

No. _____

**In the
Supreme Court of the United States**

TURNER LEE CALLOWAY,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

**On Petition for a Writ of Certiorari to the
Supreme Court of the State of Washington**

PETITION FOR A WRIT OF CERTIORARI

Richard Lechich

Counsel of Record

WASHINGTON APPELLATE PROJECT

1511 Third Avenue, Suite 610

Seattle, WA 98101

(206) 587-2711

richard@washapp.org

wapofficemail@washapp.org

September 21, 2026

Counsel for Petitioner

SUPREME COURT PRESS



(888) 958-5705



BOSTON, MASSACHUSETTS

QUESTION PRESENTED

Whether the State of Washington’s harassment statute, Wash. Rev. Code § 9A.46.20(1)(a)(i), which criminalizes threatening speech without defining a culpable mental state, is unconstitutionally overbroad in violation of the First Amendment as interpreted by this Court in *Counterman v. Colorado*, 600 U.S. 66 (2023).

PARTIES TO THE PROCEEDINGS

Petitioner and Defendant-Appellant below

- Turner Lee Calloway

Respondent and Plaintiff-Appellee below

- State of Washington

LIST OF PROCEEDINGS

Supreme Court of the State of Washington

No. 103374-5

State of Washington v. Turner Lee Calloway

Opinion (Statute Constitutionality):

March 19, 2026

Order Denying Reconsideration:

April 23, 2026

Court of Appeals of the State of Washington

No. 57226-5

State of Washington v. Turner Lee Calloway

Opinion Affirming Judgment and Sentence:

June 11, 2024

Order Denying Motion for Reconsideration:

July 22, 2024

Opinion on Remand (Harmless Error):

September 9, 2026

Superior Court for Pierce County, Washington

No. 21-1-03422-3

State of Washington v. Turner Lee Calloway

Judgment and Sentence: August 16, 2022

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii
LIST OF PROCEEDINGS.....	iii
TABLE OF AUTHORITIES	vii
PETITION FOR A WRIT OF CERTIORARI.....	1
OPINIONS AND ORDERS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE.....	3
A. Factual Background.....	3
B. Proceedings Below	3
REASONS FOR GRANTING THE PETITION.....	6
I. The Washington Supreme Court Failed to Conduct the Overbreadth Review the First Amendment Requires.	6
II. A Summary Grant, Vacate, and Remand Is Appropriate.	10
III. Alternatively, the Court Should Grant Review to Address Whether Jury Instructions Can Cure an Overbroad Statute.	12
CONCLUSION.....	14

TABLE OF CONTENTS (Cont.)

Page

APPENDIX TABLE OF CONTENTS**OPINIONS AND ORDERS**

Opinion, Supreme Court of the State of Washington (March 19, 2026).....	1a
Concurring Opinion of Justice Gordon McCloud.....	18a
Post-Remand Unpublished Opinion on Harmless Error, Washington Court of Appeals, Division Two (September 9, 2026).....	28a
Published Opinion on Constitutionality, Washington Court of Appeals, Division Two (June 11, 2024)	47a
Warrant of Commitment and Judgment, Superior Court of Washington for Pierce County (August 16, 2022)	70a

REHEARING ORDERS

Order Denying Motion for Reconsideration, Supreme Court of Washington (April 23, 2026)	88a
Order Denying Motion for Reconsideration, Washington Court of Appeals Division Two (July 22, 2024)	90a

TABLE OF CONTENTS (Cont.)

	Page
CONSTITUTIONAL AND STATUTORY PROVISIONS	
Relevant Constitutional and Statutory provisions	92a
U.S. Const. Amend. I.....	92a
U.S. Const. Amend. XIV, Sec. 1	92a
Wash. Rev. Code § 9A.46.020(1), (2)	92a
CASE DOCUMENTS	
Verdict Form – Count 1, Superior Court of Washington for Pierce County (July 6, 2022)...	95a
Verdict Form – Count 2, Superior Court of Washington for Pierce County (July 6, 2022)...	97a
Case Information, Filed in the Superior Court of Washington for Pierce County (November 1, 2021)	99a

TABLE OF AUTHORITIES

	Page
FEDERAL CASES	
<i>Ashcroft v. Free Speech Coal.</i> , 535 U.S. 234 (2002)	7
<i>Brown v. Entm’t Merchants Ass’n</i> , 564 U.S. 786 (2011)	6
<i>City of Houston, Tex. v. Hill</i> , 482 U.S. 451 (1987)	9
<i>Counterman v. Colorado</i> , 600 U.S. 66 (2023)	i, 4, 5, 6, 8–13
<i>Cox Broad. Corp. v. Cohn</i> , 420 U.S. 469 (1975)	6
<i>Doe v. Dynamic Physical Therapy, LLC</i> , 607 U.S. 11 (2025)	11
<i>R.A.V. v. City of St. Paul</i> , 505 U.S. 377 (1992)	9
<i>Reno v. Am. Civil Liberties Union</i> , 521 U.S. 844 (1997)	9
<i>United States v. Arthur</i> , 160 F.4th 597 (4th Cir. 2025).....	11
<i>United States v. Hansen</i> , 599 U.S. 762 (2023)	7
<i>United States v. Reese</i> , 92 U.S. 214 (1876)	10
<i>United States v. Salerno</i> , 481 U.S. 739 (1987)	7, 9, 10, 12
<i>United States v. Stevens</i> , 559 U.S. 460 (2010)	4, 6, 7, 8, 9, 10

TABLE OF AUTHORITIES (Cont.)

	Page
<i>United States v. Wiltberger</i> , 5 Wheat. 76, 5 L. Ed. 37 (1820).....	10
<i>Virginia v. Hicks</i> , 539 U.S. 113 (2003)	7

STATE CASES

<i>Commonwealth v. Cruz</i> , 247 N.E.3d 25 (Mass. 2024)	11
<i>People v. Burkman</i> , 513 Mich. 300, 15 N.W.3d 216 (2024).....	11
<i>People v. Kvasnicka</i> , 28 N.W.3d 710 (Mich. 2025).....	11
<i>People v. Kvasnicka</i> , No. 371542, ___ N.W.3d ___, 2025 WL 2045006, 2025 Mich. App. LEXIS 5764 (Mich. Ct. App. July 21, 2025)	11
<i>State v. Calloway</i> , 585 P.3d 1270 (Wash. 2026).....	5, 8, 9, 10
<i>State v. Fair</i> , 256 N.J. 213, 307 A.3d 1126 (2024)	11
<i>State v. Hunley</i> , 287 P.3d 584 (Wash. 2012).....	8
<i>State v. J.M.</i> , 28 P.3d 720 (Wash. 2001).....	8
<i>State v. Kilburn</i> , 84 P.3d 1215 (Wash. 2004).....	8
<i>State v. Schaler</i> , 236 P.3d 858 (Wash. 2010).....	8

TABLE OF AUTHORITIES (Cont.)

	Page
<i>State v. Trey M.</i> , 383 P.3d 474 (Wash. 2016).....	8, 12, 13

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. I.....	i, 2, 3, 4, 5, 6, 8–13
U.S. Const. amend. XIV.....	2, 6

STATUTES

28 U.S.C. § 1257(a)	2, 5
Wash. Rev. Code § 9A.46.020(1)(a)(i)	i, 2

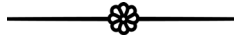
JUDICIAL RULES

Sup. Ct. R. 10(b).....	12
Sup. Ct. R. 10(c)	12



PETITION FOR A WRIT OF CERTIORARI

Petitioner Turner Lee Calloway respectfully petitions this Court for a writ of certiorari to review the decision of the Washington Supreme Court.



OPINIONS AND ORDERS BELOW

The opinion of the Washington Supreme Court, dated March 19, 2026, is reported at 6 Wn.3d 257, 585 P.3d 1270. (App.1a). This opinion rejected Petitioner's First Amendment facial challenge to Washington's harassment statute, RCW 9A.46.020(1). That opinion remanded for further review of whether an erroneous jury instruction was harmless error.

The preceding decision of the Washington Court of Appeals, dated June 11, 2024, is reported at 31 Wn. App. 2d 405, 550 P.3d 77. (App.47a).

The warrant of commitment and judgment was entered by the Superior Court of Washington for Pierce County was entered on August 16, 2022. (App.72a).

The subsequent decision by the Washington Court of Appeals on remand, dated September 9, 2026, which addressed the harmless-error issue, is included for completeness. (App.28a). The remand decision is not the subject of this petition.



JURISDICTION

Following denial of reconsideration, the judgment of the Washington Supreme Court was entered on April 23, 2026. App.88a-89a. On July 23, 2026, the Circuit Justice extended the time within which to file a petition for a writ of certiorari until September 20, 2026. Sup. Ct. No. 26A103. This Court has jurisdiction under 28 U.S.C. § 1257(a).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const, amend. I, in relevant part:

Congress shall make no law *** abridging the freedom of speech.

U.S. Const, amend. XIV, sec. 1, in relevant part:

... [N]or shall any State deprive any person of life, liberty, or property, without due process of law.

Wash. Rev. Code § 9A.46.020(1)(a)(i), (b)

- (1) A person is guilty of harassment if:
 - (a) Without lawful authority, the person knowingly threatens:
 - (i) To cause bodily injury immediately or in the future to the person threatened or to any other person;

* * *

and

- (b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. “Words or conduct” includes, in addition to any other form of communication or conduct, the sending of an electronic communication.



STATEMENT OF THE CASE

A. Factual Background

Turner Lee Calloway was close friends with A.D. App.3a. Starting the morning of Halloween in 2021, the two exchanged contentious back-and-forth phone calls that lasted the whole day and ended with Mr. Calloway’s arrest. App.3a-6a.

B. Proceedings Below

The prosecution charged Mr. Calloway with “stalking” and “harassment” for allegedly threatening to kill A.D. App.6a.

Consistent with Washington precedent interpreting the harassment statute, the trial court instructed the jury on the requirement of a true threat using a negligence or reasonable person standard. App.6a-7a.

The jury acquitted Mr. Calloway of stalking, but convicted him of harassment. App.7a.

On appeal, Mr. Calloway argued the harassment statute was facially overbroad in violation of the First Amendment and therefore unconstitutional. App.8a.

He additionally argued that even if the statute was not unconstitutional, he was entitled to a new trial because the jury's instructions were constitutionally defective on what must be proved to punish a true threat. App.8a.

The Washington Court of Appeals affirmed Mr. Calloway's conviction. App.8a. The Washington Supreme Court granted Mr. Calloway's petition for review. App.8a.

In the Washington Supreme Court, Mr. Calloway argued the harassment statute is facially unconstitutional because it is *overbroad*, meaning it proscribes a substantial amount of *protected speech* in violation of the federal constitution. Supp. Br. of Pet. at 11, 17-22 (citing *United States v. Stevens*, 559 U.S. 460, 473 (2010), available at <https://www.courts.wa.gov/content/Briefs/A08/1033745%20Supplemental%20Brief%20of%20Petitioner.pdf>. Wash. Sup. Ct. oral arg., *State v. Calloway*, No. 103374-5 (Mar. 11 2025), at 6 min., 00 sec. to 6 min., 22 sec., video recording by TVW, Washington State's Public Affairs Network, available at <https://tvw.org/video/washington-state-supreme-court-2025031204/6:00-22>.

This facial challenge was based on *Counterman v. Colorado*, 600 U.S. 66 (2023). *Counterman* held the First Amendment “demand[s] a subjective mental-state requirement shielding some threats from liability.” *Id.* at 75. Specifically, “true threats” may not be punished unless the State proves *at least* the subjective mental state of recklessness. *Id.* at 78-82. Under Washington's harassment statute and Washington precedent, Mr. Calloway was prosecuted and convicted based on a reasonable person standard, which did not consider his subjective mental state at all.

Without acknowledging Mr. Calloway’s overbreadth argument, the Court rejected the challenge because, in the court’s view, the statute could be constitutionally applied in some circumstances. *State v. Calloway*, 585 P.3d 1270, 1276 (Wash. 2026). Without overruling prior precedent interpreting the harassment statute, the Court reasoned the statute “neither requires the State to prove a true threat based on negligence nor prevents the State from proving a true threat based on recklessness.” *Id.* The Court reasoned that a jury instruction “defining true threat and explaining the requisite *mens rea*” cures any constitutional defect. *Id.*

The Court, however, held the jury instructions relieved the prosecution of its burden to prove a true threat and remanded to the Washington Court of Appeals to determine whether this error was harmless beyond a reasonable doubt. *Id.* at 270-71.

The Washington Supreme Court denied Mr. Calloway’s motion to reconsider. App.88a.

On remand, the Washington Court of Appeals, on September 9, 2026, again held the *Counterman* error in the jury instructions to be harmless beyond a reasonable doubt. Mr. Calloway intends to seek review by the Washington Supreme Court of this holding.

Even if Mr. Calloway is successful in getting review granted and a decision reversing the Court of Appeal on harmless error, he would be subject to retrial. But if the harassment statute is unconstitutionally overbroad in violation of the First Amendment, then his conviction would be vacated and he would not be subject to retrial.

Under this procedural posture, this Court has jurisdiction under 28 U.S.C. § 1257(a) to review the

Washington Supreme Court’s First Amendment holding. *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 467-87 (1975).



REASONS FOR GRANTING THE PETITION

I. The Washington Supreme Court Failed to Conduct the Overbreadth Review the First Amendment Requires.

The Constitution protects speech. U.S. Const. amends. I, XIV. In general, the government has no power to restrict or punish expression because of its message, ideas, subject matter, or content. *Brown v. Entm’t Merchants Ass’n*, 564 U.S. 786, 790 (2011). Restricting speech is permissible in a limited number of narrow categories. *United States v. Stevens*, 559 U.S. 460, 468 (2010).

One category of unprotected speech is “true threats” of violence. *Counterman*, 600 U.S. at 74. “True threats are serious expressions conveying that a speaker means to commit an act of unlawful violence.” *Id.* (cleaned up). But proscription of a true threat requires at least proof of the subjective mental state of recklessness: “The State must show that the defendant consciously disregarded a substantial risk that his communications would be viewed as threatening violence.” *Id.* at 69.

A restriction on speech is unconstitutional if it is overbroad. *Stevens*, 559 U.S. at 473. “[A]n overbroad law may deter or ‘chill’ constitutionally protected speech—especially when the overbroad statute imposes criminal sanctions.” *Virginia v. Hicks*, 539 U.S. 113,

119 (2003). “The overbreadth doctrine prohibits the Government from banning unprotected speech if a substantial amount of protected speech is prohibited or chilled in the process.” *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 255 (2002).

For freedom of speech claims, “the overbreadth doctrine instructs a court to hold a statute facially unconstitutional even though it has lawful applications, and even at the behest of someone to whom the statute can be lawfully applied.” *United States v. Hansen*, 599 U.S. 762, 769 (2023). “If the challenger demonstrates that the statute prohibits a substantial amount of protected speech relative to its plainly legitimate sweep, then society’s interest in free expression outweighs its interest in the statute’s lawful applications, and a court will hold the law facially invalid.” *Hansen*, 599 U.S. at 770 (cleaned up).

This makes it unlike facial challenges brought under other constitutional provisions. In those cases, “litigants mounting a facial challenge to a statute normally ‘must establish that *no set of circumstances* exists under which the [statute] would be valid.” *Id.* at 769 (citing *United States v. Salerno*, 481 U.S. 739, 745 (1987)).

The rationale for the difference is that “[o]verbroad laws may deter or chill constitutionally protected speech, and if would-be speakers remain silent, society will lose their contributions to the marketplace of ideas.” *Id.* at 770 (cleaned up).

To determine whether a statute is overbroad requires interpretation of the statute. *Stevens*, 559 U.S. at 474. “[I]t is impossible to determine whether a

statute reaches too far without first knowing what the statute covers.” *Id.* (internal quotation omitted).

Mr. Calloway challenged the harassment statute as facially unconstitutional under the First Amendment and this Court’s decision in *Counterman*. The harassment statute, as previously interpreted by the Washington Supreme Court, criminalized true threats using a “reasonable person” or negligence standard. *State v. Trey M.*, 383 P.3d 474, 479-81, 484-85 (Wash. 2016); *State v. Schaler*, 236 P.3d 858, 864, 865 n.6 (Wash. 2010); *State v. Kilburn*, 84 P.3d 1215, 1222 (Wash. 2004); *State v. J.M.*, 28 P.3d 720, 726 (Wash. 2001).

In adjudicating Mr. Calloway’s free speech challenge, the Washington Supreme Court refused to apply the overbreadth doctrine. And it did not interpret the harassment statute to require recklessness rather than negligence, so that it would be constitutional under *Counterman*. Instead, it held that “a limiting instruction” correctly stating the required *mens rea* “remedies any constitutional deficiency in the statute.” *Calloway*, 585 P.3d at 1274, 1275 n.4, 1276.

The Washington Supreme Court did not acknowledge the existence of the overbreadth doctrine. Indeed, the words “overbroad” or “overbreadth” are not in the opinion.

Instead, the Court improperly applied the standard for non-speech facial challenges. *Calloway*, 585 P.3d at 1275 n.4, 1276. The Court stated: “A statute is facially unconstitutional if no set of circumstances exists in which the statute, as currently written, can be constitutionally applied.” *Id.* at 1274 (internal quotations omitted) (citing *State v. Hunley*, 287 P.3d 584, 592 (Wash. 2012)). *Hunley* concerned a due process

challenge, not a free speech challenge. 287 P.3d at 588. It used the facial challenge standard derived from this Court’s decision in *United States v. Salerno*, 481 U.S. 739 (1987). But *Salerno* addressed whether a bail statute facially violated substantive due process. 481 U.S. at 741, 746. Indeed, even *Salerno* acknowledged that it was not addressing the overbreadth test under the First Amendment. *Id.* at 745. This Court has refused to apply *Salerno* in the free speech context. *Stevens*, 559 U.S. at 472-73.

Notwithstanding its precedent and this Court’s decision in *Counterman*, the Washington Supreme Court refused to (re)interpret the harassment statute. 585 P.3d at 1276. It reasoned interpretation was unnecessary because instructions on the First Amendment standard could be given near the end of a criminal prosecution in a jury trial and such a “limiting instruction” cured any *Counterman* problem. *Id.* at 1274, 1275 n.4, 1276.

The Washington Supreme Court’s refusal to reinterpret the statute is contrary to an overbreadth analysis. *Stevens*, 559 U.S. at 474-480; *City of Houston, Tex. v. Hill*, 482 U.S. 451, 460-67 (1987). An overbreadth challenge may (but will not always) be unsuccessful if the Court provides a “limiting construction” of the challenged statute. *Stevens*, 559 U.S. at 481 (quoting *Reno v. Am. Civil Liberties Union*, 521 U.S. 844, 884 (1997)); see *R.A.V. v. City of St. Paul*, 505 U.S. 377, 381, 391 (1992) (holding that a state court’s limiting construction of a statute to “fighting words” did not save statute because it was not viewpoint neutral).

Here, the Washington Court held “that a limiting instruction remedies any constitutional deficiency in the statute.” 585 P.3d at 1275 n.4. But a jury instruc-

tion cannot save an unconstitutional statute. *Stevens*, 559 U.S. at 480 (holding statute unconstitutional and stating, “We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly”).

Were it otherwise, decisions from this Court declaring criminal statutes unconstitutional in violation of the First Amendment would not exist. Juries could *always* be instructed on First Amendment law on the backend. Legislatures could pass any criminal statutes they want and juries would simply acquit those people whose prosecution violates the First Amendment. But this is not how our system works. *United States v. Reese*, 92 U.S. 214, 221 (1876) (“It would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set at large”); *United States v. Wiltberger*, 5 Wheat. 76, 95, 5 L. Ed. 37 (1820) (Marshall, C.J.) (“It is the legislature, not the Court, which is to define a crime, and ordain its punishment”).

In sum, the Washington Supreme Court has flouted this Court’s precedents. It has left in place a statute that proscribes speech in violation of the First Amendment under this Court’s decision in *Counterman*.

II. A Summary Grant, Vacate, and Remand Is Appropriate.

The Washington Supreme Court’s decision is in defiance of this Court’s free speech precedents. Instead of using the overbreadth doctrine to analyze the facial challenge to the harassment statute, that court used the inapplicable *Salerno* standard. *Calloway*, 585 P.3d 1274, 1275 n.4, 1276.

This Court’s precedents are binding. *Doe v. Dynamic Physical Therapy, LLC*, 607 U.S. 11, 11 (2025). But notwithstanding Mr. Calloway’s repeated arguments citing this Court’s precedents on overbreadth and the First Amendment, the Washington Supreme Court ignored them.

Cases from other state high courts and federal circuit courts properly applying the overbreadth doctrine in First Amendment challenges to criminal statutes, including in the threats context, are recent and legion. *United States v. Arthur*, 160 F.4th 597, 607 (4th Cir. 2025); *People v. Burkman*, 513 Mich. 300, 326–41, 15 N.W.3d 216, 232–40 (2024); *Commonwealth v. Cruz*, 247 N.E.3d 25, 30–31 (Mass. 2024); *State v. Fair*, 256 N.J. 213, 232–33, 307 A.3d 1126, 1137–38 (2024).

Indeed, a Michigan court held a threats statute was facially unconstitutional because it did not provide the minimum recklessness *mens rea* standard, before reversing course on grounds that such a *mens rea* standard could be read into the statute. *People v. Kvasnicka*, No. 371542, ___ N.W.3d ___, 2025 WL 2045006, at *6, 2025 Mich. App. LEXIS 5764, at *16 (Mich. Ct. App. July 21, 2025).

In contrast to the Washington Supreme Court’s decision here, the Michigan Supreme Court is set to decide that matter under the familiar legal standards. *People v. Kvasnicka*, 28 N.W.3d 710 (Mich. 2025) (scheduling oral argument and directing parties to brief the issues related to whether statute could be read to include “a scienter requirement that is consistent with *Counterman*”).

In short, contrary to precedent throughout the United States, Washington stands alone in applying

the *Salerno* standard to First Amendment claims and in holding that jury instructions can cure constitutional defects in statutes.

The Washington Supreme Court's First Amendment holdings address important federal questions in a way that conflicts with relevant decisions of this Court, and further conflict with decisions from other state courts of last resort and the United States Courts of Appeal. Sup. Ct. R. 10(b), (c). This Court should grant review, vacate the decision of the Washington Supreme Court, and remand for further proceedings.

III. Alternatively, the Court Should Grant Review to Address Whether Jury Instructions Can Cure an Overbroad Statute.

If summary vacatur is not granted, the Court should grant review to consider whether Washington's harassment statute is unconstitutionally overbroad in violation of the First Amendment.

Counterman establishes that true threats of violence may be proscribed on proof of at least recklessness by the speaker. Under a negligence standard, a substantial amount of protected speech is criminalized under Washington's harassment statute. A person who makes "a bad mistake" in merely negligently communicating a threat is guilty of harassment. *Counterman*, 600 U.S. at 80; e.g., *Trey M.*, 186 Wn2d at 907 (based on negligence standard, high school student who told therapist that he had a desire to harm other students was guilty of harassment).

Misunderstood jokes, jests, and hyperbole are criminal based only on whether a "reasonable speaker" would understand them to be "threats." This chills

speech. *Counterman*, 600 U.S. at 75-82; *Trey M.*, 186 Wn.2d at 919 (under Washington Supreme Court's precedents, "Trey M. must censor himself when he returns to therapy.") (Gordon McCloud, J., dissenting). A minimum standard of recklessness is necessary to provide "enough breathing space for protected speech." *Counterman*, 600 U.S. at 82 (internal quotation omitted)

Yet, as interpreted by the Washington Supreme Court, the harassment statute proscribes threatening speech based on the less culpable negligence standard. This violates the First Amendment. *Counterman*, 600 U.S. at 69.

The Washington Supreme Court nonetheless held the statute is constitutional based on a jury instruction correctly defining "true threat."

Again, jury instructions cannot make an unconstitutional statute constitutional. Besides, most prosecutions result in guilty pleas, not jury trials. It is critical that people know what kind of speech the harassment statute criminalizes well before any potential prosecution.

Review should be granted to reaffirm the overbreadth doctrine and to hold that a jury instruction cannot save an unconstitutional statute.



CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

/s/ Richard Lechich

Richard Lechich

Counsel of Record

WASHINGTON APPELLATE PROJECT

1511 Third Avenue, Suite 610

Seattle, WA 98101

(206) 587-2711

richard@washapp.org

wapofficemail@washapp.org

Counsel for Petitioner

September 21, 2026