

ARIZONA COURT OF APPEALS

DIVISION ONE

Robert Parsons et al.,
Plaintiffs/Appellees.

v.

Toby Harris,
Defendant/Appellant,

Court of Appeals Case No.: 1 CA-CV 26-0642

Superior Court Case No.: CV2023-002276

OPENING BRIEF

(Structural Defect/ Void Judgment)

Appeal from the Superior Court of Arizona, Maricopa County

Honorable Scott Minder, Judge Presiding

Submitted by:

Toby Harris, Pro Se

Defendant/Appellant

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623-387-0659

APPELLANT'S OPENING BRIEF

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I. ISSUE PRESENTED

Whether the judgments entered at IR 107 (March 28, 2024) and IR 144 (March 13, 2025) are void where the trial court entered final judgment and permanent injunctions without ever ruling on Appellant's preserved constitutional objections, despite multiple filings demanding such rulings (IR 105, IR 167, IR 168, IR 170, IR 171, IR 177, IR 178–179), and despite Appellant placing the certified Index of Record before the court (IR 167, Exhibit).

II. INTRODUCTION

This appeal arises from a structural defect that invalidates the judgment at its foundation. Before the trial court entered final judgment, Appellant repeatedly objected to the court's failure to rule on preserved constitutional rights. The trial court ignored every objection and entered judgment anyway. The appellate court then collapsed jurisdiction in multiple appeals because the trial court had not ruled on the preserved issues necessary for appellate review.

A judgment entered under these conditions is void ab initio. It cannot be affirmed, reversed, or modified. It must be vacated.

III. STATEMENT OF THE CASE

Before the trial court entered final judgment, Appellant repeatedly objected to the court's failure to rule on preserved constitutional rights.

These objections were raised in:

- IR 105 – Objection to Signed Final Judgment
- IR 167 – Motion requesting ruling on preserved constitutional rights
- IR 168 – Motion to vacate judgment
- IR 170 – Motion to reconsider Rule 60(b) classification
- IR 171 – Motion to set for ruling
- IR 177 – Judicial Notice of Structural Defect
- IR 178–179 – Motion to vacate void judgment

In IR 167, Appellant exhibited the certified Index of Record, placing the complete appellate record before the trial court and demonstrating that constitutional issues had been preserved throughout the litigation.

Despite these filings, the trial court entered final judgment and permanent injunctions on March 28, 2024 (IR 107) and again on March 13, 2025 (IR 144) without ruling on the preserved constitutional rights.

Appellant filed multiple appeals:

- IR 108–109 (2024 appeal)
- IR 145–146 (2025 appeal)
- IR 181 (2026 appeal)

Each appeal collapsed jurisdictionally because the trial court had not ruled on the preserved constitutional issues. The appellate court dismissed or declined jurisdiction:

- IR 114 – Appeal dismissed (April 30, 2024)
- IR 153 – Memorandum (July 14, 2025)
- IR 158 – Memorandum Decision (January 22, 2026)
- IR 183 – Special Action jurisdiction declined (June 12, 2026)

The appellate court repeatedly signaled that it could not exercise jurisdiction because the trial court had not ruled on the issues necessary for appellate review.

Despite this jurisdictional collapse, the trial court continued entering orders and judgments without ever ruling on the preserved constitutional rights.

IV. RECORD CITATIONS

Citations refer to the Clerk's certified Index of Record ("IR"), filed July 15, 2026.

The certified index was exhibited in Appellant's Motion for Leave to File Motion Requesting Ruling on Preserved Constitutional Rights (IR 167, Exhibit), placing the complete record before the trial court.

V. SUMMARY OF ARGUMENT

Appellant objected to the trial court's failure to rule on preserved constitutional rights before judgment (IR 105, IR 167, IR 168, IR 170, IR 171, IR 177, IR 178–179). The trial court ignored these objections and entered judgment anyway (IR 107, IR 144).

Appellant appealed multiple times, but each appeal collapsed jurisdictionally because the trial court had not ruled on the preserved constitutional issues. The appellate court dismissed or declined jurisdiction (IR 114, IR 153, IR 158, IR 183).

The trial court's failure to rule on the preserved constitutional objections necessarily includes its failure to rule on punitive-damages issues arising from document destruction and malice, further confirming the judgment's invalidity.

A judgment entered without adjudicating preserved constitutional rights — and which causes appellate jurisdiction to collapse — is void ab initio. It cannot be affirmed, reversed, or modified. It must be vacated.

VI. ARGUMENT

I. The Judgment Is Void Because the Trial Court Entered Final Judgment Without Ruling on Preserved Constitutional Rights

A. Appellant preserved the constitutional issues and demanded rulings before judgment

The record shows Appellant objected to the court's failure to rule on constitutional rights before judgment:

- IR 105 – Objection to Signed Final Judgment
- IR 167 – Motion requesting ruling on preserved constitutional rights
- IR 168 – Motion to vacate judgment
- IR 170 – Motion to reconsider Rule 60(b) classification
- IR 171 – Motion to set for ruling
- IR 177 – Judicial Notice of Structural Defect
- IR 178–179 – Motion to vacate void judgment

These filings preserved the constitutional issues and placed them squarely before the trial court. These objections invoked rights protected under the Arizona Constitution, including

the guarantees contained in Article 2, which the trial court was required to adjudicate before entering judgment.

B. Appellant exhibited the certified Index of Record, proving preservation and demanding rulings

In IR 167, Appellant attached the certified Index of Record, which states:

“...the above listed Index of Record... constitute the record on appeal...”

(Clerk’s Certification, July 15, 2026)

This ensured the trial court had:

- the preserved constitutional issues,
- the motions demanding rulings,
- the full record confirming preservation, and
- notice of structural defects.

C. The trial court never ruled on the preserved constitutional rights

The IR contains no ruling on:

- constitutional rights,
- the motion requesting a ruling (IR 167),

- the motion to vacate judgment (IR 168),
- the motion to vacate void judgment (IR 178–179),
- the judicial notice of structural defect (IR 177).

Because the trial court never ruled on Appellant’s preserved constitutional objections, it also never ruled on the malice component inherent in those objections. The absence of any findings on malice further demonstrates the structural defect and reinforces that the judgment is void ab initio.

D. The appellate court repeatedly collapsed jurisdiction because the trial court never ruled

The appellate court dismissed or declined jurisdiction:

- IR 114 – Appeal dismissed (2024)
- IR 153 – Memorandum (2025)
- IR 158 – Memorandum Decision (2026)
- IR 183 – Special Action jurisdiction declined (2026)

The appellate court could not exercise jurisdiction because the trial court had not ruled on the preserved constitutional issues.

This is the definition of jurisdictional collapse.

E. The trial court entered judgment anyway, acting without constitutional authority

Despite objections and jurisdictional collapse, the trial court entered:

- IR 107 – Final Judgment (2024)
- IR 144 – Final Judgment (2025)

A court cannot enter judgment while ignoring constitutional constraints raised by a party. Doing so is ultra vires. By entering judgment without ruling on the constitutional objections grounded in

Article 2 of the Arizona Constitution, the trial court acted without constitutional authority and violated mandatory constitutional constraints.

F. A judgment entered under these conditions is void ab initio

A void judgment:

- cannot be affirmed,
- cannot be reversed,
- cannot be modified,

- must be vacated.

Because the trial court acted without ruling on preserved constitutional rights — and because appellate jurisdiction collapsed — the judgment is void. A judgment entered without jurisdiction is void and has no legal effect. *Cockerham v. Zikratch*, 127 Ariz. 230, 234 (1980). A judgment entered without jurisdiction also violates Article 2, Section 4 of the Arizona Constitution, which guarantees due process of law. A judgment entered in violation of due process is void ab initio.

Because the trial court never ruled on Appellant's preserved constitutional objections, it also never ruled on the punitive-damages issues arising from Appellees' document destruction and the malice inferred from that conduct. These issues were preserved and properly before the court, and the failure to adjudicate them further demonstrates the structural defect rendering the judgment void ab initio. Structural defects of this nature require automatic reversal. See *State v. Maldonado*, 223 Ariz. 309, 311 ¶ 15 (2010) (structural error mandates reversal without harmless-error analysis).

G. The Mandate Was Filed in the Trial Court Only After Judge Minder Had Already Ruled on the Motions for Leave, Rendering Those Rulings Void

The record shows that Judge Minder ruled on the motions contained within the Motion for Leave before the mandate was ever filed in the trial court. Jurisdiction does not return to the superior court until the mandate is filed. See *Martin v. Martin*, 182 Ariz. 11 (App. 1994). Any ruling issued before the mandate is filed is void.

The certified Index of Record confirms that Minder ruled on the motions inside the Motion for Leave while the Motion for Leave itself remained pending and before the mandate was filed. This sequence is jurisdictionally impossible. A motion for leave is a gateway motion; the court cannot reach the motions inside it until jurisdiction has returned and leave has been granted. A trial court cannot act until jurisdiction has returned through the mandate. See *Martin v. Martin*, 182 Ariz. 11, 14 (App. 1994) (orders issued without jurisdiction are void).

Because the mandate had not yet been filed, the superior court lacked jurisdiction to rule on the Motion for Leave, and necessarily lacked jurisdiction to rule on the motions contained within it. Minder's rulings were therefore issued without constitutional or statutory authority and are void ab initio.

This defect also explains the appellate court's repeated jurisdictional collapse. Each appeal failed because the trial court had acted without jurisdiction, and the mandate was filed only after the improper rulings had

already occurred. A mandate filed after void rulings cannot retroactively confer jurisdiction. The rulings remain void.

H. Appellant Warned the Superior Court That It Lacked Jurisdiction, Yet the Court Issued Rulings Anyway

Before Judge Minder ruled on the motions contained within the Motion for Leave, Appellant expressly warned the Superior Court that it lacked jurisdiction to issue any rulings until the mandate was filed. These warnings appear in IR 167, IR 171, IR 177, and IR 178–179, each of which notified the court that jurisdiction had not yet returned and that any ruling issued before the mandate would be void.

Despite these warnings, the Superior Court proceeded to rule on the motions inside the Motion for Leave while the Motion for Leave itself remained pending and before the mandate was filed in the trial court. A court cannot reach the merits of motions contained within a Motion for Leave until jurisdiction has returned and leave has been granted. Ruling on those motions prematurely is *ultra vires*.

Because Appellant warned the court of the jurisdictional defect before the rulings were issued, the defect is preserved, structural, and cannot be cured by a later-filed mandate. A court acting without jurisdiction after being warned of the defect renders its rulings void *ab initio*.

I. Harmful Error Doctrine Bars Any Harmless-Error Analysis

Arizona law distinguishes between harmless error and harmful error. Harmless error applies only when the underlying defect does not affect the framework of the proceeding. Harmful error, by contrast, arises when the defect affects the structure, jurisdiction, or constitutional integrity of the case. Structural error is, by definition, harmful error. See *State v. Henderson*, 210 Ariz. 561 (2005).

Once harmful error is present, harmless-error review is legally prohibited. The existence of harmful error triggers doctrine and moots any harmless-error arguments. A court cannot excuse or overlook harmful error, and it cannot apply harmless-error balancing to structural defects.

The jurisdictional violations in this case—rulings issued before the mandate, rulings issued without jurisdiction, failure to rule on preserved constitutional objections, and the appellate court’s repeated jurisdictional collapse—are structural defects. They are harmful error as a matter of law. Because harmful error is present, harmless-error analysis is unavailable, and the judgment cannot be affirmed under any theory of harmlessness.

This doctrinal bar reinforces that the judgment is void ab initio and must be vacated.

J. The Mid-Case Vexatious Injunction Was Weaponized as a Prior Restraint

The mid-case vexatious injunction entered against Appellant functioned as an unconstitutional prior restraint. Prior restraint occurs when the government restricts a party's ability to speak, file, or defend before the speech or filing occurs. The injunction in this case was not used to manage filings; it was weaponized to prevent Appellant from defending himself, submitting evidence, or obtaining rulings on preserved constitutional objections. Article 2, Section 6 of the Arizona Constitution prohibits prior restraints on speech and guarantees the right to freely speak, write, and publish. The vexatious injunction functioned as a prior restraint in direct violation of these constitutional protections.

The injunction blocked Appellant's ability to file motions necessary to preserve constitutional rights, including motions addressing document destruction, malice, and punitive damages. It prevented Appellant from submitting filings that the trial court was constitutionally required to rule upon before entering judgment. This is the definition of prior restraint: the court restrained Appellant's ability to speak and defend before the defense could occur.

The injunction was then used to justify ignoring Appellant's preserved constitutional objections, even though those objections were properly raised and placed before the court. A vexatious injunction cannot be used to silence constitutional objections or to prevent a party from obtaining rulings

required for appellate review. Weaponizing the injunction in this manner is a structural defect that independently renders the judgment void ab initio.

The mid-case vexatious injunction remained in place for several years and operated as a continuous prior restraint on Appellant's ability to defend himself, submit evidence, and obtain rulings on preserved constitutional objections. A prior restraint of this duration is extraordinary. In terms of scope, effect, and longevity, it constitutes one of the most severe forms of government-imposed censorship ever seen in a civil proceeding. The injunction did not merely regulate filings; it suppressed constitutionally protected activity and prevented the adjudication of issues the court was required to decide before entering judgment. Such prolonged prior restraint is a structural defect of the highest order and independently renders the judgment void ab initio.

The injunction did not merely regulate filings; it suppressed constitutionally protected activity and prevented the adjudication of issues the court was required to decide before entering judgment. Such prolonged prior restraint is a structural defect of the highest order and independently renders the judgment void ab initio.

Federal courts applying *De Long* have repeatedly held that vexatious-litigant orders cannot be used as prior restraints. Filing restrictions must be prospective and cannot block participation in an active case. See *Molski v.*

Evergreen Dynasty Corp., 500 F.3d 1047 (9th Cir. 2007); *Tripati v. Beaman*, 878 F.2d 351 (10th Cir. 1989). Courts have further held that filing restrictions cannot operate as prior restraints or deny access to the courts. See *In re Powell*, 851 F.2d 427 (D.C. Cir. 1988). The mid-case injunction here did exactly what these cases forbid: it silenced Appellant inside an active case, blocked constitutional objections, and prevented the court from ruling on issues necessary for appellate review.

Arizona law likewise imposes strict requirements before a vexatious-litigant order may be entered. In *Madison v. Groseth*, 230 Ariz. 8 (App. 2010), the Court of Appeals held that such orders require notice, an opportunity to be heard, specific findings, and a documented history of abusive filings. The injunction imposed here satisfied none of these requirements. It was entered mid-case, without notice, without a hearing, without findings, and without any record of abusive filings. *Madison* confirms that vexatious orders are prospective filing restrictions, not mid-case restraints, and cannot be used to block a litigant from defending an active case or from obtaining rulings the court is constitutionally required to issue.

K. Case Law Confirms That Vexatious-Litigant Orders Cannot Block Participation in an Active Case or Deny Access to the Courts

Federal courts have repeatedly held that vexatious-litigant orders cannot be used to block participation in an active case or prevent a litigant from defending himself.

“The right of access to the courts is fundamental and cannot be denied.” *Tripathi v. Beaman*, 878 F.2d 351, 353 (10th Cir. 1989). Filing restrictions must be prospective and cannot operate as prior restraints or silence a litigant inside an ongoing case. See *In re Powell*, 851 F.2d 427, 430 (D.C. Cir. 1988) (“Access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances.”).

The Ninth Circuit has likewise warned that “pre-filing orders should rarely be filed.” *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007). Vexatious orders are “an extreme remedy, and should not be entered without careful consideration.” *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990). The mid-case injunction imposed here lacked notice, lacked a hearing, lacked findings, and was used to block Appellant from defending an active case and from filing motions necessary to preserve constitutional rights. Such use of a vexatious order is unauthorized, unconstitutional, and void.

VII. CONCLUSION

Appellant objected before judgment. The trial court ignored those objections. The appellate court repeatedly collapsed jurisdiction because the trial court never ruled. The trial court then entered judgment anyway.

A judgment entered under these conditions is void ab initio.

Appellant respectfully requests that this Court:

VACATE the judgments entered at IR 107 and IR 144

and restore the parties to the position they occupied before the void acts.

VIII. REQUEST FOR RELIEF

Appellant respectfully requests that this Court:

1. VACATE the judgments entered at IR 107 and IR 144;
2. Declare the judgments void ab initio;
3. Restore the parties to the position they occupied before the void acts.

Remand, if necessary, for findings on the preserved constitutional issues, including malice, document destruction, and punitive damages.

Respectfully Submitted this 29th day of July 29, 2026

_____/s/____

Toby Harris, Pro Se

Defendant / Appellant

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IX. CERTIFICATE OF COMPLIANCE

Pursuant to ARCAP 14, Appellant certifies that this Opening Brief complies with the type-volume, formatting, and content requirements of ARCAP 13 and ARCAP 14. This brief uses proportionally spaced typeface and contains fewer than 14,000 words.

CERTIFICATE OF SERVICE

I certify that on this 29th day of July, 2026, a true and correct copy of the

foregoing Opening Brief was served via the Arizona e-Filing system upon:

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_____/s/_____

Toby Harris