

No. 25-6934

In the
Supreme Court of the United States

TOBY HARRIS

Petitioner,

V.

ROBERT PARSONS and RENEE PARSONS, et al.

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE ARIZONA SUPREME
COURT

RESPONDENTS' RESPONSE BRIEF

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INTRODUCTION.

This Court should not grant review of Petitioner's frivolous Petition for Certiorari. The arguments raised by Petitioner are not supported by the facts and fail to raise any federal or constitutional questions. This case does not involve any split of legal authority within the circuits, any unsettled question of substantive or procedural law, or any issue of national importance. It is a standard defamation case decided correctly under Arizona law. The Petitioner has a multi-year history of meritless filings and has been deemed a vexatious litigant by two different courts under Arizona law.

As set forth below, Petitioner made false and defamatory statements against Robert and Renee Parsons relating to Mr. Parsons's involvement in GoDaddy, a company in which Mr. Parsons was formerly a shareholder, and Parsons Xtreme Golf ("PXG") a worldwide sporting goods and equipment company founded by Mr. Parsons.

Mr. and Mrs. Parsons obtained a preliminary and then a permanent injunction against Petitioner based upon his website, "boycottpxg.com." During the course of that case in which he represented himself Petitioner was designated a vexatious litigant pursuant to Arizona statute, A.R.S. § 12-3201 (C). The judgment against Petitioner was affirmed in part and reversed in part by the Arizona Court of Appeals. *See* Memorandum Decision dated December 10, 2024, provided as Exhibit 1.

After further proceedings in the Maricopa County Superior Court relating to an overly broad, burdensome, and inappropriate subpoena addressed to non-party PXG, a final injunction and a final judgment was again entered. This judgment was

again affirmed by the Arizona Court of Appeals. *See* Memorandum Decision dated October 10, 2025, provided as Exhibit 2.

Petitioner then sought discretionary review from the Arizona Supreme Court. Mr. and Mrs. Parsons filed a Response, following which Petitioner filed a Reply, not permitted under the Arizona Supreme Court rules. *See* Rule 23 of the Arizona Rules of Civil Appellate Procedure. Petitioner's Reply was therefore correctly stricken via ruling of the Honorable Kathryn King. *See* ruling dated November 17, 2025, provided as Exhibit 3.

Petitioner then filed a "Motion to Vacate Order Striking Reply and Reinstate Reply," and filed a separate "Motion to Recuse Justice Kathryn King," requesting that Justice King recuse herself from further participation in the case, a request made without any factual or legal support. *See* motions provided as Exhibit 4 and 5. However, before that request was ruled upon Petitioner filed a "Motion for Ruling and Motion to Withdraw Petition for Review," and that motion was granted by the Arizona Supreme Court. *See* Motion and Order, provided as Exhibits 6 and 7.

Although Petitioner's argument and logic is difficult to follow, it appears that he seeks review before this Court on substantive due process grounds based upon the fact that the Arizona courts did not apply a "public figure" standard for defamation, and based upon the fact that the Arizona Supreme Court delayed ruling on his motion for recusal of one of its justices, who was allegedly required to recuse herself after her ruling enforcing the rules of procedure. Neither of these arguments raised by Petitioner are supported by the facts, and fail to raise any federal or constitutional

questions. This case does not involve any split of legal authority within the circuits, any unsettled question of substantive or procedural law, or any issue of national importance. It is a “garden variety” defamation case decided (correctly) under Arizona law. This Court should deny the Petition.

FACTUAL SUMMARY.

The salient facts are as set forth by the Arizona Court of Appeals, Division One in its two decisions, attached as Exhibit 2. Petitioner sued his former employer, GoDaddy Inc., for wrongful termination in 2010. Mr. Parsons was the executive chairman of GoDaddy at the time. Exhibit 2, p. 2. During the course of that lawsuit Mr. Parsons retired from GoDaddy and started a separate business, Parsons Xtreme Golf (“PXG”).

Petitioner created a website that accused Mr. Parsons of fraud, theft, bribery, and embezzlement. *Id.*, p. 2. Mr. Parsons and his wife Renee sued the petitioner for defamation. As part of the lawsuit the Maricopa County Superior Court determined that Petitioner was a “vexatious litigant” under Arizona law. *Id.* Pursuant to Arizona statute, a party who unreasonably expands or delays the proceedings, or defends actions without substantial justification may be designated a vexatious litigant. A.R.S. § 12-3201 (C). Once so designated, the trial judge reviews any proposed written submission such that the opposing party does not need to file any response until ordered by the court.¹ *Id.*

¹ Petitioner was also designated a vexatious litigant in his lawsuit against GoDaddy.

A final judgment and permanent injunction was issued by the trial court with respect to the Petitioner's website and Petitioner's defamatory statements. *Id.*

The vexatious litigant designation was upheld on appeal. However, the Arizona Court of Appeals remanded the case back to the trial court for further proceedings regarding a subpoena served on non-party PXG. *Id.*

More specifically, the case was remanded to determine whether PXG was entitled to an extension of the deadline to file a motion to quash an overly broad and inappropriate subpoena. Exhibit 2, pp. 1-2. The trial court granted PXG's motion and reinstated the order quashing the subpoena and granting summary judgment in favor of Mr. and Mrs. Parsons. The court once again entered a final judgment and a permanent injunction. *Id.*, p. 3.

As the Court of Appeals correctly held, Petitioner admitted that the statements on the website impeached Mr. Parsons' honesty, integrity, and reputation, and never even filed a response to Mr. and Mrs. Parsons' motion for summary judgment regarding liability. *Id.* As the Arizona Court of Appeals stated:

The Parsons asserted that Harris made these statements knowing they were false or with reckless disregard for whether they were true. In his deposition, Harris stated that his evidence of truthfulness consisted of the documents attached to his answer. He also claimed that pending discovery requests to the Parsons would support his statements. The superior court implicitly determined that the documents attached to the answer did not relate to the truthfulness of the defamatory statements but instead related to the already-dismissed employment action. Moreover, Harris' deposition testimony does not address the PXG subpoena because he referred to anticipated discovery responses from Mr. Parsons. Harris also admitted the statements impeached Mr. Parsons' honesty, integrity, and reputation.

Exhibit 2, pp. 3-4.

In finding waiver of any “public figure” argument the Arizona Court of Appeals held:

Harris acknowledges that he did not make this argument in the original summary judgment proceedings. In fact, Harris did not respond to the summary judgment motion, nor did he request relief under Rule 56(d) to obtain more evidence to respond to the summary judgment motion. Further, Harris did not raise the public figure argument until the superior court reconsidered the summary judgment motion on remand. Even then, he did not make the argument until the reply supporting his objection.

Harris states that he intentionally chose not to file anything in superior court because the “mid case [v]exatious order was a trap for a contempt charge[.]” Harris misunderstands the vexatious litigant order, which allowed him to file a pleading with the court’s prior permission. Instead, he did nothing. “[I]f a party neglects to take either action, ‘a trial court does not err in proceeding to rule on a motion for summary judgment.’” *Best v. Edwards*, 217 Ariz. 497, 504, ¶ 30 (App. 2008) (quoting *Wells Fargo Credit Corp. v. Smith*, 166 Ariz. 489, 493 (App. 1990)). Thus, Harris waived this argument.

Id., pp. 3-4.

Now, Petitioner has sought review of the final injunction and his own request for dismissal based upon a fantasy relating to some vague notions of constitutional law. The Petition is without factual or legal support as set forth below.

ARGUMENT.

1. *The argument that Mr. Parsons was a “public figure” was waived, and lacks any evidentiary support.*

As the Court of Appeals correctly held (Exhibit 2), an argument raised for the first time in an objection to the proposed form of judgment is untimely and is waived. To the extent there was some constitutional issue relating to defamation (there is not) such an issue does not operate to overrule any of the applicable procedural rules. Petitioner has provided no explanation regarding why the argument was not raised

previously. It was obviously a “hail Mary” that Petitioner first considered making after losing the case, twice, before the trial court.

As the Arizona Court of Appeals held (Exhibit 2) Petitioner did not raise the “public figure” argument (with no evidentiary support) until after the final ruling on his first appeal and an injunction was again being affirmed following additional briefing regarding the PXG subpoena. Under clear and unequivocal Arizona law such an argument is untimely. *See, e.g., Medlin v. Medlin*, 194 Ariz. 306, 981 P.2d 1087 (App. 1999) (“An issue raised for the first time after trial is deemed to have been waived.”); *Flanders v. Maricopa County*, 203 Ariz. 368, 54 P.3d 837 (App. 2002) (issue raised for the first time in a motion for judgment as a matter of law following the verdict is waived).

To the extent the standard for “public figure” raises some unspecified due process concern, due process simply does not require the rules of procedure to be declared a nullity. Petitioner had ample notice and opportunity to be heard. Petitioner has not cited any valid legal authority on point to this argument, and the vague and non-specific references to some unstated constitutional right are not persuasive.

Perhaps more to the point, as the Arizona Court of Appeals correctly held Petitioner “did not offer any evidentiary support” for the public figure argument. Exhibit 2, p. 5.

2. *There is no violation of due process in connection with any action taken by the Arizona Supreme Court.*

Petitioner's argument relating to the orders of the Arizona Supreme Court also fail on numerous grounds. Petitioner's argument is that Justice King was required to recuse herself. However, the ruling on the motion to recuse was pending when Petitioner withdrew any request for further review by the Arizona Supreme Court.

Additionally, there is no basis for Justice King (one of seven justices on the court) to recuse herself. First, the Arizona Supreme Court rules for discretionary review of civil cases do not provide for any reply. Exhibit 3. In other words, the Petitioner simply attempted to provide a written submission not authorized by the rules. As such, it was properly stricken, and the ruling doing so did not evidence any bias or prejudice by Justice King.

Petitioner's argument is also factually and legally deficient because the Arizona Supreme Court did not fail to act; the Arizona Supreme Court simply did *not* deny the request for recusal. Rather, Petitioner voluntarily moved to withdraw his Petition for Review before the Arizona Supreme Court before there was any ruling on the motion for recusal. Not surprisingly, Petitioner has provided no legal authority for the proposition that the court was required to rule on such a request within a particular time frame.

As the Petition and its attachments make clear, the Petitioner has a history of filing judicial complaints against any judge that disagrees with his unsupported positions. He has filed a judicial complaint against the trial court judge who granted summary judgment, and against the trial court judge who presided over the GoDaddy case, and now against an Arizona Supreme Court Justice. Similarly, in variety of

written submissions he has sought to have opposing counsel criminally charged or disbarred. The personal attack on Justice King is simply one more in a series of unjustified complaints against judicial officers.

The other glaring deficiency with Petitioner's position is the false premise that Justice King had a conflict interest that impaired her judgment and required recusal. Throughout this case, petitioner has conflated Mr. Parsons with the GoDaddy corporation and the PXG corporation. Petitioner refuses to recognize that a corporation is a separate legal entity. Mr. Parsons is an entrepreneur who founded the GoDaddy web hosting platform. Per the GoDaddy website, it now employs nearly 6,000 people. See <https://aboutus.godaddy.net/about-us/overview/default.aspx>. Similarly, PXG is a worldwide company which employs over five hundred people. See <https://www.linkedin.com/company/parsons-xtreme-golf/>.

There is no evidence that Justice King ever represented GoDaddy, Mr. Parsons, or PXG while she was in private practice. As the biographical information from the Arizona Supreme Court website relating to Justice King indicates, she was formerly a member of a firm who had previously represented GoDaddy in litigation brought by Petitioner. Exhibit 8. However, based upon timing it appears Justice King became affiliated with that firm only after petitioners case against GoDaddy had been dismissed and that dismissal affirmed on appeal. *Id.* Further, GoDaddy is not Robert Parsons. There is simply zero evidence that Justice King was involved in the prior lawsuit brought by Petitioner in any way, or even knew that lawsuit existed.

Petitioner has provided no legal authority whatsoever that Justice King was required to recuse herself from this case pursuant to the Arizona canons of judicial ethics, or otherwise, under these circumstances. *See Arizona Supreme Court Rule 81, Arizona Code of Judicial Conduct.*

Simply put, there is absolutely no constitutional or other issue raised by the Arizona Supreme Court's rulings in this case regarding whether to exercise its discretionary power to review a civil case pursuant to the petition for review process under Arizona law.

3. The trial court's ruling quashing an unduly burdensome and vexatious subpoena was entirely correct and does not raise any constitutional issues.

Although difficult to follow, Petitioner complains that an overly broad and burdensome subpoena quashed by the trial court somehow merits review. It does not. It was an entirely correct ruling, affirmed by the Arizona Court of Appeals.

As the Memorandum Decisions of the Arizona Court of Appeals (Exhibit 1 and 2) indicate, Petitioner propounded an overly broad and oppressive subpoena upon nonparty PXG. The stated reason for the subpoena was to seek after the fact justification for the defamatory statements Petitioner had made about Mr. and Mrs. Parsons. In reality, it was simply an attempt to annoy and harass PXG given Petitioner's personal animus toward Mr. Parsons, consistent with Petitioner's status as a vexatious litigant.

PXG objected to the subpoena, although PXG had mis-calendared the due date. The Maricopa County Superior Court denied Petitioner's request to enforce this inappropriate subpoena, and quashed the subpoena. As Exhibit 1 indicates, in the

first appeal the Arizona Court of Appeals remanded the case for a further proceedings with respect to this issue.

After remand to the Maricopa County Superior Court, a different trial judge found good cause for the belated objection, affirmed the previous ruling quashing the improper subpoena, and once again entered a permanent injunction against Petitioner.² As Exhibit 2 indicates, the Arizona Court of Appeals affirmed this discovery ruling.

Following the multiple rulings against Petitioner on this discovery issue, he sought discretionary review of the case before the Arizona Supreme Court. However, as set forth above, while this Petition for Review was pending Petitioner became annoyed that the Arizona Supreme Court was not addressing his various requests on the timeframe he sought to unilaterally impose. He then voluntarily dismissed his Petition for Review. It is therefore wholly inappropriate and a waste of this Court's time and resources to request that this even consider the claim relating to the subpoena.

Simply put, Petitioner's claim relating to the subpoena is factually inaccurate and devoid of any legal authority supporting it. As with the other claims, it does not implicate any federal or constitutional question.

² Petitioner repeatedly references allegedly destroyed documents, but there is no support for this incendiary allegation just as there was no support for the defamatory statements about Mr. and Mrs. Parsons. Petitioner simply made this assertion without foundation in a previous written submission and continues to repeat it. But restating it over and over does not make it true.

CONCLUSION.

As set forth above, there is no legitimate federal question presented by the Petition. Rather, it is a question of Arizona state law, in a fact specific case in which the Maricopa County Superior Court, the Arizona Court of Appeals, and the Arizona Supreme Court applied state law to the particular facts of the case, finding against Petitioner at every level. It involves no unsettled issue of law and no issue of national significance. This Court should deny the Petition.

Respectfully submitted,

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Dated April 1, 2026