



**THE FAMILY COURT OF THE STATE OF DELAWARE
IN AN FOR NEW CASTLE COUNTY**

M----- R-----,	)	File No.: CN25-03807
Respondent-Appellant,	)	Pet. No.: 25-23092
	)	
	)	
v.	)	
	)	
	)	
C----- H-----,	)	
Petitioner-Appellee.	)	
	)	

REVIEW OF A COMMISSIONER'S ORDER

Before the Court is a Request for Review of a Commissioner's Order filed by Appellant M----- R----- ("Father"). On December 19, 2025, while under a Protection from Abuse Order ("PFA"), Father shared a social-media video that obliquely referenced and disparaged C----- H----- ("Mother"). On May 4, 2026, the Commissioner found Father in contempt and extended the PFA for six additional months. Husband objects to the Commissioner's final order on six grounds. First, Father argues that the contempt finding is legally impossible based on the timing of the consent order. Second, he claims that Mother waived her right to seek contempt for pre-existing violations when she entered a consent PFA without raising them. Third, he contends that his conduct did not violate the conditions of the PFA. Fourth, he suggests that a finding of contempt based on his social media post would run afoul of public policy. Fifth, he argues that the extension of the PFA is based on speculative harm. Lastly, he claims that social media posts are constitutionally protected speech. For the reasons that follow, the Court finds that none of Husband's claims merit relief and therefore **ACCEPTS** and **AFFIRMS** the Commissioner's order.

FACTUAL AND PROCEDURAL BACKGROUND

Following a custody agreement finalized earlier in 2025, Mother sought and secured an emergency *ex parte* PFA order against Father on October 17, 2025.¹ Her petition alleged a long series of physically and verbally abusive acts over the preceding year.² Under the *ex parte*, Mother and the parties' minor child, N--- H----- (D.O.B.: --/--/2024) ("N---"), were the protected victims. The order bestowed temporary custody of N--- on Mother and directed Father not to contact Mother, approach her, or otherwise "threaten, molest, attack, harass[,] or commit any other act of abuse against" her or N---.³ In addition, Father's visitation with N--- was suspended until further order of the Court. The PFA was initially set to expire on November 17, 2025, but it was later extended to January 14, 2026.⁴ On December 16, 2025, Mother filed a motion seeking to obtain records of relationship therapy sessions that took place between January 2024 and June 2025.⁵ Over the next two days, Father secured a lawyer, responded to that motion, moved for interim relief, sought his own PFA, and filed a custody-modification petition.⁶

On December 19, 2025, with the *ex parte* PFA in effect but frustrated with the litigation and his lack of holiday time with N---, Father posted the video at issue here. The video showed N--- walking with Father's help (though only his legs and arms were visible), and it bore the caption, "Thx for joining. If you have any legal advice for dealing with manipulative/emotional abusers please share I'd really appreciate it."⁷ Father shared the video on his Instagram "story," where it was visible to his network, but not to Mother, whose account was inactive.⁸

¹ File CN25-03807, #25-23092, Tabs 9, 13, and 14. Father was served with the *ex parte* PFA three days later, on October 20, 2026.

² File CN25-03807, #25-23093, Tab 9.

³ File CN25-03807, #25-23092, Tab 14.

⁴ File CN25-03807, #25-23092, Tabs 14, 17, and 20.

⁵ File CN25-03807, #25-23092, Tab 25.

⁶ File CN25-03807, #25-23092, #25-27894, #25-27993, Tab 21, 22, 24, 26, 29.

⁷ Mother's Ex. 1.

⁸ Trial Transcript at 42, April 10, 2026.

The parties both appeared for the PFA cross-petitions on January 14, 2026, but Father ultimately agreed to dismiss his petition and sign a consent order in Mother's favor.⁹ As a result, the parties returned to their prior interim custody agreement, which gave Father parenting time on Tuesdays, Thursdays, and alternating Saturdays.¹⁰ In addition, the consent PFA proscribed precisely the same conduct as the *ex parte*, except that Father was permitted to communicate with Mother on Our Family Wizard regarding N---'s well-being.¹¹

On January 30, 2026, Mother found the aforementioned video on Instagram.¹² Although a video shared as a story on Instagram normally expires after 24 hours, Father "pinned" it sometime after publishing it, and it remained online and readily visible to his roughly 700 followers for weeks.¹³ Consequently, Mother filed a motion to hold Father in contempt of the *ex parte* and consent orders,¹⁴ a motion to extend the consent PFA and modify it to explicitly prohibit social-media posts about "any Family Court litigation, Petition[er,] and their child in common,"¹⁵ and, in the custody case, a Motion to Restrict Public Postings.¹⁶ On March 4, 2026, the Court declined to issue an interim custody order restricting Father's social media posts, finding that Mother had not shown that her requested prior restraint—a limitation of Father's constitutional speech rights—was narrowly tailored to protect N---'s best interests during the litigation.¹⁷ The Court nevertheless cautioned that, in its final custody determination, it would "consider the extent to which each parent ha[d] facilitated—or sabotaged—the beneficial involvement

⁹ File CN25-03807, #25-27894, Tab 42.

¹⁰ See File CN25-03807, #25-18320, Tab 6.

¹¹ File CN25-03807, #25-23092, Tab 43.

¹² Trial Transcript at 20–21, April 10, 2026.

¹³ See *id.* at 23–24, 62–63.

¹⁴ File CN25-03807, #26-01476, Tab 48. The cover page of the motion referred only to the consent PFA, but the addendum noted that Father's post was prohibited equally under the terms of the *ex parte*, and it alleged simply that Father was "in contempt of the PFA." Because Father's post was shared online during the *ex parte* period and remained online for a significant period after the consent PFA, the Court considers Mother's motion as alleging a continuing violation of both orders.

¹⁵ File CN25-03807, #26-01477, Tab 49.

¹⁶ File CN25-03807, #25-27894, Tab 50.

¹⁷ File CN25-03807, #25-27993, Tab 54.

of the other in N---'s life.”¹⁸ The Court also remarked that a PFA could justify enjoining speech in the form of harassment or threats.¹⁹

Mother's parallel motion for contempt of the PFA came to a hearing on April 10, 2026. Before trial, Father raised an oral motion to dismiss, arguing that he could not be held in contempt of the consent PFA for prior conduct, that his video was a permissible request for legal advice, and that Mother had “waived her right to prove [prior] abuse” by entering the consent PFA.²⁰ Acknowledging that the post, on its face, was “asking for help” and not “directed to” Mother, the Commissioner nevertheless denied the motion, noting that Father purported to be seeking legal advice at a time he was already represented by counsel.²¹

The Commissioner then heard testimony from Mother and Father. Mother testified that Father's post—shared with hundreds of mutual friends, family members, and colleagues—“hurt[] [her] personally and professionally” and left her “afraid of what he'[d] do” if the PFA were to end.²² Even though Father had not “tagged” Mother or mentioned her by name, she felt alarmed and plainly “targeted” for public “disparage[ment].”²³ In Mother's estimation, Father shared the video “on purpose to reach [her] through mutual acquaintances,” “intend[ing] to damage [her] reputation,” hurt her, and “create confusion about who actually experienced abuse.”²⁴ By leaving the video online for more than a month, Father made continuing “indirect” contact with her, damaged her professional reputation, caused her emotional distress, and “br[oke] [her] bonds with the community.”²⁵ Had she discovered the post sooner, Mother would have declined to enter a consent PFA. But she did not find it until January 30, 2026.²⁶

¹⁸ *M.R. v. C.H.*, No. CN25-03807, 2026 WL 747062, at *5 (Del. Fam. Ct. March 4, 2026) (citing *T.E. v. E.E.*, No. 23-15661, 2025 WL 2945599, at *2–4 (Del. Fam. Ct. Oct. 10, 2025)).

¹⁹ *Id.* at *3.

²⁰ Trial Transcript at 5, April 10, 2026.

²¹ *Id.* at 11–12.

²² *Id.* at 24–25, 35–36.

²³ *Id.* at 26–28, 40–42.

²⁴ *Id.* at 46–48.

²⁵ *Id.* at 35–36.

²⁶ *Id.* at 20–21, 43.

Father initially testified that his video was not directed to Mother but rather to his “friends that frequent [his] posts.”²⁷ He chose to solicit advice on social media because, compared with other means of communication, it “reaches the other people [he] do[es]n’t see or talk to on a daily basis.”²⁸ He knew that those “other people” included both Mother and at least 50 of her friends and family members.²⁹ Father conceded, moreover, that the post about manipulative/emotional abusers referred to Mother, that he had briefly thought at the time about whether Mother would be upset by it, and that he had concluded she likely would.³⁰ But he was frustrated about how the PFA had affected his visitation with N---, so he published the video anyway.³¹ Though he initially posted the video on December 19, 2025, he admitted that he later pinned the video to his Instagram profile, where it could have remained “indefinitely.”³² Later in his testimony, Father could not recall when he pinned the video or when he later decided it was “causing [him] trouble” and took it down.³³ He also could not recall whether he removed any other posts about Mother at the same time, or whether he had posted anything else about Mother on Instagram or other social media platforms.³⁴ Nevertheless, Father said that he opposed prospectively refraining from posting about Mother or the pending litigation on social media.³⁵

After hearing the evidence, the Commissioner took the matter under advisement, then issued an order finding Father in contempt on May 4, 2026.³⁶ The Commissioner credited both Mother’s testimony about how the video affected her and Father’s admission that he posted the video, knowing it would reach and hurt Mother, because he was angry about being denied holiday visitation.³⁷ The Commissioner did not,

²⁷ *Id.* at 62, 66.

²⁸ *Id.* at 77.

²⁹ *Id.* at 63, 77–78. Mother agreed, saying that Father was “aware personally” that she had seen other posts he had shared over the preceding several months. *Id.* at 31–32.

³⁰ *Id.* at 78, 80

³¹ *Id.* at 60–61.

³² *Id.* at 59, 72–73.

³³ *Id.* at 59, 64–65, 71–72.

³⁴ *Id.* at 73–74.

³⁵ *Id.* at 63–64, 80–81.

³⁶ File CN25-03807, #26-01476/26-01477, Tab 58–59

³⁷ *Id.*

however, find Father's other explanations and justifications believable. Therefore, recognizing that "[s]ocial media communications are increasingly . . . a venue for harassment," the Commissioner found Father in contempt of the no-contact provisions of the consent PFA.³⁸ Additionally, the Commissioner extended the PFA by six months because the violation showed a significant danger that Father would continue to abuse Mother "under the guise of exercising his First Amendment rights to free speech."³⁹

On June 6, 2026, Father filed this ROCO,⁴⁰ to which Mother responded on June 22, 2026.⁴¹ In addition to his substantive claims, Father seeks an award of the attorney's fees he accrued in defending this action.

STANDARD OF REVIEW

This Court has appellate jurisdiction to review the Commissioner's order under 10 *Del. C.* § 915(d)(1), which states:

Any party, except a party in default of appearance before a Commissioner, may appeal a final order of a Commissioner to a judge of the Court by filing and serving written objections to such order, as provided by rules of the Court, within 30 days from the date of a Commissioner's order. A judge of the Court shall make a de novo determination of those portions of the Commissioner's order to which objection is made. A judge of the Court may accept, reject[,] or modify in whole or in part the order of the Commissioner. The judge may also receive further evidence or recommit the matter to the Commissioner with instruction.

When making a "de novo" determination, the Court independently "reviews the evidence and law without deference to the trial court's ruling"⁴² and "decide[s] anew" whether that ruling was correct.⁴³ The Court may "accord[] weight to the credibility

³⁸ *Id.* Finding that Father had made impermissible contact with Mother, the Commissioner specifically declined to address whether Father's video qualified as domestic violence that would be sanctionable under the PFA statute in the absence of a pre-existing order.

³⁹ *Id.*

⁴⁰ File CN25-03807, #25-23092, Tab 64.

⁴¹ File CN25-03807, #25-23092, Tab 66.

⁴² *M.C. v. S.C.*, No. 24-04505, 24-04513, 2024 WL 4345511, at *1 (Del. Fam. Ct. June 13, 2024) (Hirst, J.) (quoting *State v. M.S.*, No. 0605008568, 2006 WL 4546614, at *1 (Del. Fam. Ct. Sept. 8, 2006)).

⁴³ Del. Fam. Ct. Civ. R. 53.1(e), (g).

findings of the Commissioner,”⁴⁴ who had “the opportunity to hear and assess witness testimony” in person at trial.⁴⁵ However, “the Commissioner must explicitly identify the reasons why one witness is more credible than another,” and the Court must “conduct a meaningful appellate review” of whether the Commissioner arrived at the correct conclusion.⁴⁶

Analysis

Not all of Father’s claims require separate discussion. His constitutional and public policy arguments raise parallel issues and may be analyzed together. His theory of legal impossibility is another way of saying that he did not in fact violate the PFA. His speculative-harm claim, too, ultimately turns on whether there was an underlying violation. A PFA is properly extended if the Court finds “that domestic violence has occurred since the entry of the order, [*that*] a violation of the order has occurred, [that] the respondent consents to the extension of the order[,], or for good cause shown.”⁴⁷ Despite Father’s repeated suggestions to the contrary, neither a finding of contempt nor an extension of a PFA requires a separate finding of domestic violence, abuse, or specific harm. If Father knowingly and meaningfully violated the consent order, that is enough.⁴⁸ Consequently, the Court finds that Father’s six grounds for appeal may be more aptly addressed under three combined headings: (1) whether the consent PFA negated Father’s pre-existing social media post or waived Mother’s right to raise it here, (2) whether Father violated the consent PFA, and (3) whether the Commissioner’s contempt finding violated the Constitution or public policy. The Court discusses the issues sequentially below.

⁴⁴ *Adams-Hall v. Adams*, No. 50, 2010, 2010 WL 3733922, at *2 (Del. Sept. 8, 2010).

⁴⁵ *DFS v. J.C.*, No. CN11–04854, 2012 WL 4861601, at *3 (Del. Fam. Ct. May 23, 2012).

⁴⁶ *R.B. v. State*, No. 2411001992, 2026 WL 1045492, at *4 (Del. Fam. Ct. April 14, 2026) (quoting *J.C.*, 2012 WL 4861601 at *3).

⁴⁷ 10 Del. C. § 1045(c) (emphasis added).

⁴⁸ See *S.H. v. S.H.*, No. 24-03568, 2024 WL 4249625, at *5 (Del. Fam. Ct. July 11, 2024) (harm is not an element of contempt); *Deyarmin v. Deyarmin*, No. 96-21857, 1996 WL 797031, at *3 (Del. Fam. Ct. July 23, 1996) (contempt alone justifies extension or other modification).

1. Did Mother's choice to enter a consent PFA on January 14, 2026, preclude her from seeking contempt based on a video originally posted on December 19, 2025?

For three independent reasons, Mother did not forfeit her right to complain about Father's video by failing to seek contempt at the time of the consent PFA. First, her PFA petition (filed in October 2025) and her motion for contempt (concerning a video shared between December 2025 and January 2026) do not "arise . . . from a common nucleus of operative fact."⁴⁹ A litigant is not precluded from raising "events arising after the filing of the complaint that formed the basis of the first lawsuit."⁵⁰ Second, Mother credibly testified that she did not discover Father's video until after the consent PFA, and there is no reason to think she should have known about it.⁵¹ Whether the PFA is issued based on a finding of abuse or by consent, to expect a protected victim to monitor the social media accounts of a respondent is not only unreasonable, it is anathema to the PFA's purpose: to protect an individual who has experienced domestic violence and prevent further harm. Father's attempt to contact Mother is not insulated from liability because of the time it took to materialize. Third, Father continued to share the video even after the consent PFA, which was an ongoing violation that Mother would have been entitled to raise even if she could not seek contempt of the *ex parte*. Therefore, the Commissioner correctly rejected Father's preclusion argument.

2. Did Father violate the PFA?

A party seeking a finding of civil contempt must prove by a preponderance of the evidence that (1) the Court issued a valid order, (2) the opposing party "had the ability to abide by" that order, and (3) the opposing party nevertheless disobeyed the order "in a meaningful way."⁵² In this case, both the *ex parte* and the consent PFA provided that

⁴⁹ See *Hawkins v. Daniel*, C.A. No. 2021-0453, 2021 WL 3732539, at *13 (Del. Ch. Aug. 24, 2021).

⁵⁰ *Id.*

⁵¹ See *RBC Capital Markets, LLC v. Educ. Loan Trust IV*, 87 A.3d 632, 645–646 (Del. 2014).

⁵² *T.R.J. v. S.G.*, Nos. 24-00752 & 24-00859, 2024 WL 4653881, at *3 (Del. Fam. Ct. Sept. 9, 2024); accord *TransPerfect Global, Inc. v. Pincus*, 278 A.3d 630, 644 (Del. 2022).

Father could not “threaten, molest, attack, harass, or commit any other act of abuse” against Mother or N---. Equally, he was prohibited from “contact[ing] or attempt[ing] to contact” Mother “in any way” or “by any . . . means.”⁵³ His constitutional attacks (which are addressed below) aside, Father does not dispute the validity of the PFA or his ability to comply with it. Instead, he claims that the Commissioner’s finding of contempt is, first, legally impossible, because the consent PFA was issued after he posted the video at issue here, and, second, unsupported by the evidence. In his view, the video he posted was not threatening and did not constitute harassment or abuse in the sense intended by the PFA or the statute. Further, because he did not send the post directly to Mother, message her about it, identify her by name, tag her, or encourage third parties to contact her, it cannot be considered prohibited contact.

Yet a statement need not name a person to be identifiably about her.⁵⁴ As the Commissioner observed, contact and harassment can and often do happen through intermediaries such as social-media sites.⁵⁵ A message may predictably and intentionally reach a victim who has not been “tagged,” named, or directly messaged.⁵⁶ At some point, there is simply “no meaningful difference between . . . posting messages on [social media] with both the purpose and effect of communicating a message [to the

⁵³ File CN25-03807, #25-23092, Tabs 17, 20, and 43.

⁵⁴ *E.g.*, *Commonwealth v. Lambert*, 147 A.3d 1221, 1227 (Pa. Super. Ct. 2017); *see also Isaac v. Politico LLC*, 346 A.3d 103, 116–20 (Del. 2025) (defamation).

⁵⁵ An abuser permitted to continue discussing a victim on “publicly trafficked electronic forums” may in doing so “exercise control over the victim in public, thus perpetuating the abuse of the victim.” *Lambert*, 147 A.3d at 1229. *See also, e.g.*, *State v. Hayes*, No. 1702009447, 2017 WL 3168460, at *2 & n.6 (Del. C.P. July 25, 2017); *Best v. Marino*, 404 P.3d 450, 461–62 (N.M. Ct. App. 2017); *A.R.M. v. K.J.L.*, 995 N.W.2d 361, 369 (Mich. Ct. App. 2022); *Moone v. State*, 250 N.E.3d 1101, 1110 (Ind. Ct. App. 2025); *State v. Heffron*, 190 A.3d 232, 235–36 (Me. 2018).

⁵⁶ *E.g.*, *State v. Dunbar*, 343 A.3d 142, 148–49 (N.H. 2025) (Facebook posts on defendant’s own page that referred to victim by alias and address were indirect contact because they were directed at her, the defendant intended to communicate with her, and they predictably reached her after other users passed along what they recognized as threats); *Green v. Commonwealth*, 843 S.E.2d 389, 394–95 (Va. Ct. App. 2020) (“contact” may be indirect, and a Twitter post that “reflect[ed] the [defendant’s] intent to contact the victim through others” violated a no-contact order); *Hernandez v. State*, 220 N.E.3d 68, 72 (Ind. Ct. App. 2023) (viewing victim’s social media post could constitute contact where it would result in victim receiving a notification from the platform); *see also TKS Co-Pack Mfg., LLC v. Wilson*, 552 P.3d 258, 281 (Utah Ct. App. 2024) (social media posts did not violate no-contact order where the parties were not “friends” on the platform and there was no other evidence that the posts were “routinely shared” with the protected party).

victim], and the defendant positioning himself on a street corner with the knowledge and expectation that the victim would pass by, and then shouting to her.”⁵⁷

Although Father did not tag, name, or message Mother, the evidence supports the Commissioner's finding of contempt. Father posted the video on December 19, 2025. Instead of allowing it to naturally expire after 24 hours, he pinned it to his story, making it continuously available to his 700 or more than followers for weeks. The fact that the post was originally published before the consent PFA does not negate the ongoing harm and harassment that he intentionally inflicted on Mother. He admitted at trial that his intent was to publicly label Mother a manipulator and emotional abuser. Moreover, the video pictured the daughter he shares with Mother and was posted shortly after their custody litigation escalated. He knew that others, including mutual friends, would recognize Mother as the target, that the video would reach Mother, and that it would upset and humiliate her. He took it down later because it was “causing [him] trouble,”⁵⁸ but he continues to believe he has a right to send critical messages to Mother and his expansive community via social media.

Undoubtedly Father was under stress when he published the video of N--- in December, but his decision to pin the post is pivotal. If he had shared it in a moment of anger, seeking only to reach his friends, but soon, upon reflection, removed it or allowed it to expire—or even if he had rushed home to remove the pinned post after entering the consent PFA, or after clarifying its meaning with his attorney or the Court—he might not have “meaningfully” violated the PFA. But he did none of those things. Father instead remained on his digital “street corner” for weeks, shouting his disparaging message to all concerned “with the knowledge and expectation that [Mother] would [eventually] pass by.”⁵⁹ Only once she had, and only once her motion for contempt had caused him “trouble,” did he see fit to pull down his message. His failure to do so sooner was a meaningful violation of both the consent PFA and the *ex parte* that preceded it.

⁵⁷ *Dunbar*, 343 A.3d at 149 (second alteration in original).

⁵⁸ Trial Transcript at 64, April 10, 2026.

⁵⁹ *Dunbar*, 343 A.3d at 149.

3. Was Father's video nevertheless benign speech protected by public policy or the Constitution?

Father contends that, even if his conduct violated the PFA, holding him in contempt would infringe his constitutional rights and undermine public policy. He argues that Mother has failed to identify a compelling reason to punish his “generalized and vague social commentary” and restrict his “right to seek advice and support from [his] social network[.]”⁶⁰ Further, he takes the position that, as a matter of public policy, Mother should not be permitted to “weaponiz[e]” broad language in a PFA against speech that the Court found “lawful” in another proceeding.⁶¹

Father's claims fail for two reasons. First, he has raised them too late. Although he repeatedly refers to Mother's motion for contempt as a prior restraint, it is not.⁶² The consent PFA was, in part, a prior restraint on speech. But the validity of that order is no longer directly before the Court, for Father did not contest it. If he had misgivings about the PFA he had entered voluntarily, he was free to seek to modify it, set it aside, or appeal it. Instead, he decided unilaterally to disregard it and raise his arguments as a defense to contempt.

In contempt proceedings, however, “[t]he Court will not listen to an excuse for the contemptuous action based upon an argument that the order in question was imperfect or erroneous,”⁶³ or even that it violated fundamental constitutional rights.⁶⁴ While “[t]he party charged [with contempt] is always at liberty to defend his disregard of the court's order by showing that the order was void for lack of jurisdiction[.] . . . [n]o person may with impunity disregard an order of the court having jurisdiction over the subject matter

⁶⁰ Father's ROC at ¶¶ 87–88.

⁶¹ Father's ROC at ¶¶ 57, 59; see *M.R.*, 2026 WL 747062 at *5.

⁶² “A prior restraint occurs when government suppresses speech based on its content before the speech is uttered.” *M.R.*, 2026 WL 747062 at *4 (quoting *Wutzel-Frez v. Frez*, No. HHDFA144072788S, 2015 WL 6557830, at *6 (Conn. Super. Ct. Oct. 1, 2015)). Unlike in her parallel custody motion, Mother here seeks only to punish Father's speech after the fact.

⁶³ *Thomas v. Thomas*, 102 A.3d 1138, 1149 (Del. 2014) (quoting *Mayer v. Mayer*, 132 A.2d 617, 621 (Del. 1957)).

⁶⁴ *E.g.*, *In re K.P.*, 517 P.3d 70, 75–76 (Colo. Ct. App. 2022) (citing *Walker v. City of Birmingham*, 388 U.S. 307, 316–21 (1967)); *Best*, 404 P.3d at 456–57.

and the parties.”⁶⁵ Father has never suggested that the Commissioner lacked jurisdiction. Consequently, whether the PFA violated his constitutional rights is now simply collateral to the dispositive question of whether he indirectly but intentionally communicated a message to Mother in violation of a court order.

Second, even on the merits, Father's constitutional and policy claims are unavailing. In denying Mother's motion for an interim custody order restricting Father's use of social media, the Court did not declare Father's speech categorically permissible. The Court decided only that Mother had failed to justify her request with a showing of imminent, significant harm to their child in common—which was “[t]he only question [then] before the Court.”⁶⁶ The question *now* before the Court is whether limiting Father's speech is justifiable as a means of protecting *Mother*.

Under the First Amendment, any regulation of speech that “discriminate[s] based on ‘the topic discussed or the idea or message expressed’” is subject to strict scrutiny, meaning that it is constitutionally invalid unless it is narrowly tailored to serve a compelling government interest.⁶⁷ A content-based *prior restraint* faces an even “heav[ier] presumption against its constitutional validity.”⁶⁸ The government has “somewhat wider leeway,” however, when it regulates only the time, place, or manner of speech, or when a regulation of conduct burdens speech only incidentally.⁶⁹

Had the PFA broadly prohibited Father from talking about Mother, it might not have survived First Amendment scrutiny.⁷⁰ But that is not what it proscribed. Father was

⁶⁵ *Eagle Force Holdings, LLC v. Campbell*, 187 A.3d 1209, 1240 (Del. 2018) (quoting *Mayer*, 132 A.2d at 621).

⁶⁶ *M.R.*, 2026 WL 747062 at *3.

⁶⁷ *City of Austin v. Reagan Nat'l Advert. of Austin, LLC*, 596 U.S. 61, 73–74 (2022) (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 171 (2015)). Importantly, courts have recognized that social media is “a twenty-first century quintessential public forum” subject to the full protections of the First Amendment. *People v. Galley*, 172 N.E.3d 600, 606 (Ill. App. Ct. 2021) (citing *Packingham v. North Carolina*, 582 U.S. 98, 105 (2017); accord *State v. R.K.*, 232 A.3d 487, 498 n.9 (N.J. Super. Ct. App. Div. 2020).

⁶⁸ *M.R.*, 2026 WL 747062 at *3 (quoting *Shak v. Shak*, 133 N.E.3d 274, 278 (Mass. 2020)).

⁶⁹ *McCullen v. Coakley*, 573 U.S. 464, 477 (2014); *United States v. O'Brien*, 391 U.S. 367, 377 (1968).

⁷⁰ See *Bey v. Rasaweher*, 161 N.E.3d 529, 539 (Ohio 2020); *People v. Relerford*, 104 N.E.3d 341, 350–51 (Ill. 2017); but see *S.D.*, 306 A.3d at 220 (limits on abusive speech survived strict scrutiny); *Phillips v. Campbell*, 206 Cal. Rptr. 5th 844, 853–54 (Cal. Ct. App. 2016) (continuing to engage in abuse “is not the type of ‘speech’ afforded constitutional protection”); *Lambert*, 147 A.3d at 1229 (prohibition on speech about plaintiff was based on contact rather than content and subject only to intermediate scrutiny).

prohibited only from contacting, harassing, or abusing Mother. This was a contact-based restriction, not a content-based regulation of speech.⁷¹ Moreover, “[w]hen . . . an individual speaks to another person, whether through telephonic or other electronic means, ‘not to communicate, but for other unjustifiable motives,’ that conduct is not speech protected by the First Amendment.”⁷² Consequently, a court “do[es] not violate a defendant’s First Amendment protections by issuing a protection from abuse order that prohibits him or her from having any direct or indirect contact with the protected person where the defendant has a history of engaging in [abusive] behavior.”⁷³ So long as the order sweeps no more broadly than necessary to restrict the abusive or threatening conduct, it is constitutionally permissible.⁷⁴

Father’s video was precisely the kind of harmful speech that a court may constitutionally prohibit. Mother, for her part, found it distressing and disparaging. Father admitted that he intended the video for his wider social network, including Mother’s friends and family members, and knew that it would reach Mother and upset her. Indeed, despite his unpersuasive alternative justifications, it appears that upsetting and insulting her was his goal: he was frustrated that the PFA had denied him holiday time with N---. His purpose was not to seek legal advice, because he had an attorney at the time of the post with whom he was already consulting. Rather, his intent was to exercise what he saw as his constitutional right to communicate his frustration with Mother. He

⁷¹ See *Lambert*, 147 A.3d at 1229 (no-contact order was content-neutral because “[w]hether a remark is patently innocuous or offensive, informational or nonsensical is of no moment[.]”).

⁷² *Childs v. Ballou*, 148 A.3d 291, 297 (Me. 2016) (quoting *Altafulla v. Ervin*, 189 Cal. Rptr. 3d 316, 323–24 (Cal. Ct. App. 2015)); accord *E.G. v. M.L.*, 326 Cal. Rptr. 3d 197, 210 (Cal. Ct. App. 2024).

⁷³ *Heffron*, 190 A.3d at 236 (citing *Childs*, 148 A.3d at 299); accord *M.R.*, 2026 WL 747062 at *3 (“[A] finding of domestic violence may justify enjoining speech that takes the form of harassment or threats,” and “[a] court does not violate the First Amendment in ordering a party to desist from abuse, even when that abuse takes the form of speech.”) (citing *Best*, 404 P.3d at 457–60; *Lambert*, 147 A.3d at 1227–29; *A.S.R. v. A.K.A.*, 84 N.E.3d 1276, 1285 (Mass. App. Ct. 2017)).

⁷⁴ *M.R.*, 2026 WL 747062, at *3 (citing *A.S.R.*, 84 N.E.3d at 1285; *Packingham*, 582 U.S. at 106). Father argues that this authority does not apply because there has been no finding of abuse. By entering the consent PFA, however, he agreed to be constrained by its terms and waived his right to insist on a judicial finding before his rights could be restricted. See *SEC v. Romeril*, 15 F.4th 166, 172 (2d Cir. 2021) (consent decree provision prohibiting denial of allegations did not violate the First Amendment because “[i]n the course of resolving legal proceedings, parties can, of course, waive their rights,” including speech rights under the First Amendment). Father’s proposed limit on the enforceability of consent orders would, as Mother puts it, “leave no incentive for victims of domestic violence to enter into consent PFA orders.” File CN25-03807, #25-23092, Tab 66.

conceded that the video would have remained on Instagram indefinitely if he did not take it down, and that he took it down only after Mother filed her motion for contempt.

Under the PFA, Father was free to talk with his family and community about his frustrations with Mother. He was free to ask for advice from his lawyer or anybody else. He was free to use social media, so long as he did not use it to contact or harass Mother. The PFA narrowly restricted only online conduct that would continue the cycle of abuse. By knowingly making indirect contact with Mother in a way that he knew would likely cause her, or a reasonable person, to feel harassed, distressed, and alarmed, he violated that narrow prohibition. Finding contempt based on Father's disregard of a valid court order serves the important state interest of protecting victims of abuse from further abusive and threatening behavior. Accordingly, the Commissioner's finding of contempt does not violate Father's constitutional rights nor any broader public policy.

CONCLUSION

By posting and then pinning a disparaging video that he knew would reach and distress Mother, Father violated the no-contact and no-harassment provisions of the PFA order. Both that violation and his testimony that he would do it again if given the chance justified the Commissioner's decision to extend the order. His constitutional and policy arguments fail by virtue of the collateral bar rule and on their merits. To the extent PFA sanctions disadvantage him in the parallel custody proceedings, that consequence flows directly from his own defiance of a court order and from the statutory recognition that domestic violence is relevant to the best interests of children.⁷⁵ Consequently, after an independent review of the record, the Court **ACCEPTS** and **AFFIRMS** the Commissioner's Order dated May 4, 2026. Additionally, despite Father's novel arguments on appeal, Mother's motion for contempt was filed in good faith and ultimately warranted by the evidence. Father's request for Attorney's Fees is **DENIED**.

IT IS SO ORDERED.

⁷⁵ See 13 Del. C. § 722(a)(7).

R----- v. H-----

Order on Review of a Commissioner's Order

File No. CN25-03807; Pet. No. 25-23092

Page **15** of **15**

July 20, 2026

July 20, 2026

Date Written Order Issued

/ Eliza Hirst /

ELIZA HIRST, JUDGE

cc: Petitioner via email and regular mail
 Respondent(s) via regular mail
 Date emailed/mailed: July 20, 2026