

NO. COA25-914

THIRTY-SEVENTH JUDICIAL DISTRICT

NORTH CAROLINA COURT OF APPEALS

BEVERLY COBLE,

Plaintiff,

vs.

WILLIAM CLAYTON
BALLENTINE,

Defendant.

From Randolph County
25CV000794-750

DEFENDANT-APPELLANT'S BRIEF

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DEFENDANT-APPELLANT’S BRIEF

This appeal concerns a civil no-contact order entered by the District Court under N.C. Gen. Stat. § 50C, North Carolina’s statute designed to provide protection from stalking and nonconsensual sexual contact. But the case has nothing to do with any such conduct. Rather, it concerns a Facebook page Clayton Ballentine created after Beverly Coble announced she would run for mayor of Randleman, North Carolina. Ballentine opposed Coble’s candidacy. His Facebook page available to the public (later converted to a website titled “Anybody But Coble”) was critical of her and her suitability for public office. Coble then made statements online that she would withdraw from the mayoral race, and when Ballentine did not take down his website — as the filing period for candidates remained open — she filed a complaint seeking a § 50C order prohibiting Ballentine from criticizing her in any online posts or communications.

At a hearing on 10 April 2025, the District Court accepted Coble's allegations without evidence or proof. In a written order a week later, the court prohibited Ballentine from speaking about Coble, publishing her name, or referencing her by inference in any fashion, in public or private, for one year, while also requiring he stay 50 yards away from her in any setting during that time.

The District Court's order was improper, unconstitutional, and contrary to North Carolina law in numerous respects. First, the court imposed the no-contact order solely for social media and website posts Ballentine made *about* Coble, while it was undisputed that Ballentine had not directed any posts *at* her. In her complaint and at the hearing, Coble did not allege Ballentine had directed any communications at her whatsoever. In fact, she conceded Ballentine had not contacted her in any way since March 2022. This Court's decisions make clear that imposing strictures merely for posting online *about* another person does not fall within § 50C and such an order fails First Amendment strict scrutiny. *State v. Shackelford*, 264 N.C. App. 542 (2019); *Weller v. Jackson*, 279 N.C. App. 260 (2021) (unpublished).¹

The order also contravenes fundamental First Amendment tenets because it is content-based and imposes a broad prior restraint in prohibiting Ballentine from saying anything about Coble in any communication or forum for a year beginning 21 April 2025. First Amendment strict scrutiny applicable to content-based regulations

¹ The Court's decision in *Weller* is also available at 2021 WL 4059970 (7 Sep. 2021). Consistent with N.C. R. App. P. 30(e)(3), a copy of the unpublished opinion is included in the addendum to this brief.

is a high bar, rarely met. *State v. Bishop*, 368 N.C. 869, 877–78 (2016) (“it is perhaps unsurprising that few content based restrictions” survive strict scrutiny). And prior restraints on speech such as this “are the most serious and the least tolerable infringement on First Amendment rights.” *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 559 (1976); accord *State v. Williams*, 304 N.C. 394, 403 (1981) (prior restraints bear a “heavy presumption against ... constitutional validity”).

The District Court’s rulings at the 10 April hearing and in its order are confused and confusing in other respects. The court repeatedly mentioned its view that Coble should not be treated as a “public figure” and assailed Ballentine for “tr[ying] to hide behind *New York Times versus Sullivan*.” (*E.g.*, Tp 75:1–20; 85:4–86:5; R p 12). But Coble has not asserted any defamation claim in this case, and she has not provided any evidence that Ballentine’s public online posts about her or her mayoral candidacy were false in any way, much less recklessly or maliciously so.

Clayton Ballentine took to the Internet and social media to tell others in Randleman his views, concerns, and opposition to Coble pursuing or holding public office. Speech and debate on issues of public concern are at the core of what the First Amendment protects. The District Court’s ruling is effectively a gag order that the First Amendment forbids. This Court should reverse and vacate.

ISSUES PRESENTED

- I. WAS THE CIVIL NO-CONTACT ORDER ENTERED AGAINST DEFENDANT-APPELLANT IN ACCORD WITH N.C. GEN. STAT. § 50C AND SUPPORTED BY EVIDENCE IN THE RECORD?

- II. DID THE DISTRICT COURT ERR IN CONCLUDING THAT DEFENDANT-APPELLANT STALKED OR HARASSED PLAINTIFF-APPELLEE WITHIN THE MEANING OF N. C. GEN. STAT. § 50C-1(6) AND § 14-277.3A(B)(2)?
- III. DID THE DISTRICT COURT ERR IN ENTERING A NO-CONTACT ORDER THAT BARRED DEFENDANT-APPELLANT FROM MAKING ANY COMMENTS OR STATEMENTS ABOUT PLAINTIFF-APPELLEE WHERE THERE WAS NO EVIDENCE THAT DEFENDANT-APPELLANT EVER DIRECTED ANY WRITTEN OR OTHER COMMUNICATIONS AT PLAINTIFF-APPELLEE?
- IV. DID THE DISTRICT COURT ERR IN FAILING TO RECOGNIZE THAT DEFENDANT-APPELLANT'S SPEECH ABOUT PLAINTIFF-APPELLEE IS PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION?
- V. DOES THE DISTRICT COURT'S NO-CONTACT ORDER VIOLATE THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION AS A CONTENT-BASED RESTRICTION OF SPEECH AND AN IMPERMISSIBLE PRIOR RESTRAINT?

STATEMENT OF THE CASE

On 6 March 2025, Plaintiff-Appellee Beverly Coble filed a complaint pursuant to N.C. Gen. Stat. Chapter 50C seeking a no-contact order prohibiting Defendant-Appellant William Clayton Ballentine from criticizing her online. (R p 6). All judges in the 37th District recused themselves from presiding over the matter, (Tp 11:17–18), likely because Coble and the Ballentine family are both active in Republican party politics in Randleman and Randolph County (*see* Tp 43:25–44:6, 59:21–24; Doc. Ex. 29 – 30). Judge O. Henry Willis, Jr. (ret.) was assigned to the case.

Judge Willis held a hearing on 10 April 2025. (Tp 1). Coble and Ballentine both appeared pro se. (Tp 1). At the conclusion of the hearing, the Court verbally granted Coble's request for a no-contact order. (Tp 86:3–10).

On 21 April 2025, the District Court entered the no-contact order, requiring that Ballentine “not speak or otherwise publish Plaintiff’s name or make inferential references to Plaintiff in person, electronically, by phone, social media or any other publically [*sic*] available platform” and “not go within 50 yards of Plaintiff.” (R p 10–11) (capitalization removed). The Order’s terms are effective for one year from its date (R p 11), *i.e.*, through 21 April 2026.

On 19 May 2025, Ballentine noticed his appeal and served the notice on Coble, who had not yet retained counsel. (R p 13–14).

On 18 July 2025, in response to a motion for contempt filed by Coble, Ballentine petitioned this Court for writ of supersedeas. *See* Pet. for Writ of Supersedeas and Appl. for Temp. Stay, *Coble v. Ballentine*, No. P25-502 (N.C. Ct. App., 18 July 2025). On 28 July 2025, a three-judge panel of this Court unanimously granted the petition, stating: “The 50C No-Contact Order entered by Judge O. Henry Willis, Jr., on 21 April 2025 and all related proceedings, including any contempt proceedings, are hereby stayed pending disposition of petitioner’s appeal or until further order of this Court.” Order, *Coble v. Ballentine*, No. P25-502 (N.C. Ct. App., 28 July 2025).²

The record on appeal for this case was settled on 15 September 2025 and docketed in the Court of Appeals on 30 September 2025. (R p 25).

² Though the no-contact order is stayed pending this appeal and expires by its own terms on 21 April 2026, its expiration will not moot this case. *See Williams v. Vonderau*, 362 N.C. 76, 77 (2007) (reversing decision “that an appeal related to a civil no-contact order is moot once the order expires”).

STATEMENT OF GROUNDS FOR APPELLATE REVIEW

The District Court’s entry of the 21 April 2025 no-contact order against Defendant-Appellant is a final judgment, and thus an appeal lies in this Court pursuant to N.C. Gen. Stat. § 7A-27(b)(2).

STATEMENT OF FACTS

This case involves a civil no-contact order premised solely on social media and website posts about former mayoral candidate Beverly Coble — prohibiting Defendant-Appellant William Clayton Ballentine from “speak[ing] or otherwise publish[ing] [her] name or mak[ing] inferential references to [her] in person, electronically, by phone, social media or any other publically *[sic]* available platform.” (R p 12) (capitalization removed).

I. Relationship Between Ballentine and Coble

Ballentine and Coble are both residents of Randleman in Randolph County, North Carolina. (Tp 47:22–23, 51:24–25). They have known each other for many years, and for a time (approximately 2017–2022), Coble became involved with and was a friend of Ballentine’s family. (Tp 14:21–25). However, when Ballentine’s father passed away in 2022, his and his family’s relationship with Coble soured for several reasons. (R p 12; *see* Doc. Ex. 31–32). Ballentine has not contacted her since March 2022. (Tp 34:17–35:20).

Ballentine and Coble are also both actively involved in the Republican Party in Randolph County. But Republican Party politics in Randolph County are not monolithic. Coble and the Ballentine family have supported opposing Republican

candidates for office over the years, including a particularly hard-fought sheriff's election in which Coble served as one candidate's campaign treasurer. (*See* Tp 43:25–44:6, 59:21–24; Doc. Ex. 29–30). Ballentine and Coble both actively use the Internet and social media to advance their views on political issues, elections, and candidates. (*See, e.g.*, Doc. Ex. 24, 26 (Coble Facebook posts saying others in the community urged her to run for mayor); Doc. Ex. 18–19, 23 (Ballentine's Facebook posts about Coble's candidacy for mayor)).

II. Coble's Candidacy for Mayor and Ballentine's Public Criticism

In March 2024, Coble announced via Facebook that she would run for Mayor of Randleman in the November 2025 election. (Tp 15:11–16). She confirmed her candidacy with social media comments like, "I'm looking forward to running for Mayor of this great town next year," (Doc. Ex. 25), and "so many citizens in Randleman are asking me to run for Mayor" that "I plan to run." (Doc. Ex. 24). In her online posts through the end of 2024, Coble continued to say she would be a mayoral candidate. (*See, e.g.*, Doc. Ex. 25–26).

On 19 December 2024, Ballentine created a Facebook page titled "Anybody But Coble." (Tp 14:4–6, 24:4–13). He also created a website, www.AnybodyButCoble.org. (Tp 85:4–5).³ On these platforms, Ballentine published articles and opinions opposing Coble's candidacy. (Tp 85:7–8; *see also, e.g.*, Doc. Ex. 2, 5, 7, 17–23). Ballentine's posts on "Anybody But Coble" were about Coble, but none were directed at her. (*See* Doc.

³ For simplicity, the Facebook page and the website are referred to here collectively as "Anybody But Coble."

Ex. 2, 5, 7, 17–23). The articles and commentary on www.AnybodyButCoble.org, many styled as press releases, were directed to the public, *i.e.*, the people in Randleman who would vote in and decide the upcoming race for mayor. (*See, e.g.*, Doc. Ex. 5, 7, 17, 20–22).

III. Coble’s First Attempt to Silence Ballentine with a No-Contact Order

On 27 December 2024, Coble filed — or, more accurately, attempted to file — a complaint pursuant to N.C. Gen. Stat. § 50C seeking a no-contact order against Ballentine on the basis that his publications were “trying to discredit” her. (Tp 36:3–5, 13–24). She voluntarily dismissed that complaint because she “didn’t have enough evidence to get [a no-contact order].” (Tp 41:6–7).

Shortly after dismissing her first complaint against Ballentine, Coble stated online that she would not run for mayor. (*See* Doc. Ex. 19 (31 December 2024, “Anybody But Coble” post: “[A]fter repeatedly asserting her candidacy for mayor, [Coble] now denies running.”); *see also* Tp 70:10–25). However, the deadline for officially filing as a candidate was not until July 2025 (Doc. Ex. 8), and Coble had not provided clarity about her on-again, off-again ambitions. (*See, e.g.*, Doc. Ex. 24). Ballentine doubted the sincerity of Coble’s purported withdrawal, and he did not take down “Anybody But Coble.” (*See* Tp 52:10–11, 71:1–4).

IV. Coble’s Second Complaint for a No-Contact Order

On 6 March 2025, Coble filed another complaint for a § 50C no-contact order against Ballentine. (R p 6–8). The complaint form (AOC-CV-520) instructs a plaintiff claiming they are being stalked to provide evidence that:

The defendant has, on more than one occasion and without legal purpose, followed or otherwise tormented, terrorized, or terrified the plaintiff named above with the intent to place the plaintiff in reasonable fear for the plaintiff's safety or the safety of the plaintiff's immediate family or close personal associates or with the intent to cause, and which did cause, the plaintiff to suffer substantial emotional distress by placing the plaintiff in fear of death, bodily injury, or continued torment or terror[.]

(R p 6). The form directs the plaintiff to “[g]ive specific dates and describe in detail what happened and how it placed the plaintiff in fear of safety or how it caused substantial emotional distress.” (R p 6). Coble’s allegations under this direction stated, in full, that:

Mr. Ballentine has continually harassed me on social media beginning in March 2022 thru *[sic]* present day. He has posted about me daily on FB social media, accusing *[sic]* me of committing a crime⁴ and posting lies about me to the community, which is causing me to suffer loss of respect and has kept me from going out in public as much as I normally would because of all the questions [and] comments I am receiving. Mr. Ballentine owns a FB page called Anybody but Coble, claiming I am a political figure, which I am not. I stated last y[ea]r I was going to run for mayor in Randleman, changed my mind and have posted several times on FB that I am not running in any election. His hatred for me is going to cause me harm.

(R p 6).

V. The District Court Hearing and No-Contact Order

All the District Court judges in the 37th District recused themselves from presiding over this matter. (Tp 11:17–18). The Honorable O. Henry Willis Jr. (ret.) was assigned to the case as an out-of-county conflicts judge. (Tp 11:16–21). On

⁴ Ballentine recounted allegations in some posts that Coble had misreported campaign expenses as treasurer for the sheriff’s election campaign. Doc. Ex. 17.

10 April 2025, Judge Willis held a hearing to determine whether Coble had proved her allegations and whether those allegations constituted grounds for a no-contact order as a matter of law. (Tp 11:16–21, 12:25–13:5). Both parties appeared pro se. (Tp 1).

A. Coble’s testimony and evidence

On direct examination by the Court, Coble said she wanted “a permanent no-contact order” and “that page [“Anybody But Coble”] taken down.” (Tp 32:23–25). She characterized Ballentine’s public criticism as “lies [and] slander ... trying to discredit [her] reputation.” (Tp 37:25–38:1). She asserted Ballentine’s posts “humiliated” her. (Tp 27:16, 33:16–18). At the same time, she acknowledged Ballentine’s “page has been about politics. It’s been to discredit me.” (Tp 36:18–19).

Coble testified she was distressed by Ballentine’s online comments about her, asserting things such as: “I’ve been to the doctor. I’ve had to start a new medicine. I don’t go out in public by myself anymore in Randleman, because I’m in fear of Mr. Ballentine. I’ve had a lot of threats on a Facebook page that he’s also affiliated with. I won’t even go to the grocery store without my husband.” (Tp 28:14–19).

However, Coble did not provide any competent evidence, or indeed any specifics, in support of her assertions. She gave no explanation why Ballentine’s criticisms of her as being unsuited for public office provided any basis for her supposed fear of going out in public. If Coble’s doctor had prescribed some new medicine, she never said what that was or how it had anything to do with her claims. She alluded to threats on some other Facebook page she contended Ballentine was

“affiliated with” but never identified what the page was, much less what was posted, who posted, or why she viewed the unidentified posts as “threats.”

At the same time, Coble conceded Ballentine had not contacted her or directed any communications at her since March 2022. (Tp 34:17–19). She did not say (nor could she) that Ballentine ever threatened her. (Tp 33:1–2 (“I have never, to this day, had an argument with Mr. Ballentine.”)). Nor did she claim Ballentine ever did anything even remotely akin to stalking. Coble called her husband as a witness, but he testified only that his wife’s “nerves were not good,” they didn’t go on some trips because she “didn’t feel good,” and that his wife said she’d been “verbally attacked” by some woman in Walmart for some unidentified reason. (Tp 49:1–5, 49:24–50:13). Mr. Coble conceded he had not seen anything in Ballentine’s postings that suggested Ballentine might confront his wife in person. (Tp 49:15–23).

B. The District Court’s examination of Ballentine

After testimony from Ballentine and a brief cross-examination by Coble, the District Court examined Ballentine. The Court seemed especially interested in whether Coble qualified as a public figure under *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964), saying: “[G]ive me a date, time, and place that she spoke publicly as a public figure that you’re using as a shield for you to keep throwing this stuff at her.” (Tp 75:1–20). But Coble had not asserted a defamation claim,⁵ and her request for a

⁵ As is no doubt familiar to this Court, *New York Times Co. v. Sullivan* holds that, under the First Amendment, a plaintiff asserting defamation claims against a public figure must prove a publication’s statements were knowingly false or made with reckless disregard for the truth. 376 U.S. 254, 280 (1964).

§ 50C no-contact order had nothing to do with whether she was or could be considered a “public figure.”

The Court seemed to believe that critical comments made online by one person concerning another *per se* constitutes harassment and stalking under § 50C. The Court asked, “by what means do you think you should be able to just say anything you want to about her on Facebook?” (Tp 76:6–7). Ballentine testified that his posts about Coble were all true, but the Court showed no interest and made no inquiry about the accuracy of Ballentine’s posts. (Tp 76:8–17). The Court seemed concerned that Ballentine styled some of his posts on “Anybody But Coble” as articles and press releases (Tp 82:10–83:4), but never explained how the form of the posts had anything to do with the elements to prove stalking or harassment under § 50C. As noted, it was undisputed Ballentine had not approached Coble or directed any communication at her for over three years. (Tp 34:17–19).

After the Court finished questioning Ballentine, it stated to Coble, “No argument necessary from you. No argument necessary.” (Tp 84:18–19).

C. The District Court’s findings

At the conclusion of the 10 April 2025 hearing, the Court announced its findings and ruling. (Tp 84:21–85:23). It acknowledged Ballentine “had the absolute right to” begin “publishing articles and opinions in opposition to Ms. Coble’s candidacy” “as long as it was not malicious and untruthful,” citing *New York Times Co. v. Sullivan*. (Tp 85:4–10). The Court did not explain why or how elements of

defamation law pertained to a complaint for a civil no-contact order governed by § 50C, particularly in a case where the plaintiff had not asserted any defamation claim.

The Court stated that after Coble “withdrew her candidacy,”

Ballentine:

has continued to attack [her] politically and personally even bringing up facts from years ago that have nothing to do with this, other than to cause the Court to have a strong inference that he still holds a personal grudge against her. That he has turned this grudge into an attack and has tried to hide behind *New York Times versus Sullivan* and other cases.

(Tp 85:12–23). The Court then stated it could not find that Coble was a “public figure” as a matter of law. (Tp 85:24–86:5).

In the end, the Court concluded Ballentine’s public statements about Coble “do amount to unlawful conduct as contemplated under the provisions of G.S. § 50C of the General Statutes,” (Tp 86:3–5), but did not explain why or how Ballentine’s public statements about Coble constituted harassment or stalking as defined in the statute. Nevertheless, the Court verbally ordered that Ballentine “shall not publicly write, print, or speak the name of [Coble] in any form or content and shall not go within 50 yards of [Coble] at any time.” (Tp 86:6–10).

D. The District Court’s written no-contact order

On 21 April 2025, the Court entered the written no-contact order. (R p 10–12). Again the Court focused on its views about whether Coble could be regarded as a “public figure” after she announced she would run for mayor and continued to comment publicly about her interest for many months. While acknowledging that “the filing period for Mayor of Randleman is still open,” the Court seemed to think it

dispositive that “[Coble] has not formed a political committee, has not filed for any political office, nor done anything else such that she could be lawfully classified as a ‘public figure.’” (R p 12). Nevertheless, the Court found, Ballentine “continued to post on ‘Anybody But Coble’ and on his personal Facebook page numerous personal attacks against” Coble, including “unsubstantiated allegations of criminal or other unlawful conduct.” (R p 12).⁶ The Court also found Ballentine had “continued to publish, as recently as three (3) days ago, posts concerning [Coble], under the guise of ‘news reporting,’ quoting himself and predicting the result of this action.” (R p 12). The Court stated Ballentine’s “conduct has caused [Coble] grief, anxiety, humiliation and extreme emotional distress.” (R p 12).

The Court did not find that Ballentine had ever directed any communication at Coble or made any threats to her. The Court made no findings that Ballentine made any online post or any communication to Coble to “torment, terrorize, or terrify” her, or anything to cause her “reasonable fear” for her safety or that he had any intent to do so. (*See* N.C. Gen. Stat. §§ 50C-1(6), 14-277.3A(b)(2), (c)).

Thus, based solely on Ballentine’s online posts *about* Coble, the Court ordered that Ballentine “not speak or otherwise publish [Coble]’s name or make inferential references to [Coble] in person, electronically, by phone, social media or any other

⁶ At the hearing, Ballentine testified that his posts on “Anybody But Coble” were “all true” and “everything is sourced.” (Tp 76:6–12).

publically [*sic*] available platform.” (R p 11) (capitalization removed).⁷ Additionally, in the section of the form order to “List Other Places Where Defendant Ordered Not To Be,” the Court wrote “not go within 50 yards of plaintiff,” which apparently covers any setting anywhere. (R p 11) (capitalization removed). The order is by its terms effective through 21 April 2026. (R p 10–11).

ARGUMENT

I. STANDARD OF REVIEW

“The standard of review on appeal from a judgment entered after a non-jury trial is whether there is competent evidence to support the trial court’s findings of fact and whether the findings support the conclusions of law and ensuing judgment.” *Myers v. Broome-Edwards*, 294 N.C. App. 364, 366 (2024) (quoting *Cartin v. Harrison*, 151 N.C. App. 697, 699 (2002)).

In a case presenting First Amendment issues, “an appellate court has an obligation to make an independent examination of the whole record in order to make sure that the judgment does not constitute a forbidden intrusion on the field of free expression.” *State v. Taylor*, 379 N.C. 589, 608 (2021) (quoting *Bose Corp. v. Consumers Union of U.S., Inc.* 466 U.S. 485, 499 (1984)).

“The standard of review for alleged violations of constitutional rights is *de novo*.” *Shackelford*, 264 N.C. App. at 551 (citation omitted); *accord State v. Roberts*,

⁷ The District Court did not order Ballentine to take down the “Anybody But Coble” website or delete any online content that had already been posted. (Tp 87:18–88:12 (“But the order [is,] if you’re going to say anything that’s about her, you’re going to be violating this order”).

237 N.C. App. 551, 556 (2014). Under this *de novo* standard, the Court “considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *Shackleford*, 264 N.C. App. at 551 (quoting *State v. Williams*, 362 N.C. 628, 632-33 (2008)).

II. THE DISTRICT COURT’S ORDER IS IMPROPER UNDER N.C. GEN. STAT. § 50C

Under N.C. Gen. Stat. § 50C, a civil no-contact order may issue only upon finding that the complainant has suffered “an act of unlawful conduct committed by the respondent,” N.C. Gen. Stat. § 50C-7, but this must be among specifically proscribed conduct that constitutes “stalking” and “harassment” as defined by the statute. Under Section 50C-1, “stalking” is defined as “[o]n more than one occasion, following or otherwise harassing, as defined in G.S. 14-277.3A(b)(2), another person without legal purpose with the intent to ... [p]lace the person in reasonable fear either for the person’s safety or the safety of the person’s immediate family or close personal associates” or “[c]ause that person to suffer substantial emotional distress.” N.C. Gen. Stat. § 50C-1(6). This definition incorporates North Carolina’s criminal harassment statute, which defines harassment as “[k]nowing conduct, including written or printed communication or transmission ... directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.” N.C. Gen. Stat. § 14-277.3A(b)(2).

The District Court found Ballentine committed unlawful conduct by “stalking” and “harass[ing]” Coble. (Tp 86:3–5; R p 11). But the evidence upon which the court premised its no-contact order established none of the elements required by § 50C.

First, a civil no-contact order based on harassment by written communication must be premised on communication “*directed at* a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.” N.C. Gen. Stat. § 14-277.3A(b)(2) (emphasis added). The District Court erred in applying §§ 50C-1(6) and 14-277.3A because every one of Ballentine’s posts was *about* Coble; Ballentine never made any posts or any communications *directed at* her.

This Court has underscored the importance of this distinction in the social media context twice before. In both cases, the Court invalidated trial courts’ determinations that social media posts *about* but not *directed at* another person constituted harassment under § 14-277.3A(b)(2).

In *Weller v. Jackson*, 279 N.C. App. 260, 2021 WL 4059970 (2021) (unpublished), this Court reversed a trial court’s § 50C civil no-contact order based on posts about the plaintiff that an online reporter made on Facebook. The reporter posted an article alleging the plaintiff had created several Facebook groups ostensibly to help families of missing persons in the state but then used the groups to spread misinformation about the families. *Id.* at ¶ 2. At a hearing on plaintiff’s § 50C complaint, the trial court acknowledged the defendant made no “direct threat” to plaintiff but expressed concern that his posts might “be planting bad thoughts in people’s heads.” *Id.* at ¶ 8. The court found the defendant’s posts reporting about plaintiff had “caused and incited individuals ... to make threatening statements towards Plaintiff,” and on this basis held that the defendant had “harassed Plaintiff.”

Id. at ¶ 11. The court issued a no-contact order prohibiting the defendant from “posting anything further about” the plaintiff for six months. *Id.*

This Court reversed because, while the defendant had “posted a news blog article and a video that discussed plaintiff, ... there is no evidence that defendant directed any written or printed communication at plaintiff.” *Id.* at ¶ 18. “The social media posts and articles were ‘about’ plaintiff, but were not ‘directed at’ her, similar[] to the social media posts made in *Shackelford*.” *Id.* Therefore, the Court held, “there was no evidence to support a finding that defendant stalked or harassed plaintiff within the definitions of N.C. Gen. Stat. § 50C.” *Id.*⁸

Shackelford, which concerned N.C. Gen. Stat. § 14-277.3A, the criminal harassment law incorporated into § 50C, reached a similar conclusion. In *Shackelford*, this Court held that § 14-277.3A violated the First Amendment when applied to social media posts the defendant “wrote *about* [the plaintiff] but did not send directly *to her*.” *Shackelford*, 264 N.C. App. at 556. Noting that “[c]ourse of conduct” is defined in the statute as “[t]wo or more acts” including merely “communicat[ing] to *or about* a person,” the Court held “the First Amendment is directly implicated by Defendant’s prosecution under § 14-277.3A,” because “his speech itself was the crime.” *Id.* (emphasis in original). (*Shackelford* is discussed further below.)

⁸ The defendant in *Weller* also asserted the no-contact order violated his free speech rights under the First Amendment, but the Court found it was unnecessary to reach this argument because the trial court’s order misapplied § 50C. *Id.* at ¶ 19.

There is no evidence in the record to support a finding that Ballentine's posts satisfy the statutory definition of stalking or harassment. The posts on "Anybody But Coble" were about Coble. They were admittedly critical of her and her announced candidacy for mayor. But none of the posts or commentary were "directed at a specific person," as § 50C requires. As is clear from even a cursory reading, the posts were aimed at residents of Randleman.

The District Court also erred in finding that Ballentine acted without legal or legitimate purpose. *See Teague v. Meredith*, No. 5:10-CV-39-RLV, 2011 WL 2791253 (W.D.N.C., July 14, 2011) (explaining that a claim of "unlawful conduct" under § 50C, "based on stalking by way of harassment, will be defeated by a legal purpose or a legitimate purpose"). Ballentine's purpose in creating and running "Anybody But Coble" was political, *i.e.*, to "make sure voters in Randleman knew the full story." (Doc. Ex. 3; *see also* Doc. Ex. 5 ("Anybody But Coble will continue to shine a light on Coble's record, her hypocrisy, and her troubling willingness to use the legal system as a political weapon.")).

The Supreme Court has "recognized repeatedly that debate on the qualifications of candidates is integral to the operation of the system of government established by our Constitution." *Eu v. San Francisco Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 223 (1989) (cleaned up); *see also Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 339–40 (2010) (political discussion "is a precondition to enlightened self-government" and "[t]he First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office.") (quoting

Eu, 489 U.S. at 223; *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (“speech on public issues occupies the highest rung of the hierarchy of First Amendment values and is entitled to special protection.”) (citation omitted)). Even if Ballentine was motivated to speak publicly about Coble because of a past grudge (*see* Tp 85:15–23), that does not make his online comments and criticisms illegal or subject to prohibition. *Cf. United States v. Alvarez*, 567 U.S. 709, 729–30 (2012) (even the “right to make [false] statements is protected by the Constitution’s guarantee of freedom of speech and expression”). Ballentine had a legal and legitimate purpose for launching “Anybody But Coble” and expressing his views about Coble and her unsuitability for office. The First Amendment does not allow the government to penalize a person for publicly criticizing another simply because the target of the criticism doesn’t like it.

The no-contact order is also invalid and impermissible under § 50C because the District Court had no evidence (and made no findings) that Ballentine intended his public online commentary about Coble to “torment[], terrorize[], or terrif[y]” her, much less that anything he posted could have put her “in reasonable fear for [her] safety” or caused her “to suffer substantial emotional distress.” N.C. Gen. Stat. §§ 50C-1(6), 14-277.3A(b)(2), (c). Ballentine intended “Anybody But Coble” to inform the public. He did nothing to threaten or confront Coble, and there is no evidence in the record to suggest otherwise.

III. THE NO-CONTACT ORDER VIOLATES THE FIRST AMENDMENT

The District Court’s no-contact order violates the First Amendment under longstanding principles and this Court’s precedents. The order is a content-based restriction that prohibits Ballentine from writing, publishing, or saying anything

about Coble for one year, and it fails First Amendment strict scrutiny. Worse still, the order imposes a prior restraint (Ballentine is prohibited from saying anything, whatever it might be, before he says anything), which is among the most intolerable infringements on First Amendment rights. In other words, the no-contact order is unconstitutional twice over, as it is based on past protected speech *and* prohibits future speech.

This Court's decision in *Shackelford* makes the point clear. There, the defendant published numerous posts about his unrequited feelings for the plaintiff, a woman in his church. 264 N.C. App. at 545–49. He wrote that she was “turning [him] bat crazy,” “strongly believe[d] that she [was his] soul mate,” and repeatedly referred to her as his “future wife.” *Id.* However, like Ballentine's posts on “Anybody But Coble,” the “posts on [Shackelford]'s Google Plus account were not specifically directed to [the plaintiff] but were shared publicly on his account where any user of the service could read them.” *Id.* at 545. This Court held that, as applied to Shackelford, § 14-277.3A failed First Amendment strict scrutiny.

The *Shackelford* Court noted, first of all, that “[p]osting information on the Internet — whatever the subject matter — can constitute speech as surely as stapling flyers to bulletin boards or distributing pamphlets to passersby — activities long protected by the First Amendment.” *Id.* at 552 (quoting *State v. Bishop*, 368 N.C. 869, 873 (2016)). “[T]he protections of the First Amendment extend in full not just to the Internet, but to all new media and forms of communication ...” *Id.* (quoting *Bishop*, 368 N.C. at 874).

Shackelford went on to consider whether § 14-277.3A, as applied to the defendant (which resulted in his conviction) was content based, because, as the Supreme Court has stated: “[A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Id.* (quoting *Police Dept. of City of Chicago v. Mosley*, 408 U.S. 92, 95 (1972)). The Court recognized, as is well-established, that “[c]ontent-based laws ... are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Id.* (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015)).

“[A] speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed.” *Reed*, 576 U.S. at 171. The *Shackelford* Court concluded that § 14-277.3A (the criminal harassment statute incorporated into § 50C) “constituted a content-based restriction on speech” because one could not determine whether the statute applied to a speaker “without reference to the content of his posts.” *Shackelford*, 264 N.C. App. at 558. The Court held that, as applied to *Shackelford*, § 14-277.3A failed strict scrutiny because, even assuming *arguendo* a compelling government interest, the government failed to utilize least restrictive means by which it could pursue its interest. *Id.* at 559–60.

Here, the District Court’s findings purportedly supporting the no-contact order leave no doubt that it is a content-based prohibition of speech. (*See* R p 12). The order prohibits Ballentine from speaking or communicating online, in person, or in any

other way *about Coble*. The order is based exclusively on Ballentine’s past protected speech, and it turns entirely on the content of what he says or might want to say.

Because the no-contact order is a content-based prohibition on speech, it must satisfy strict scrutiny. *Shackelford*, 264 N.C. App. at 552. That means the order must be “narrowly tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163. Thus, in *Shackelford* the Court found that § 14-277.3A, as it was applied by the trial court to the defendant’s conduct, was not narrowly tailored or the least restrictive means to further the state’s interests. *Shackelford*, 264 N.C. App. at 558. Noting that the trial court’s interpretation would allow punishment if the defendant said *anything* about the woman from his church online, the Court opined that this would make the statute “a criminal prohibition of alarming breadth.” *Id.* at 560 (quoting *Bishop*, 368 N.C. at 879). Such a “broad sweep” would “reach[] a host of social interactions that a person would find distressing but are clearly understood to fall within the protections of the first amendment.” *Id.* at 559 (quoting *People v. Releford*, 104 N.E.3d 341, 353–54 (Ill. 2017)).

There is no compelling governmental interest in granting a restraining order precluding one person from commenting about another with speech that is not threatening or harassing. A blanket prohibition on all speech concerning a specific topic or person is the antithesis of narrow tailoring. The First Amendment does not permit court orders broadly prohibiting speech about some other person. See Eugene Volokh, *Overbroad Injunctions Against Speech (Especially in Libel and Harassment Cases)*, 45 Harv. J.L. & Pub. Pol’y 147, 178–81 (2022) (collecting cases reflecting that

“[i]njunctions against speech about a person are unconstitutional if they bar speech about people (and not just to them) and go beyond constitutionally unprotected categories of speech”). Indeed, if that were not the case, many thousands of daily online posts critical of some person would be subject to injunction.

The District Court’s no-contact order is also unconstitutional because it is a blatant prior restraint. Supreme Court precedent has long held that “prior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights.” *Nebraska Press Ass’n*, 427 U.S. at 559. The First Amendment’s protections reflect that it is preferable “to punish the few who abuse rights of speech after they break the law than to throttle them and all others beforehand.” *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 559 (1975). Accordingly, “any prior restraint on expression comes to the courts with a heavy presumption against its constitutional validity.” *State v. Williams*, 304 N.C. 394, 403 (1981); *see also, e.g., Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963); *Near v. Minnesota ex rel. Olson*, 283 U.S. 697, 716 (1931) (prior restraints can survive constitutional review “only in exceptional cases”).

The Court has never upheld a broad prohibition on speech or public criticism of a person merely on the basis that it upsets them. Coble cannot point to any reasonable basis on which this Court should uphold the District Court’s prior restraint on Ballentine’s lawful, constitutionally protected speech about her.

CONCLUSION

Clayton Ballentine took to the Internet to share with people in Randleman his concerns about Beverly Coble and her announced run for mayor of the city. Nothing he wrote or published was directed at Coble. In fact, Ballentine had not contacted or attempted to contact Coble at all for three years. Nothing he posted was threatening or harassing toward her in any way.

Yet Coble succeeded in bringing a § 50C complaint and obtaining a no-contact order from the District Court below. That court's determination that Ballentine's online public comments about Coble and her candidacy constituted stalking and harassment under § 50C not only misapplied the statute but reflected a fundamental misunderstanding and misapplication of First Amendment law.

This Court should accordingly reverse the District Court's no-contact order and ensure it is understood § 50C and other North Carolina law is limited and cabined by First Amendment principles.

Respectfully submitted, this the 30th day of October, 2025.

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N.C. R. App. P. 33(b) Certification:
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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 28(j) of the North Carolina Rules of Appellate Procedure, the undersigned counsel for Defendant-Appellant certifies that the foregoing brief, which is prepared using a 12-point proportionally spaced font with serifs, is fewer than 8,750 words (excluding cover, index, table of authorities, caption, signature blocks, certificate of service, and this certificate of compliance) as reported by the word-processing software used to prepare this brief.

By: Electronically submitted
Greg Gaught

CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing document was served on the persons indicated below by via email, addressed as follows:

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CONTENTS OF APPENDIX

N.C. Gen. Stat. § 14-277.3A..... App. 1
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N.C. Gen. Stat. § 50C-7 App. 4

§ 14-277.3A. Stalking.

(a) Legislative Intent. – The General Assembly finds that stalking is a serious problem in this State and nationwide. Stalking involves severe intrusions on the victim's personal privacy and autonomy. It is a crime that causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others, even in the absence of express threats of physical harm. Stalking conduct often becomes increasingly violent over time.

The General Assembly recognizes the dangerous nature of stalking as well as the strong connections between stalking and domestic violence and between stalking and sexual assault. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system before stalking escalates into behavior that has serious or lethal consequences. The General Assembly intends to enact a stalking statute that permits the criminal justice system to hold stalkers accountable for a wide range of acts, communications, and conduct. The General Assembly recognizes that stalking includes, but is not limited to, a pattern of following, observing, or monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means.

(b) Definitions. – The following definitions apply in this section:

- (1) Course of conduct. – Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (2) Harasses or harassment. – Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.
- (3) Reasonable person. – A reasonable person in the victim's circumstances.
- (4) Substantial emotional distress. – Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) Offense. – A defendant is guilty of stalking if the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

- (1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.
- (2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

(d) Classification. – A violation of this section is a Class A1 misdemeanor. A defendant convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A defendant who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony. A defendant who commits the offense of stalking when there is a court order in effect prohibiting the conduct described under this section by the defendant against the victim is guilty of a Class H felony.

(e) Jurisdiction. – Pursuant to G.S. 15A-134, if any part of the offense occurred within North Carolina, including the defendant's course of conduct or the effect on the victim, then the defendant may be prosecuted in this State. (2008-167, s. 2.)

Chapter 50C.

Civil No-Contact Orders.

§ 50C-1. Definitions.

The following definitions apply in this Chapter:

- (1) Abuse. – To physically or mentally harm, harass, intimidate, or interfere with the personal liberty of another.
- (2) Civil no-contact order. – An order granted under this Chapter, which includes a remedy authorized by G.S. 50C-5.
- (3) Nonconsensual. – A lack of freely given consent.
- (4) Sexual conduct. – Any intentional or knowing touching, fondling, or sexual penetration by a person, either directly or through clothing, of the sexual organs, anus, or breast of another, whether an adult or a minor, for the purpose of sexual gratification or arousal. For purposes of this subdivision, the term shall include the transfer or transmission of semen.
- (5) Repealed by Session Laws 2004-199, s. 50, effective August 17, 2004.
- (6) Stalking. – On more than one occasion, following or otherwise harassing, as defined in G.S. 14-277.3A(b)(2), another person without legal purpose with the intent to do any of the following:
 - a. Place the person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.
 - b. Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment and that in fact causes that person substantial emotional distress.
- (7) Unlawful conduct. – The commission of one or more of the following acts by a person 16 years of age or older upon a person, but does not include acts of self-defense or defense of others:
 - a. Nonconsensual sexual conduct, including single incidences of nonconsensual sexual conduct.
 - b. Stalking.
- (8) Victim. – A person against whom an act of unlawful conduct has been committed by another person not involved in a personal relationship with the person as defined in G.S. 50B-1(b). (2004-194, s. 1; 2004-199, s. 50; 2007-199, s. 1; 2009-58, s. 6.)

§ 50C-7. Permanent civil no-contact order.

Upon a finding that the victim has suffered an act of unlawful conduct committed by the respondent, a permanent civil no-contact order may issue if the court additionally finds that process was properly served on the respondent, the respondent has answered the complaint and notice of hearing was given, or the respondent is in default. No permanent civil no-contact order shall be issued without notice to the respondent. (2004-194, s. 1; 2013-390, s. 3; 2015-62, s. 3(e); 2021-47, s. 10(k).)

CONTENTS OF ADDENDUM

Weller v. Jackson, 279 N.C. App. 260, 2021 WL 4059970 (2021)

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-484

No. COA21-80

Filed 7 September 2021

Onslow County, No. 20 CVD 1371

LOUISE ANN WELLER, Plaintiff,

v.

GERALD JACKSON, Defendant.

Appeal by defendant from order entered 17 August 2020 by Judge Michael C. Surles in Onslow County District Court. Heard in the Court of Appeals 10 August 2021.

No brief filed for plaintiff-appellee.

Duke Law School First Amendment Clinic, by Sarah H. Ludington and Nicole J. Ligon, for defendant-appellant.

ARROWOOD, Judge.

¶ 1

Gerald Jackson (“defendant”) appeals from a civil no-contact order restricting him from “posting anything further about” Louise Ann Weller (“plaintiff”). Defendant contends the order must be reversed because there was insufficient evidence to support the order and because the trial court misapplied N.C. Gen. Stat. § 50C-1(6) (2019). Defendant further contends the order restricts his protected speech under the

First Amendment and that the order is a prior restraint in violation of the First Amendment. For the following reasons, we reverse the trial court's order.

I. Background

¶ 2 On 19 May 2020, defendant wrote and published an article on his online news blog “The North Carolina Beat.” The article discussed plaintiff and alleged that she had created several Facebook groups concerning missing persons in North Carolina and other states. The article further alleged that plaintiff used the groups to contact the families of the missing persons to offer help and support but would instead use the groups to terrorize the families and “spread false information” about them, including by insinuating the family members were responsible for the disappearances.

¶ 3 On 20 May 2020, plaintiff filed a complaint in Onslow County District Court seeking a civil no-contact order against defendant under N.C. Gen. Stat. § 50C. The trial court denied plaintiff's request due to a lack of evidence and scheduled a hearing for 26 May 2020 to determine whether a permanent no-contact order was warranted.

¶ 4 Both parties represented themselves *pro se* at the 26 May hearing. Plaintiff explained that she had filed the action related to social media posts made by defendant on his “North Carolina Beat” Facebook page. In her opening statement, plaintiff expressed fear for herself and her family due to “harassment, slander, and verbal assaults that occurred to us from [defendant], as well as racial – racist sexual

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harassment slurs and verbal sexual harassment assaults.” Plaintiff added that defendant was “threatening and insinuating that himself or others commenting on his lives¹ should inflict violence and deadly bodily harm to us.” Defendant responded by explaining that plaintiff initially contacted him “as it relates to exposing someone, and that backfired on her[.]” Defendant further stated that he had not directly or indirectly contacted plaintiff or made any type of harassing comments to her, and that he had no control over other individuals that may have contacted plaintiff.

¶ 5 During the presentation of evidence, plaintiff moved to introduce several printouts of news articles related to defendant. Defendant objected to the printouts, arguing they were irrelevant to the matter at hand. Plaintiff responded by arguing that the articles were “very crucial” as they provided background of defendant’s previous history, which “is part of the reason that’s got us so scared.” The trial court overruled defendant’s objection, cautioning plaintiff that the documents as related to prior conduct or history “certainly can be relevant, but to the extent that you’re just using this as a means to bash [defendant] because he’s a convicted felon, or because of any other misconduct that articles have been written about – on him, then certainly I would sustain that objection.”

¶ 6 After presenting the documents, plaintiff offered a series of video clips to be

¹ “Lives” refers to defendant’s live-streamed videos.

played on two different phones, each of which lasted “maybe 10 or 20 seconds[,]” which were recorded from defendant’s web page. Plaintiff clarified that there were approximately 20 separate clips, none more than 30 seconds long. The trial court began to play the recordings, to which defendant objected “because they don’t play an entirety of what was actually stated.” Defendant argued that plaintiff sought to portray all of the videos as pertaining to her, but “they aren’t.” Defendant requested the trial court either play the video in its entirety, a total of 47 minutes, or “kind of question on each individual clip.” The trial court responded that it did not have 47 minutes to listen to the recording in its entirety, and that although it “would be best” for the trial court to watch the entire video, it would take too long. Accordingly, the trial court allowed the recordings to be played while allowing defendant the opportunity to respond to each one, to which defendant agreed. In one clip, defendant is heard telling his audience that it was not “worth it” to inflict violence against plaintiff, but instead encouraged families targeted by plaintiff to file a civil lawsuit against her. The trial court later clarified that it would not accept the clips as presented because the trial court did not “think that shows the entire context in which it was said.”

The trial court questioned defendant regarding the 19 May article. Defendant described several screenshots, which were provided with the article, of conversations between plaintiff and a family in Arkansas that had a missing daughter. Defendant

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stated that the screenshots showed plaintiff threatening to expose a family member's addiction history. Defendant clarified that the family had contacted him after seeing a video of an interview defendant had conducted with plaintiff on 6 May 2020, after plaintiff contacted defendant "to try to expose a lady in a most recent case that involved two women in Wilmington, North Carolina." Defendant also informed the trial court that he had removed the video of the interview with plaintiff, blocked plaintiff from his social media pages, and had no further communication with plaintiff after 17 May 2020.

¶ 8 The trial court acknowledged that defendant had made no "direct threat" to plaintiff but expressed concern that the North Carolina Beat posts may "in essence, be planting bad thoughts in people's heads." The trial court described the North Carolina Beat videos as walking "a fine line between freedom of speech and reporting the news" and "inciting people because it has entertainment value." The trial court added that although defendant was not responsible for what his audience posted or how they responded to his videos, he was "partially responsible" for their harmful behavior "if [he] incit[ed] that type of a response out of [his] listeners by presenting information that goes beyond journalism."

¶ 9 The trial court concluded the hearing due to time constraints and continued the case to 17 August 2020. The trial court entered an order requiring that neither plaintiff nor defendant "have contact with one another" until 17 August, and that

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both parties refrain from discussing the case publicly and from making any comments about each other “on social media, the internet, any blog, or any other form of communication, electronic or print or verbal” until the case was resolved. The order did not include any instructions or requirements for defendant to remove any blog, article, or video that had already been posted.

¶ 10 At the 17 August 2020 hearing, only plaintiff was present. Plaintiff testified that defendant did not comply with the 26 May order because he had not removed all references to her from his blog. Plaintiff also alleged that defendant had posted another live video discussing her which was deleted before she could record it, and that defendant was “liking” comments on his blog that were made about plaintiff.

¶ 11 The trial court issued a civil no-contact order against defendant, barring him from “posting anything further about” plaintiff for six months. The trial court found that defendant had “harassed Plaintiff through his social media blog & website and has caused and incited individuals through his livestream broadcasts to make threatening statements towards Plaintiff.” The trial court also found that defendant had continued to harass plaintiff through social media since the prior hearing, and that “Plaintiff has suffered substantial emotional distress and fears for her safety.”

¶ 12 Defendant received a copy of the order via regular mail and accepted service of the no-contact order on 16 September 2020. Defendant filed written notice of appeal on 24 September 2020 and served the notice of appeal on plaintiff’s last known

address on the same day. Notice of defendant’s appeal and the proposed record on appeal were made by publication in the newspaper of record for Onslow County on 11 December, 18 December, and 25 December 2020.

II. Discussion

¶ 13 Defendant contends the no-contact order must be reversed due to insufficient evidence and because the trial court misapplied N.C. Gen. Stat. § 50C-1(6). Defendant further contends the no-contact order restricts his protected speech under the First Amendment and that the order is a prior restraint in violation of the First Amendment.

A. Sufficiency of Evidence

¶ 14 “Findings of fact made by the trial judge are conclusive on appeal if supported by competent evidence, even if there is evidence to the contrary.” *Sisk v. Transylvania Cmty. Hosp., Inc.*, 364 N.C. 172, 179, 695 S.E.2d 429, 434 (2010) (citation and internal quotation marks omitted). “The trial court’s findings of fact must include ‘specific ultimate facts . . . sufficient for the appellate court to determine that the judgment is adequately supported by competent evidence.’” *Stikeleather Realty & Invs. Co. v. Broadway*, 241 N.C. App. 152, 160, 772 S.E.2d 107, 113 (2015) (citation omitted). This Court must then determine whether “conclusions of law were proper in light of such facts.” *Tyll v. Willets*, 229 N.C. App. 155, 158, 748 S.E.2d 329, 331 (2013) (citation omitted).

¶ 15 Section 50C authorizes a civil no-contact order “[u]pon a finding that the victim has suffered an act of unlawful conduct committed by the respondent.” N.C. Gen. Stat. § 50C-7. The definition of “unlawful conduct” includes “stalking,” which is defined in N.C. Gen. Stat. § 14-277.3A(b)(2) as “[o]n more than one occasion, following or otherwise harassing, . . . another person without legal purpose with the intent to” either “[p]lace the person in reasonable fear either for the person’s safety or the safety of the person’s immediate family or close personal associates[,]” or “[c]ause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment and that in fact causes that person substantial emotional distress.” See N.C. Gen. Stat. § 50C-1(6)-(7) (2019). “Harassment” is defined as “[k]nowing conduct including written or printed communication or transmission, . . . directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.” N.C. Gen. Stat. § 14-277.3A(b)(2) (2019). Additionally, this Court has noted a distinction within the context of [N.C. Gen. Stat.] § 14-277.3A(b)(2) between social media posts written “*about*” an individual but not sent “*directly to*” the individual. See *State v. Shackelford*, 264 N.C. App. 542, 556, 825 S.E.2d 689, 698 (2019) (emphasis in original) (holding the application of harassment statute to social media posts constituted a violation of defendant’s First Amendment rights).

¶ 16 The evidence presented at the 26 May 2020 hearing consisted of a series of

printed blog articles, a series of brief video clips, and testimony from the parties. The trial court ultimately chose not to consider the video clips due to the lack of context to the entire video. The only evidence presented at the 17 August 2020 hearing consisted of plaintiff's testimony that defendant had not complied with the 26 May order.

¶ 17 In order to support a finding and conclusion that defendant was “stalking” and “harassing” plaintiff, plaintiff had the burden of presenting competent evidence that defendant, on more than one occasion, harassed plaintiff without legal purpose and with the intent to place plaintiff in fear for her or her family's safety, or cause substantial emotional distress. This could include evidence that defendant had directed written or printed communication at plaintiff that tormented, terrorized, or terrified plaintiff and served no legitimate purpose.

¶ 18 Here, the record reflects that defendant posted a news blog article and a video that discussed plaintiff, but there is no evidence that defendant directed any written or printed communication at plaintiff. The social media posts and articles were “about” plaintiff, but were not “directed at” her, similarly to the social media posts made in *Shackleford*. There was no evidence presented that defendant directed any other written or printed communication “at” plaintiff prior to the no-contact order being entered. Because there was no evidence to support a finding that defendant stalked or harassed plaintiff within the definitions of N.C. Gen. Stat. § 50C, the trial

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court's findings of fact do not support the trial court's conclusion that defendant engaged in unlawful conduct. Accordingly, we reverse the no-contact order against defendant.

B. First Amendment

¶ 19 Defendant additionally argues the no-contact order violates his protected speech under the First Amendment and constitutes a prior restraint. Because we reverse the no-contact order due to insufficient evidence, it is unnecessary to address defendant's additional arguments.

III. Conclusion

¶ 20 For the forgoing reasons, we reverse the no-contact order against defendant.

REVERSED.

Judges MURPHY and GRIFFIN concur.

Report per Rule 30(e).