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STATE OF MICHIGAN
IN THE SUPREME COURT
Appeal from the Michigan Court of Appeals
Letica, PJ., Redford and Rick, JJ.

PEOPLE OF THE STATE OF MICHIGAN, Plaintiffs-Appellees, v JOHN MACAULEY BURKMAN, Defendant-Appellant. _____/	Supreme Court No. 164638 Court of Appeals No. 356600 Wayne County Circuit Court No. 20-004636-FH
PEOPLE OF THE STATE OF MICHIGAN, Plaintiffs-Appellees, v JACOB ALEXANDER WOHL, Defendant-Appellant. _____/	Supreme Court No. 164639 Court of Appeals No. 356602 Wayne County Circuit Court No. 20-004637-FH

SUPPLEMENTAL BRIEF OF THE PEOPLE OF THE STATE OF MICHIGAN

ORAL ARGUMENT REQUESTED

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Dated: September 29, 2023

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INTRODUCTION

Under Michigan law, the wrongful effort through bribery, menace, or other corrupt means to deter or interrupt an elector from voting is a crime. It is a law of longstanding. The People allege that Burkman and Wohl here engaged in such wrongful conduct by menacing or acting corruptly in targeting Black voters, intimidating them from voting by making false or misleading threatening statements in a robocall about would happen to them if they voted by mail in the 2020 election. Two recent U.S. Supreme Court decisions confirm why this law is constitutional and why it may be correctly applied to the conduct of the two defendants here.

In *United States v Hansen*, the U.S. Supreme Court confirmed the facial validity of a federal statute – analogous in important respects to the statute at issue here – based on the "speech integral to unlawful conduct" exception to the First Amendment. 143 S Ct 1932, 1947 (2023), citing *Giboney v Empire Storage & Ice Co*, 336 US 490, 502 (1949). The federal statute at issue in *Hansen* makes it unlawful to "encourag[e] or induc[e] an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law." 143 S Ct at 1940, citing 8 USC 1324(a)(1)(A)(iv). By comparison, the Michigan law, MCL 168.932(a), criminalizes bribery, menacing conduct, or other corrupt conduct when designed to deter voting. The analysis provided in *Hansen* demonstrates why a facial challenge to Michigan law fails when it has a "wide legitimate reach" even where it applies to "speech soliciting or facilitating criminal violations." *Hansen*, 143 S Ct at 1948. The same basic point applies here. And Michigan's law is constitutional as applied as well.

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In *Counterman v Colorado,* the U.S. Supreme Court reiterated that "[t]rue threats of violence are outside the bounds of First Amendment protection." 143 S Ct 2106, 2111 (2023). The issue in the case addressed the quantum of proof necessary to prove intent. For the criminal prosecution of these kinds of threats, the Court held that the First Amendment requires proof that "the defendant had some subjective understanding of the threatening nature of his statements," and that "a mental state of recklessness is sufficient." *Id.* at 2111. This mental state requirement is consistent with evidence of the mental states of Burkman and Wohl because they intended for their wrongful, threatening conduct to deter minority members from voting, knowing that their conduct was wrongful. The Court did not address whether a true threat could be a threat of non-physical injury, be it property damage or damage to one's reputation.

In short, the two U.S. Supreme Court decisions buttress the arguments advanced by the People in support of the criminal charges against the defendants.

ARGUMENT

I. *Hansen* supports the conclusion that Michigan's law prohibiting voter intimidation is facially constitutional and that the People may constitutionally apply it to the threatening conduct of defendants based on the "speech integral" exception to the First Amendment.

In the merits brief, the People relied on two exceptions to the First Amendment in support of applying Michigan's law prohibiting voter intimidation, MCL 168.932(a), to the threatening conduct of Burkman and Wohl in this case: (1) the speech-integral-to-the-crime exception and (2) the exception for true threats. The decision in *Hansen* supports the People's position for the first exception.

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A. The U.S. Supreme Court's decision in *Hansen* reiterates the high bar to filing a facial challenge on overbreadth grounds to criminal statutes.

The Court has asked the parties to address both a facial and an as-applied challenge to Michigan's law. The U.S. Supreme Court's analysis in *Hansen* on the difficulty in advancing such a facial challenge on overbreadth grounds as argued by Burkman and Wohl is relevant here.

To begin, the U.S. Supreme Court noted that overbreadth challenges are "unusual." *Hansen,* 143 S Ct at 1939. That is to say, the ordinary obstacles to a challenge, such as standing or that the law may be constitutionally applied to the party suing, may nonetheless not bar such a claim given the importance of constitutionally protected speech to the "marketplace of ideas." *Id.* Even so, the party bringing an overbreadth challenge must show that "a law's unconstitutional applications must be realistic, not fanciful" and that the constitutional applications "must be substantially disproportionate to the statute's lawful sweep." *Id.* at 1939–1940. For that reason, the Court described invalidation of a law as "strong medicine" that should not be "casually employed." *Id.* Consistent with the argument of the People in their merits brief, see pp 36, 38, this Court has also recognized that overbreadth challenges should not be "casually employed" but employed only where the law may "significantly compromise recognized First Amendment protections," and thus "substantial overbreadth is required." *In re Chmura*, 461 Mich 517, 531 (2000).

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B. Consistent with the U.S. Supreme Court's reasoning in *Hansen*, the speech-integral-to-the-crime exception applies to the conduct of the defendants here.

Michigan's law against voter intimidation, MCL 168.932(a), is designed to criminalize bribery or wrongful threatening attempts to "influence," "deter," or "interrupt" an elector from voting:

> A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state. [MCL 168.932(a).]

The blameworthy conduct at issue here are the threats of Burkman and Wohl that either "menac[ed]" voters or used a "corrupt means" to deter voting, which they accomplished through a cynical, manipulative robocall where they made false and misleading statements intended to frighten minority voters from voting by mail in 2020.

Burkman and Wohl contend that the application of this statute is unconstitutional both facially and as applied to them on overbreadth grounds based on the First Amendment. See Defs' Merits Br, pp 45–52, 53–58. The People have relied in part on the exception to the First Amendment that does not protect speech integral to the crime. Relying on this same exception, the U.S. Supreme Court's analysis in *Hansen* buttresses the argument that Michigan's law is not unconstitutional, either as a facial matter or as applied to these defendants.

In explaining the exception to the First Amendment that speech integral to the crime is not protected speech, the U.S. Supreme Court quoted from the prior decision in *Giboney* stating that merely because a crime is carried out by "means of language" does not mean that it is protected:

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> [I]t has never been deemed an abridgement of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out *by means of language, either spoken, written, or printed*. [*Hansen*, 143 S Ct at 1947 (emphasis added), quoting *Giboney,* 336 US at 502.]

For that reason, the Court explained that "[s]peech intended to bring about a particular unlawful act has no social value," and thus "is unprotected." *Id*. at 1947, citing *United States v Williams*, 553 US 285, 298 (2008). As the Court of Appeals ruled, see App'x 205a, slip op, p 15 (Letica, J., majority opinion), these principles apply here as Burkman's and Wohl's "speech" of threats that was designed to deter Black citizens from voting is criminal and has no social value.

A comparison of the claims that the federal statute in *Hansen* was overbroad and the claims raised in this case illustrates the point. For the federal statute at issue in *Hansen*, 8 USC 1324(a)(1)(A)(iv), it provided that it was a felony to "encourag[e] or induc[e] an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law." *Hansen,* 143 S Ct at 1938. The Court construed the terms "encourage" and "induce" as terms of art, requiring the prosecution to prove a criminal defendant engaged in "the purposeful solicitation and facilitation of specific acts known to violate federal law." *Id.* at 1946. Such a reading, it found, was consistent with traditional common law liability for the solicitation and facilitation of criminal acts. *Id.* at 1942. Based on this understanding of the law, the Court rejected Hansen's arguments that an expansive reading of the law would ensnare such speech as an "author of an op-ed criticizing the immigration system," or a

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"minister who welcomes undocumented people into the congregation," or a "government official who instructs undocumented members of the community to shelter in place during a natural disaster." *Id.* at 1947 (cleaned up). The Court concluded that the reach of the law did not bring any of these hypotheticals into its ambit because the law requires that "a defendant *intend* to bring about a specific result," i.e., a violation of the immigration law. *Id.* (emphasis in original). And the Court noted that to the extent the statute reaches "any speech," "it stretches no further than speech integral to unlawful conduct." *Id.* It favorably cited the *Giboney* case, see AG Br, p 29, where the Court noted its proper application to "picketing with the sole, unlawful and immediate objective of inducing a target to violate the law." *Hansen,* 143 S Ct at 1947 (cleaned up), citing *Giboney*, 336 US at 502.

The same system of analysis applies here. The evil that Michigan's law is designed to prevent is the wrongful effort to deter voting, whether through bribery, menace, or corrupt means, including threats. Thus, as in *Hansen*, the speech in which a person bribes, menaces, or corruptly misleads an elector with threats, with the express intent of discouraging that elector from voting through fear, constitutes speech integral to the crime. It is not protected. For that reason, the scurrilous robocall at issue here, filled with false and misleading claims that were intentionally designed to instill fear in minority voters, was speech integral to the crime itself. Like *Hansen,* the Court of Appeals correctly applied *Giboney* in rejecting the claims at issue here. App'x 205a (COA slip op, p 15) (Letica, J., majority) ("Like the picketing in *Giboney*, the speech was an integral part of conduct criminalized by MCL 168.932(a).").

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Moreover, with respect to the facial analysis, there are a significant number of applications of Michigan's law for which there is no dispute of its constitutionality. In their supplement, Burkman and Wohl acknowledge that "[p]lainly there is no constitutional impediment to criminalizing the bribing or violent threatening of voters." Defs' Supp, p 6. But that concession is directly relevant to the U.S. Supreme Court's analysis in *Hansen* in examining the facial challenge to the federal statute, where it concluded that "the provision has a wide legitimate reach insofar as it applies to nonexpressive conduct and speech soliciting or facilitating criminal violations of immigration law." 143 S Ct at 1948. That same statement can be made for Michigan's law. For this reason alone, the "strong medicine" of a facial invalidation is not appropriate here. Burkman and Wohl have failed to show that Michigan's law has "substantial overbreadth" as required for this challenge.

It is also worth noting that Burkman and Wohl can cite no other cases since 1929, when voter intimidation became a felony under Michigan law, in which there was a prosecution of possibly constitutionally protected speech. The U.S. Supreme Court cited this very same point in rejecting the facial challenge to the federal law. See *Hansen,* 143 S Ct at 1946–1947 ("Hansen . . . fails to identify a single prosecution for ostensibly protected expression in the 70 years since Congress enacted clause (iv)'s immediate predecessor."). While Burkman and Wohl correctly note that there is "not one reported" case under MCL 168.932(a), Defs' Supp, p 6, that point only reflects the fact that there have been no legal challenges to any convictions under the law and does not mean the statute has not been enforced.

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And aside from the failure to meet the elements of a facial challenge, the *Hansen* decision as noted confirms the constitutionality of prosecuting Burkman and Wohl here because any speech at issue was integral to their crime of falsely and corruptly attempting to frighten minority voters from voting through this ugly robocall. The false claims designed to intimidate Black voters here fell outside the First Amendment, just as they would if these were "false claims" "made to effect a fraud or secure moneys." *Hansen*, 143 S Ct at 1947 n 4 (" '[F]alse claims [that] are made to effect a fraud or secure moneys or other valuable considerations' *are not protected by the First Amendment*.") (emphasis added), quoting *United States v Alvarez*, 567 US 709, 723 (2012) (plurality opinion). Burkman and Wohl should stand trial for their actions.

C. The arguments of Burkman and Wohl to the contrary are unavailing.

Burkman and Wohl make three points in arguing otherwise, but none of these points assist their cause.

First, Burkman and Wohl argue that the speech integral to wrongful voter intimidation requires that the intimidation be a "true threat." See Defs' Supp, p 5 ("intimidation . . . is a type of true threat"). But this analysis conflates the two different exceptions on which the People have relied. The speech integral exception is distinct from the true threat exception to the First Amendment. The decision below relied only on the exception for speech integral to the crime, which is applicable here. The same would equally be a crime if the robocall had conveyed a bribe rather than menaced or corruptly frightened minority voters. See MCL 168.932(a).

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And the analysis of the defendants is still wrong even if reviewed through the prism of a "true threat." Burkman and Wohl cannot seriously contend that their speech would only rightly be subject to prosecution if they threatened violence in the context of this law. Take for example a threat to a minority voter to damage that voter's car (property damage) or to disclose some private fact (damage to reputation) if that person voted by mail. As noted, these kinds of threats would equally be unprotected constitutionally as they are instances of speech integral to the wrongful intimidation designed to deter voting.

Second, Burkman and Wohl argue that the proper construction of the law would not cover "false speech," see Defs' Supp, p 5, and, third, they argue that if it did, the applications would be "nearly boundless," *id.* at 6. Not so.

The overarching error of Burkman and Wohl is their failure to distinguish between false political speech and the wrongful actions the law prohibits, which may include the use of written or spoken words, that frighten or otherwise wrongfully threaten voters from voting. The wrongfulness here is through the use of bribery, menace, or corruption, such as threats. Thus, if someone offers to bribe a voter, threatens a voter with some kind of physical harm, property damage, or harm to one's reputation through an extortive threat, and they do so with an intent to interfere with the person's voting, the crime punishes that conduct. In that way, Burkman and Wohl run afoul of the law when, in attempt to stifle the Black vote, they falsely and misleadingly targeted Black voters with a threat of possible arrest for outstanding warrants, being tracked by creditors, or being subject to mandatory vaccinations.

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In contrast, Burkman and Wohl argue that criminalizing such conduct will "criminalize mundane mendacity inherent in American politics." Defs' Supp, pp 6–7. But this claim detaches the wrongfulness from the specific effort to deter voters from voting. Indeed, for an action to run afoul of the statute, it must be (1) wrongful as a bribe or a threat or other corrupt means designed to prevent an elector from voting, (2) with the specific design of deterring voting. The failure to require each element runs through the hypotheticals in Burkman's and Wohl's merits brief. See, e.g., Defs' Merits Br, p 28 ("Don't vote. Bring monarchy to America."); p 29 ("Don't vote. I'm not voting. Voting is a waste of time. They're all crooks."); p 30 ("Don't vote for Joe Biden. He's going to raise your taxes."). While these hypotheticals exhort a person not to vote, none meets the wrongfulness element as required by Michigan law because there is no bribe, menace, or corrupt act such as a threat as was inveighed here.

The argument also fails to appreciate that the effort, as in *Hansen*, must include an "inten[t] to bring about a specific result." See 143 S Ct at 1947. In *Hansen,* it was the purposeful solicitation and facilitation of "specific acts known to violate the law" with respect to particular people, which supported the law's constitutionality. *Id.* at 1946, citing *Williams*, 553 US at 292. The same is true here in that Michigan's law prohibits bribes and threats against specific voters with an intent to stop them from voting. Thus, defendants' argument about "mundane mendacity" betrays a misunderstanding of the law, because it detaches the wrongful conduct at issue – either bribes or threats – from the specific effort to deter particular voters. General advocacy asking voters not to vote is not implicated. Cf. *Williams,* 553 US at 300

("abstract advocacy" is not prohibited by law punishing "the promotion of child pornography"). These robocalls were targeted at specific electors: Black voters.

Finally, in again pressing the point that "false speech" may be constitutionally protected, see Defs' Supp, p 5, the defendants elide the real issues in the case. It is clear that a false claim of valor is constitutionally protected by the First Amendment. See *United States v Alvarez,* 567 US 709, 722 (2012) (plurality opinion). But that point does not join the issue presented here. To be specific, threatening someone with a harm, whether physical or otherwise, which the person threatening knows to be false or misleading, does not immunize that person from prosecution when designed to frighten the elector. It is no different than offering a bribe the person has no intention to pay. The fact that the bribe offer is false is of no constitutional significance. And that also addresses the point about the fact that whether the bribe or threat is true does not assist someone who acts to bribe or menace another. That the person who threatens to damage the elector's property is truthful about the intent to follow through or will disclose an intimate fact that is true and will harm the elector's reputation, does not make this speech any less integral to the crime. For these threats, whether they are true or not does not change the calculus about whether they are protected constitutionally. They are not. They have no social value. And they are rightly subject to prosecution, as here.

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II. *Counterman* supports the conclusion that there was sufficient evidence to sustain the charge that Burkman and Wohl engaged in wrongful, threatening conduct with an intent to deter minority voting under the law on true threats, but the opinion did not otherwise rule on whether only threats of violence constituted true threats.

For the second exception to the First Amendment on which the People rely, i.e., true threats, the U.S. Supreme Court's decision in *Counterman* supports the People's argument on the issue of intent. The evidence from the preliminary examination was sufficient to support the requisite proof of intent. That being said, the decision itself does not address whether true threats may be exempt from constitutional coverage when they are threats of non-violence, such as property damage or reputational harm. But the People continue to press that such threats of harm, as here, are true threats that are not constitutionally protected speech.

A. The evidence here was sufficient to demonstrate that Burkman and Wohl harbored the requisite intent to deter voting and did so in a wrongful manner, knowing that it was wrongful.

The narrow issue that the U.S. Supreme Court addressed in *Counterman* was "whether the First Amendment still requires proof that the defendant had some subjective understanding of the threatening nature of his statements." 143 S Ct at 2111. The Court answered the question in the affirmative, but it clarified that "the State need not prove any more demanding form of subjective intent to threaten another." *Id.* at 2111–2112. Applying that same standard here, the evidence presented at the preliminary examination was sufficient to bind Burkman and Wohl over for trial on the charge.

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As a refresher, voter intimidation requires proof of (1) bribery, menace, or other corrupt means or device, either directly or indirectly (2) to influence, to deter, or to interrupt an elector from voting. MCL 168.932(a). The requisite intent requires proof of each, i.e., that the defendant knowingly sought to bribe, menace, or act corruptly with the intent specifically to deter an elector from voting. That is what occurred here.

The robocall itself is the chief evidence of this fact:

> Hi, this is Tamika Taylor from Project 1599, a civil rights organization founded by Jack Burkman and Jacob Wohl. Mail-in voting sounds great, but did you know that if you vote by mail your personal information will be part of a public database that will be used by police departments to track down old warrants and be used by credit card companies to collect outstanding debts? The [Center for Disease Control and Prevention (CDC)] is even pushing to use records from mail-in voting to track people for mandatory vaccines. Don't be finessed into giving your private information to the man. Stay safe and beware of vote by mail. [App'x, Exhibit 1, 192a–193a.]

In so doing, there were three distinct threats for those who voted by mail: (1) a threat that police may arrest those electors for outstanding warrants, (2) a threat that creditors may seek collection for those electors with outstanding debts, and (3) a threat that the information of the elector may be collected by the government and then used to track down that elector "for mandatory vaccines."

And there is no mystery about why Burkman and Wohl were sending out these robocalls and to whom. The target audience was Black voters: "We should send it [the attached audio file] to *black neighborhoods* in Milwaukee, Detroit, Philadelphia, Charlotte, Richmond, Atlanta and Cleveland." (App'x, PE 10/29/20, 59a) (emphasis added). The motive was cynical and manipulative:

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> This one says in the subject line regarding protests dated August 26th, 2020 at 1236, it's from Jack Burkman2016@Gmail.com to Jacob Wohl@Gmail.com, it says let's leave Thursday 6:30 p.m. with Louis Thursday. *I love these robo calls getting angry black call backs, win or lose, the black robo calls was a great idea.* [*Id.* at 61a (emphasis added).]

In brief, Burkman and Wohl sought to depress the Black electors from voting by frightening them with the specter of arrest, collection, or mandatory vaccination. In their merits brief, the defendants argued that voting by mail was merely "one method" of voting and thus did not seek to deter the electors from voting overall under the statute. Defs' Merits Br, p 34. But this response is too facile. The clear effort, as disclosed by the sadly mercenary emails, is to cajole and frighten a historically disadvantaged community into *not voting at all*.

In examining then this evidence in light of the standard articulated by *Counterman*, it is clear that Burkman and Wohl held a "subjective understanding of the threatening nature" of these statements, *id.* at 2111, celebrating the anxiety and distress that they evoked. The evidence also supports that they knew these threats were wrongful, as even their briefing appears to acknowledge. See Defs' Merits Br, p 1 ("Reprehensible . . . is different from criminal.") In other words, the evidence from the preliminary examination provided probable cause to believe that Burkman and Wohl knowingly menaced and corruptly threatened Black voters with the specific intent to discourage them from voting.

Moreover, Burkman and Wohl contend that *Counterman* requires that in order to qualify as a "true threat" the speaker has to be the one to threaten to impose the harm. See Defs' Supp Brief, pp 9–10. This is not required.

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The statement in *Counterman* relied on by defendants provides that "true threats are serious expressions conveying that a *speaker* means to commit an act of unlawful violence." 143 S Ct at 2114 (cleaned up; emphasis added), citing *Virginia v Black*, 538 US 343, 359 (2003). But the U.S. Supreme Court in *Counterman* was not addressing the circumstance in which the harm would come from a third party. In that circumstance, if a speaker claimed that another will cause the harm, the nature of the analysis would not change the danger the victim of the threat feels. For example, a person who threatens to break out an elector's car window (property damage) as against a person who threatens that the person's brother would break out the elector's window (again, property damage) would place the elector in the same place in either circumstance. The language of the Virginia statute at issue there would seem to bear this point out: it prohibited cross burning with an intent to intimidate and also included the criminal defendant who did not burn the cross directly but had "caused to be burned" by another on the victim's property. See *Black*, 538 US at 348 ("person or persons, with the intent of intimidating any person or group of persons, to burn, *or cause to be burned*, a cross on the property of another," citing Virginia statute § 18.2–423) (emphasis added). Here, the fact that the threats of harm by Burkman and Wohl would come from the government in various ways did not lessen the danger it communicated to these Black electors.

One further point on this issue of intent. Where the corrupt act designed to thwart an elector's ability to vote is a threat, the threat must be wrongful. Accordingly,

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the claim that Michigan law ensnares a genuine warning, see Defs' Merits Br, p 14, is inapposite. The robocall here was not a genuine warning, but a cynical ploy to deter Black electors from voting at all. Any genuine warning would not fall within the law's scope. This same distinction applies for other Michigan laws. For example, a warning to a witness that the criminal defendant's friends were planning on ambushing that witness would not qualify as witness tampering. See MCL 750.122 (prohibiting discouraging a witness from testifying). Relatedly, any political advocacy that a person should not vote or that we should not have a jury system with live witnesses would not fall within the scope of these laws. The same applies for the "threat" of an economic boycott of a business owner as an elector who would vote for the wrong candidate. Such advocacy for a boycott is not a wrongful threat. That same point applies under Michigan's extortion statute, MCL 750.213 (prohibiting among other things malicious threats to "injur[e] . . . property" for pecuniary gain), because the boycott threat would not qualify as "malicious" even if done for a financial gain. Where the threat is the act that deters voting, it must be a wrongful threat to violate Michigan law.

B. The U.S. Supreme Court in *Counterman* did not address the question whether threats that are not violent in nature, such as threats to property or reputation, may constitute a true threat.

Regarding the value of the decision to address whether true threats could include threats of non-physical harm, the Court did not engage the question. It merely reiterated the holding from *Black*: "True threats of violence, everyone agrees, lie outside the bounds of the First Amendment's protection." *Counterman,* 143 S Ct at 2113. In that respect, the decision broke no new ground.

But neither did the decision impeach the analysis the People presented from the federal circuits that suggests a possible more expansive view of "true threats." See AG's Merits Br, pp 31–35, citing *United States v Rundo*, 990 F3d 709, 719 (CA 9, 2021) ("property damage"); *United States v Coss*, 677 F3d 278, 290, n 17 (CA 6, 2012) ("injure the reputation"). Cf. *Hansen*, 143 S. Ct. at 1947 n 4 ("false claims that are made to effect a fraud or secure moneys or other valuable considerations are not protected by the First Amendment.") (cleaned up). In any event, the threats at issue here – just like threats to property – would qualify as true threats even under *Counterman*.

In summary, while *Counterman* might not join the issue about the breadth of the true threat doctrine, its evaluation of the proofs necessary to establish intent where it applies is helpful and supports the People's arguments here.

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CONCLUSION AND RELIEF REQUESTED

This Court should affirm and allow the matter to proceed to trial.

Respectfully submitted,

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Dated: September 29, 2023

WORD COUNT STATEMENT

This document complies with the type-volume limitation of Michigan Court Rules 7.312(A) and 7.212(B) because, excluding the part of the document exempted, this **supplemental brief** contains no more than 4,800 words. This document contains 4,800 words.

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