s former employer. Several days later, Snyder posted two more videos, referencing B.B. and the order of protection.

¶6 On June 7, Snyder obtained an ex parte order of protection against B.B., which prohibited B.B. from several locations, including her place of employment. B.B. contested Snyder's order of protection against her. The court ruled in B.B.'s favor and dismissed the order. Snyder also contested B.B.'s order of protection against him. On June 25, the court held a hearing and affirmed B.B.'s order. A detective arrested Snyder after the hearing.

¶7 The State charged Snyder with one count each of harassment and aggravated harassment. A.R.S. § 13-2921(A)(1) (2008); A.R.S. § 13-2921.01 (A)(1) (2004). At trial, the court denied Snyder's motion for judgment of acquittal under Arizona Rule of Criminal Procedure ("Rule") 20. The jury convicted Snyder as charged, and the

court sentenced Snyder to 18 months of supervised probation. Snyder timely appealed, and we have jurisdiction under A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A)(1).

## DISCUSSION

### I. Rule 20 Motion.

\*2 ¶8 Snyder argues the court erred by denying his Rule 20 motion as to the aggravated-harassment charge. “We review a denial of a Rule 20 motion de novo, ‘viewing the evidence in a light most favorable to sustaining the verdict.’” *State v. Allen*, 253 Ariz. 306, 335, ¶ 69 (2022) (quoting *State v. Bible*, 175 Ariz. 549, 595 (1993)). In conducting our review, “we compare the evidence ‘against the statutorily required elements of the offense,’” *State v. Brock*, 248 Ariz. 583, 592, ¶ 22 (App. 2020) (quoting *State v. Pena*, 209 Ariz. 503, 505, ¶ 8 (App. 2005)), and do not “reweigh the evidence to decide if [we] would reach the same conclusions as the trier of fact,” *State v. Barger*, 167 Ariz. 563, 568 (App. 1990).

¶9 “A judgment of acquittal is appropriate when ‘no substantial evidence [exists] to warrant a conviction.’” *State v. Nunez*, 167 Ariz. 272, 278 (1991) (quoting *State v. Clabourne*, 142 Ariz. 335, 345 (1984)); see Ariz. R. Crim. P. 20(a)(1). “Substantial evidence is more than a mere scintilla and is such proof that reasonable persons could accept as adequate and sufficient to support a conclusion of defendant’s guilt beyond a reasonable doubt.” *State v. Ellison*, 213 Ariz. 116, 134, ¶ 65 (2006) (cleaned up). If reasonable people “could differ as to whether the evidence establishes a fact in issue, that evidence is substantial.” *State v. Mincey*, 141 Ariz. 425, 432 (1984). Substantial evidence may be direct or circumstantial. *Pena*, 209 Ariz. at 505, ¶ 7.

¶10 A person commits harassment under A.R.S. § 13-2921 “if, with intent to harass or with knowledge that the person is harassing another person, the person: [a]nonymously or otherwise contacts, communicates or causes a communication with another person by verbal, electronic,” or “written means in a manner that harasses.” A.R.S. § 13-2921(A)(1) (2008). A person commits aggravated harassment if (1) the person commits harassment under A.R.S. § 13-2921 and (2) a court has issued an order of protection against the person and in favor of the victim, and the order “has been served and is still valid.” A.R.S. § 13-2921.01(A)(1) (2004). Harassment means “conduct that is

directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person.” A.R.S. § 13-2921(E) (2008).

¶11 Snyder does not dispute that he was subject to an order of protection in favor of B.B. that was served and valid between June 1, 2018, and August 1, 2018. But Snyder argues the State failed to prove that he contacted or caused a communication with B.B. between June 1, 2018, and August 1, 2018, because he did not directly send B.B. any messages while her order of protection was valid and B.B. only became aware of his social media posts concerning her when third parties showed them to her.

¶12 Snyder cites to four out-of-state cases to support his argument, but we find them either unpersuasive, inapposite, or immaterial to the present case. For example, Snyder cites to *J.A.W. v. State*, 210 So.3d 142, 143–44 (Fla. App. 2016), in which the Florida court of appeals found that public social media threats that were not sent to a specific victim did not violate Florida law. But the Florida statute applies only when the defendant “sends or procures the sending of” a communication. Fla. Stat. § 836.10. In contrast, Arizona law applies when a defendant “contacts, communicates or causes a communication with another person.” A.R.S. § 13-2921(A)(1) (2008). Because Arizona’s statute contemplates a broader range of activity, *J.A.W.* is distinguishable.

\*3 ¶13 And Snyder’s reliance on cases from Ohio and Arkansas is similarly misplaced. See *State v. Smith*, 167 N.E.3d 587 (Ohio App. 2021); *Knight v. State*, 758 S.W.2d 12 (Ark. App. 1988); *Roberts v. State*, 78 S.W.3d 743 (Ark. App. 2002). In *Smith*, the timing of events meant that the threatening communication could not have been intended for the alleged victim. 167 N.E.3d at 590–91, ¶¶ 16–17 (“The gun photo was not posted on Smith’s Facebook page until February 27. The city’s argument is based on the date that Farrell saw the friend request which was sometime in March. But the burden on the city was to prove Smith’s purpose at the time the friend request was sent.”). In *Knight*, the statement at issue was made to another inmate and only overheard by a detention officer over an intercom system. 758 S.W.2d at 13. In *Roberts*, a teacher found a “hit list” in a student’s notebook after the student attempted to hide it. 73 S.W.3d at 745. In both cases, the inadvertently discovered statement directed to another party was insufficient to establish the defendant had “the purpose of terrorizing” the victim as required under Arkansas law. *Roberts*, 73 S.W.3d at 746; see also *Knight*, 758 S.W.2d at 14 (noting that “the defendant must intend to fill the victim with intense fright”).

¶14 In contrast with those out-of-state authorities, in Arizona, neither “direct contact” nor “purpose of terrorizing” is statutorily required under A.R.S. § 13-2921.01(A)(1) (2004) (aggravated harassment), A.R.S. § 13-2921(A)(1) (2008) (harassment), and A.R.S. § 13-2921(E) (2008) (defining harassment). Rather, “harassment” is “conduct that is directed at a specific person.” A.R.S. § 13-2921(E) (2008). There is substantial evidence indicating that Snyder’s conduct was directed at B.B., including him posting a video on his social media account that showed the order of protection with B.B.’s name and address on it. Snyder also argues that “no contact” occurred between him and B.B. after the order of protection was served on June 1. But under the statute, a person commits harassment if the person contacts, communicates, *or* causes a communication with another person by verbal, electronic, or written means in a manner that harasses. A.R.S. § 13-2921(A)(1) (2008).

¶15 There is substantial evidence that Snyder caused a communication with B.B. after he was served with the order of protection. But for and proximate cause must be established in a criminal case. *State v. Aragón*, 252 Ariz. 525, 528, ¶¶ 8–9 (2022) (requiring proof of causation for manslaughter, aggravated assault, and criminal damage while citing A.R.S. § 13-203(A)). To establish “but for” cause, “the State had to present evidence that ‘but for’ [the defendant’s] conduct, [the victim] would not have been injured.” *State v. Dodd*, 244 Ariz. 182, 185, ¶ 10 (App. 2017). “To establish proximate cause, the State needed to present evidence showing ‘that the difference between the result intended’ by [the defendant] and ‘the harm actually suffered’ by [the victim] was ‘not so extraordinary that it would be unfair to hold’ [the defendant] responsible for the result.” *Id.* (quoting *State v. Marty*, 166 Ariz. 233, 237 (App. 1990)); see *Aragón*, 252 Ariz. at 528–29, ¶ 9 (intervening causes become superseding when the intervening acts of another were unforeseeable and appear extraordinary). “[A] proximate cause may be interrupted only when ‘another cause with which the defendant was in no way connected intervenes, and but for which’ the injuries would not have occurred.” *Dodd*, 244 Ariz. at 185, ¶ 10.

¶16 Here, Snyder caused the communications with B.B., i.e., “but for” Snyder posting the videos on his social media accounts, they would not have been communicated to B.B. *Id.* Other evidence further shows that Snyder’s conduct proximately caused several communications with B.B. For example, Snyder recorded a video outside B.B.’s place of employment, posted the video to his social media account, and tagged<sup>1</sup> B.B.’s primary client’s social media account. B.B.’s primary client (who was also B.B.’s former employer) then contacted B.B. about the video post.

Similarly, Snyder posted another video that included B.B.’s business name and tagged another of B.B.’s clients in the video. That client communicated the post to B.B. Additionally, several other people contacted B.B. about other videos posted by Snyder between June 1, 2018, and August 1, 2018. Thus, holding Snyder responsible for the resulting communications with B.B. is “not so extraordinary that it would be unfair” nor were the resulting communications unforeseeable. *Id.* at ¶ 11; *Aragón*, 252 Ariz. at 528–29, ¶ 9; see *cf. State v. Boag*, 104 Ariz. 362, 370 (1969) (“[A] person of sound mind is presumed to have intended the natural and probable consequence of every act deliberately done.”).

\*4 ¶17 The court did not err in denying Snyder’s Rule 20 motion as to the aggravated-harassment charge.

## II. Free-Speech Challenge.

¶18 Snyder argues that A.R.S. § 13-2921.01, as applied to him, violates his right to free speech under the Arizona and United States Constitutions. Snyder concedes that he failed to raise this issue before the superior court, and thus, we review for fundamental error only. See *State v. Larin*, 233 Ariz. 202, 208, ¶ 14 (App. 2013) (failing to raise an issue below “waives the right to seek relief for all but fundamental, prejudicial error”). “The defendant must establish error occurred that was fundamental in nature and resulted in prejudice.” *Id.*

¶19 Snyder cites *State v. Brown*, 207 Ariz. 231 (App. 2004), and *State v. Williams*, 2 CA-CR 2016-0345, 2018 WL 3569309 (Ariz. App. July 24, 2018) (mem. decision), to support his argument. Snyder also cites various out-of-state cases, which we find distinguishable. For example, he cites *State v. Billings*, 287 A.3d 146, 169–70 (Conn. App. 2022), in which the Connecticut court of appeals found that the harassment statute, as applied, was unconstitutional because the defendant’s conviction “rested solely on the content” of his Facebook conversations with a third party. Unlike Arizona’s statute, which applies if a person contacts *or* causes a communication with another person, Connecticut law provides that a person commits harassment only if the person “communicates with a person” through one of the listed means. *Id.* at 168–69; compare Conn. Gen. Stat. § 53a-183(a), with A.R.S. § 13-2921(A)(1), (E) (2008). Thus, the Connecticut court relied on one conversation, and noted that the defendant did not engage with the victim’s home or place of employment. *Billings*, 287 A.3d at 166–67. In contrast, Snyder not only recorded a video outside of B.B.’s place of employment, he also tagged B.B.’s former employer and current clients in

his posts, and later posted the order of protection with B.B.'s name and home address on it.

¶20 As to the other out-of-state cases, they address different statutory schemes or the court did not find the statute unconstitutional as applied to facts similar to this case. See *State v. Shackelford*, 825 S.E.2d 689 (N.C. App. 2019) (focusing on content as opposed to conduct); *People v. Moreno*, 506 P.3d 849 (Colo. 2022) (interpreting “intended to harass” as unconstitutionally overbroad). For example, in *Moreno*, the Colorado Supreme Court concluded that the phrase “in a manner *intended to harass*” was overbroad because it encompassed “a substantial amount of protected speech” and was not “sufficiently narrow” to render it constitutional. 506 P.3d at 852, 855, ¶¶ 5, 25–26. Conversely, Arizona’s harassment statutes provide that, to be punishable as harassment, a communication must be “in a manner that harasses,” which is limited to “conduct that is directed at a specific person” and “that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person.” A.R.S. § 13-2921(A)(1), (E) (2008). Thus, A.R.S. § 13-2921(E) narrows the statutory reach to avoid the “more routine communications on the web,” such as negative restaurant reviews, emails sent to service providers, postings by disgruntled constituents, or comments left on news sites, all of which concerned the Colorado court. *Moreno*, 506 P.3d at 855, ¶ 24. Further, the court in *Shackelford* addressed North Carolina’s stalking statute and concluded that the statute as applied to the defendant focused on the content of the defendant’s postings at issue rather than the defendant’s conduct and contacts with the victim. 825 S.E.2d at 693, 698–99.

\*5 ¶21 Even if we found these cases persuasive, we have already approved Arizona’s harassment statutes. In *Brown*, we concluded that they do “not apply to pure First Amendment speech” but at most regulate “a blend of speech and conduct,” such that criminal liability is based on the “manner” in which “certain communication is conveyed and the underlying purpose for the communication.” 207 Ariz. at 235, ¶ 10.<sup>4</sup> We also noted that Arizona courts “have concluded that statutes similar to § 13-2921 that prohibit certain types of communication and

that contain a specific intent requirement do not implicate the First Amendment.” *Id.* at 234, ¶ 9; see also *Counterman v. Colorado*, 600 U.S. 66, 73 (2023) (making prosecution of threats permissible so long as the State proves “that the defendant had some understanding of his statements’ threatening character” and that “a recklessness standard is enough”); A.R.S. § 12-2921(A)(1) (2008) (requiring proof of a mens rea higher than recklessness). In *Williams*, we concluded harassment is not protected speech and that the defendant “was convicted not for posting *about*” the victim, “but after the jury found” he engaged in conduct that violated the injunction against harassment. 2018 WL 3569309, at \*3, ¶¶ 9–10 (citing *Brown*, 207 Ariz. at 234, ¶ 8).

¶22 Snyder concedes that A.R.S. § 13-2921 as written is constitutional because it satisfies the conduct requirement. But he argues that the statute as applied to him is unconstitutional because there was no evidence of any “disqualifying conduct,” and his conviction was “based solely on the content of his speech.” Not so. Any impermissible applications of the harassment statutes, “if such occurs, can be addressed and cured through case-by-case analysis of specific facts.” *Brown*, 207 Ariz. at 238, ¶ 21 (quoting *State v. Musser*, 194 Ariz. 31, 33, ¶ 10 (1999)). Here, Snyder was not prosecuted based on the content of any protected speech, but was prosecuted for his conduct in harassing B.B. Specifically, Snyder was convicted after the jury found he caused a harassing communication with B.B. in violation of the order of protection. See *supra* ¶¶ 15–16. Thus, he was neither prosecuted nor convicted based on the content of his speech, and we find no error.

## CONCLUSION

¶23 We affirm Snyder’s convictions and sentences.

## All Citations

Not Reported in Pac. Rptr., 2024 WL 342301

## Footnotes

<sup>1</sup> We identify the victim by her initials.

<sup>2</sup> “Blocking” is a process whereby social media users prohibit other users from viewing or tagging their social media profile page. *Unfriending or Blocking Someone*, Facebook, [https://www.facebook.com/help/1000976436606344/?helpref=hc\\_fnav](https://www.facebook.com/help/1000976436606344/?helpref=hc_fnav) (last visited

Dec. 6, 2023).

- 3 "Tagging" is a process whereby a social media user creates a link to another user's social media profile page. See *What Is Tagging and How Does It Work?*, Facebook, <https://www.facebook.com/help/124970597582337/> (last visited Dec. 5, 2023).
  
- 4 Snyder failed to cite authority or develop argument that Arizona's Constitution requires a different result than required by the First Amendment to the United States Constitution. Thus, he has waived any argument specific to Arizona's Constitution. See *State v. Johnson*, 247 Ariz. 166, 180, ¶ 13 (2019) (failing to develop arguments as to "why the Arizona Constitution would mandate a different result than that required" by the United States Constitution are waived).

---

End of Document

© 2026 Thomson Reuters. No claim to original U.S. Government Works.

# Exhibit B

2018 WL 3569309

Only the Westlaw citation is currently available.  
This Decision Does Not Create Legal Precedent And  
May Not Be Cited Except As Authorized By  
Applicable Rules.  
Not For Publication

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P.  
31.19(e).

Court of Appeals of Arizona, Division 2.

The STATE of Arizona, Appellee,  
v.  
John Walter WILLIAMS, Appellant.

No. 2 CA-CR 2016-0345

Filed July 24, 2018

Review Denied February 05, 2019

Appeal from the Superior Court in Pima County, No.  
CR20153855001, The Honorable Jane L. Eikleberry,  
Judge. **AFFIRMED**

#### Attorneys and Law Firms

Mark Brnovich, Arizona Attorney General, Joseph T.  
Maziarz, Chief Counsel, By David A. Sullivan, Assistant  
Attorney General, Tucson, Counsel for Appellee

James L. Fullin, Pima County Legal Defender, By Robb  
P. Holmes, Assistant Legal Defender, Tucson, Counsel  
for Appellant

Judge Espinosa authored the decision of the Court, in  
which Presiding Judge Vásquez and Judge Eppich  
concurred.

#### MEMORANDUM DECISION

ESPINOSA, Judge:

\*1 ¶ 1 Following a jury trial, John Williams was  
convicted of aggravated harassment, stemming from the

violation of a protective order, and was sentenced to 1.75  
years' imprisonment. On appeal, he challenges that order,  
arguing it was invalid from the outset as a violation of his  
First Amendment right to free speech. For the following  
reasons, we affirm.

#### Factual and Procedural Background

¶ 2 We view the facts in the light most favorable to  
upholding the jury's verdict. See *State v. Delgado*, 232  
Ariz. 182, ¶ 2 (App. 2013). Williams and the victim, K.S.,  
first met in October 2014 at a charity event at which K.S.  
was working as a model. Williams, an aspiring  
photographer, attended to take pictures alongside a  
photographer K.S.'s modeling group had invited to the  
event. At one point, another model's breasts became  
accidentally exposed and Williams captured the mishap in  
his photographs. K.S. asked Williams to relinquish the  
photos, but he refused. K.S. then requested he not  
photograph her in the future. She did not, however, try to  
prevent him from taking pictures of others at venues  
where she was working.

¶ 3 Williams thereafter "follow[ed] [K.S.] to various  
events," announced his presence on social media when he  
was in her vicinity, and ignored her requests not to  
photograph her. Williams also frequently "tagged" K.S.'s  
personal Facebook page or public pages associated with  
or operated by her. K.S. attempted to block Williams's  
access to the pages and profiles she controlled, but he  
"got around the block" and continued tagging her.  
Additionally, within an hour of K.S.'s vehicle being  
vandalized with pink paint, Williams tagged her in a post  
saying "[her] color was going to be orange and his was  
going to be pink." K.S. testified she was upset by this  
post, as it demonstrated "[Williams] had found [her]  
home."

¶ 4 In August 2015, K.S. applied for a protective order  
against Williams in the Pima County Consolidated Justice  
Court. Following a hearing in which Williams and one  
witness testified on his behalf, Williams was enjoined  
from coming within 1,000 feet of K.S. and was ordered to  
have "no contact" with her. Only four days after the  
injunction was served, Williams posted to a local radio  
station's Facebook page that K.S., a recurring radio  
personality on the station, was a "fraud" and a "real porno  
actress," tagging one of K.S.'s pages in the process. That  
same day, Williams tagged K.S. in at least two more posts  
on his own Facebook page, accusing her and the judge  
who had granted the injunction of ethical violations and

stating, “I can’t wait to see you in orange and your judge will be your cell mate. I guarant[ee].” The following morning, he replied to comments on his post to the radio station’s page, again tagging K.S.’s pages.

\*2 ¶ 5 Williams was charged with aggravated harassment for the posts on August 25, 2015, and the morning of August 26, 2015. He was convicted and sentenced as described above, and we have jurisdiction over his appeal pursuant to A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A)(1).

### Validity of the Injunction Against Harassment

¶ 6 Williams claims the protective order was invalid at the time of its issuance because it was unconstitutionally vague and overbroad in violation of his First Amendment right to free speech. Specifically, he quotes the language of the statute under which he was convicted, A.R.S. § 13-2921.01(A)(1), which requires an injunction to be “still valid” when the harassment occurs, and argues the injunction levied against him was “unconstitutional and facially invalid” because it violated his First Amendment rights and accordingly he “did not violate a valid injunction and his conviction must be reversed.” However, Williams admits he “did not challenge the enforceability of the injunction” before this appeal or attempt to appeal the injunction following its issuance as prescribed by law.<sup>2</sup>

¶ 7 This appeal does not arise from the entry of an injunction against harassment, nor would this court be the appropriate forum for such an appeal given that the injunction was entered in a limited jurisdiction court. *See* Ariz. R. Protective Order P. 42(b)(1). Accordingly, Williams may not now challenge the injunction itself.<sup>3</sup> “[B]y failing to appeal the injunction or to seek its review by special action, [Williams is] now estopped to launch a collateral attack on its validity by an appeal from [his] conviction[ ]” for violating the injunction. *State v. Chavez*, 123 Ariz. 538, 539 (App. 1979). Accordingly, because the facial validity of the injunction is not properly before us in this appeal, we do not address Williams’s arguments that the injunction was unconstitutionally vague and overbroad.<sup>4</sup>

### Protected Speech Defense

¶ 8 Beyond his facial challenge, however, Williams

additionally argues the actions for which he was convicted were constitutionally protected speech, which is a valid defense to charges of criminal harassment. *See State v. Brown*, 207 Ariz. 231, ¶ 21 (App. 2004) (recognizing as-applied challenges “can be addressed and cured through case-by-case analysis of specific facts”), quoting *State v. Musser*, 194 Ariz. 31, ¶ 10 (1999). We therefore consider this argument.

\*3 ¶ 9 Williams asserts he “had a constitutionally protected right to use social media as long as he did not contact [K.S.] or engage in unprotected speech.” Indeed, it is well established that postings on the internet enjoy the same protections as traditional speech. *See Brown v. Entm’t Merchs. Ass’n*, 564 U.S. 786, 790 (2011) (“[W]hatever the challenges of applying the Constitution to ever-advancing technology, ‘the basic principles of freedom of speech and the press, like the First Amendment’s command, do not vary’ when a new and different medium for communication appears.”), quoting *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495, 503 (1952). As we have previously recognized, however, “harassment is not ... protected speech.” *Brown*, 207 Ariz. 231, ¶ 8, quoting *Thorne v. Bailey*, 846 F.2d 241, 243 (4th Cir. 1988) (omission in *Brown*). Additionally, as Williams concedes, contacting K.S. in any manner would violate the injunction’s terms.

¶ 10 In characterizing the events leading to his conviction as merely “posting his thoughts, feelings, and opinions on his own Facebook account[.]” Williams ignores that he was convicted not for posting *about* K.S., but after the jury found he had *contacted* her in violation of the injunction against harassment. While Williams questions how K.S. could have been notified of his posts after blocking him, K.S. testified he “got around the block” and she continued to receive such notifications. There was thus evidence that Williams intentionally, albeit indirectly, communicated with K.S. by tagging her in the course of his posts. “It is not our task to weigh the evidence, nor to choose between the contradictory versions.” *State v. Thomas*, 104 Ariz. 408, 411 (1969) (citation omitted). The jury was entitled to credit K.S.’s testimony, and we will not disturb its finding that Williams violated the injunction by contacting her.

### Disposition

¶ 11 For the foregoing reasons, Williams’s conviction and sentence are affirmed.

All Citations

Not Reported in Pac. Rptr., 2018 WL 3569309

Footnotes

- 1 "Tagging" is a process whereby a social media user creates a link to another user's social media profile page. See *What Is Tagging and How Does It Work?*, Facebook, <https://www.facebook.com/help/124970597582337/> (last visited July 13, 2018). On Facebook, when a user tags someone, the other user is notified and the associated posting becomes visible to that user and generally the tagged user's Facebook "friends." *Id.*
- 2 Injunctions against harassment "entered, affirmed, modified, or quashed after a hearing at which both parties had an opportunity to appear" may be appealed. Ariz. R. Protective Order P. 42(a)(2).
- 3 Williams himself states he "is not asserting the First Amendment in this instance as a defense to the criminal charge" but rather "is directly attacking the constitutionality of the permanent injunction."
- 4 To the extent Williams suggests § 13-2921.01(A)(1)'s phrase "still valid" means anything other than not expired and still in force, he has offered no argument in this regard, and we do not address the issue further. See *State v. Carver*, 160 Ariz. 167, 175 (1989) ("[O]pening briefs must present significant arguments, supported by authority, setting forth an appellant's position on the issues raised. Failure to argue a claim usually constitutes abandonment and waiver of that claim.").