

# Petition for reconsideration

**PETITION FOR RECONSIDERATION**

Ben (664177204019593264)

Petitioner,

v.

(*Ex parte*)

Respondent.

**Ex parte petition**

**CASE:** [2019] SDSC 1

**FILED ON:** 12 April 2026.

**FILED BY:** u/benbookworm97

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**INTRODUCTION**

**COMES NOW** the u/benbookworm97 (hereinafter “Ben”, “Benbookworm”, “Petitioner”, “Movant”, or “Appellant”), private citizen for its motion for partial reconsideration of *In re Restraining Order Act* [2019] SDSC 1:

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**I. PARTIES**

Petitioner Ben (664177204019593264) is a private citizen, a certified attorney, an inferior court judge, and the Chief Archivist.

As an *ex parte* petition, there is no specific respondent.

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**II. JURISDICTION AND VENUE**

Neither statutory nor case law have set any relevant limits on bringing matters before the Supreme Court.

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### III. RELEVANT PROVISIONS OF *In re ROA*

[In re Restraining Order Act \[2019\] SDSC 1](#) (“*In re ROA*”) by Justices Euphyrric and Danyo was the first ever ruling issued by the SimDemocracy Supreme Court, wherein the Restraining Order Act was struck down.

The most significant outcome of *In re ROA* is that the freedom of speech is a “qualified right”. This holding is not being challenged by this petition.

In [4], “Freedom of Expression is defined by this court as a citizen’s right to freely express themselves in public, through the medium of speech or written messages.” Desire being part of the majority opinions, this is not the same as the more narrow definition used later in [15], “Freedom of expression, fundamentally, covers a citizen’s right to freely express their political and religious beliefs.”

As discussed later herein, jurisprudence primarily focused more on the definition in [15] rather than [4]. Until approximately a year ago, rather than seeing political and religious expression as the foundations of freedom of expression, it was interpreted that *only* political and religious speech is capable of being protected, despite the incredibly broad constitutional language at the time and as subsequently amended. Since *In re ROA* is binding precedent on all lower courts, only a reconsideration by the Supreme Court is able to modify that interpretation (see [Ref re Stare Decisis in the Court of Review \[2026\] SDSC 8](#)).

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### IV. SUBSEQUENT LEGAL DEVELOPMENTS

Since the time of *In re ROA*, there have been substantial changes in legislation and case law regarding the freedom of expression, but this has not been adequately addressed by the Supreme Court.

#### Constitutional amendments

In 2019 at the time of *In re ROA*, Article 21 of the Constitution regarding freedoms of expression is believed to have read:

- “§1. Every citizen shall have the right to freely exercise their religious beliefs, the right to enjoy freedom of speech and of the press, the right to peacefully assemble.
- §2. The state shall be prohibited from passing a law respecting an establishment of religion.
- §3. The state shall be prohibited from passing a law that abridges or restricts the exercise of these rights.”

At the current time, the relevant [Article 18](#) reads:

- “§1. Every person shall have the right to freedom of expression, which shall include the right to freedom of speech, freedom of the press, freedom of peaceful assembly, freedom of association, freedom of faith and conscience, freedom of peacefully exercising religious beliefs, and the right to petition for redress of grievances, but the Legislature may impose such restrictions on the freedom of association as may be necessary or expedient in the interest of the security of SimDemocracy and its citizens.

§2. The state shall be prohibited from passing a law respecting an establishment of religion.

§3. No criminal conviction or impeachment shall be made purely on the basis of speech and the exercising of free speech, barring cases where the exercising of such free speech violates or attempts to violate the constitutional rights of other citizens.

§3.1. The existence of offense, or other distress, of another person caused by the exercising of free speech shall not be construed as a violation of constitutional rights of that person, unless such distress is serious, caused in an intentional and malevolent manner, and would also have affected the safety or well-being of a reasonable person.

§4. Every person shall have the right to express their opinion and participate in the political process through voting in free and fair elections.

§4.1. Every person has the right to secrecy of their unique legitimate ballot.”

The constitutional language of §1 has added “freedom of *expression*” along with a list of examples. While the state was already prohibited from restricting such rights, the language of §3 and §3.1 now grants protections specifically for criminal defendants and defines strict requirements for convictions of speech-based offenses.

[Article 28](#) regarding implied rights was added by the [Protection and Proliferation of Rights and Tenets Amendment](#) (PPRaT):

“§1. The enumeration of certain rights in the Bill of Rights shall not be construed to deny or disparage other implied rights possessed by the people.”

*In re ROA* (see [15] in particular) so narrowly interprets the freedom of expression as to infringe on the implied rights of the people. The right to freedom of speech ought not be cabined to religious and political speech.

## Changes in statutory law

### Civil harassment

The [Civil Code 2020](#) defined the tort of harassment as causing someone to “become intimidated, feel pressured, or generally uncomfortable”.

In March 2025, the [Civil Code 2025](#) replaced the previous law, and did not include harassment.

In July 2025, civil harassment was [added by the Harassment Prevention Act 2025](#) and defined as intentionally causing harassment, alarm, or distress. This was partially a result of the [dismissal of \*Plaintiffs v Harassers\*](#); the judge rejected any ability to re-create civil harassment as a common law tort.

In December 2025, the law was [amended by the December 2025 Omnibus Amendments](#) to include liability for causing humiliation.

### Criminal harassment

In April 2025, statutory language on criminal harassment was [amended by the Criminal Code Cleanup Act](#), but not in ways that affect this petition. It did change the definition of sexual harassment from “sexually suggestive” to “sexually explicit”.

In August 2025, criminal harassment was [amended by Another HmQuestionable Harassment Amendment](#) to broaden the offense from causing apprehension to include causing apprehension, alarm, or distress.

In December 2025, criminal harassment was [amended by the Harassment Definition Fixing Act 2025](#) to require repeated misconduct and added defenses if reasonable care was exercised.

### Other criminalized speech

While other speech has been criminalized, it is believed that the definitions of hate speech, obscene materials, etc. have not meaningfully changed.

### Supreme Court cases

[In re Appendix §1.7 \[2020\] SDSC 3](#) develops the concept of “quasi-absolute rights”; which is to say that all rights are qualified in some manner. This ability to nevertheless regulate that which is protected by the Bill of Rights is substantially similar to the “qualified rights” concept from *In re ROA*.

[AHA pro adeacentpear v SD \[2025\] SDSC 15](#) [10] embraced the tautology that restrictions on speech don't count as violating the freedom of speech if it doesn't violate the freedom of speech. In [11-12], the court puts forward the far more reasonable “time, place, and manner” framework.

### Court of Review cases

[Lucas pro g470 \[2025\] SDCR 7](#) is among the cases affected by the narrowness of *In re ROA*: that “harassment” is categorically not protected by the freedom of speech regardless of the legislative definition. That court in [9] attempts to say that the standard issued by *In re ROA* controls instead of the legislative definition, but failed to point to the location nor language of that standard.

[Lucas pro g470](#) [8.1] glibly dismisses the concerns of Article 18§3-3.1 by vaguely pointing to [Dominax273 v SD \[2025\] SDCR 1](#). However *Dominax273* actually accepted the idea that §3-3.1 changed the standard [49] to require harm to others, reinterpreting that *In re ROA* defined freedom of speech as a qualified right [47] rather than pigeonholing it to solely protect political and religious expression (aligning with *In re Appendix §1.7*).

While [In re EO 152-04 \[2025\] SDCR 8](#) resulted in no majority reasoning, two of the concurrences raised the specter of *In re ROA*. In [B2], Judge Terak interpreted that religious and political speech are included in protected speech and not its outer limits. In [C2-C4], Chief Judge Benbookworm pointed out the problems with his colleagues dodging or misinterpreting *In re ROA*, but then proceeds to dodge it himself.

### **Criminal cases**

[SD v Mythrows \[2025\] Crim 51](#) was the first case to evaluate the newer constitutional language on freedom of speech. Rather than confronting *In re ROA* and attempting to differentiate the cases, that court simply never mentioned it. The ruling sent shockwaves through case law that have yet to be fully dealt with.

Even when confronting doxxing, [SD v Flashing Lights \[2025\] Crim 105](#) [12] (and subsequent similar cases by Judge ppatpat) avoided the narrowness of *In re ROA*.

The prosecution in [SD v g470\\_ \[2025\] Crim 113](#) asked the court to ignore *Mythrows*, which it appeared to do in [17-21]. However, even then, [21] partially expanded the protections to include “personal expression” rather than just political and religious expression. This case resulted in *Lucas pro g470\_* discussed above.

[SD v tywearingatie \[2025\] Crim 104](#) [28] reinforced the implications of the previous cases that lower courts can independently interpret constitutional provisions.

[SD v ai\\_lawyer \[2025\] Crim 125](#) [12] accepted that *Mythrows* raised standards for criminal convictions.

The [remand of SD v thesigmasquad \[2025\] Crim 38](#) raised the issue that *Mythrows* appeared to supplant binding precedent from *In re ROA*. The judge relied on the silence of the Supreme Court [B1.2], and opted to rely on the higher protections of *Mythrows* when issuing a verdict [B5, B14].

[SD v birdrone \[2025\] Crim 166](#) [16-20] is so far the only court case at any level to directly attempt to reconcile *Mythrows* with the binding precedent of *In re ROA* without dismissing either, and called out the acrobatics and/or silence of previous courts avoiding that confrontation. It interpreted political and religious speech are core protections, but not sole protections.

*In re ROA* [continues to be cited](#) as good law, but more frequently to say that the freedom of speech is not absolute, yet still broadening the protections. [SD v christopher\\_bizarre \[2026\] Crim 4](#) [26] is an exception to this trend, and hewed to the more narrow interpretation.

See also the substantial number of [cases on hate speech](#).

### **Civil cases**

[Mobilfan v Dick\\_head68 \[2020\] Civ 3](#) included claims of defamation and harassment. The alleged defamatory statements were evaluated to not be protected as political criticism in [11.1]. The harassment claim is not relevantly affected by this petition.

While other case law on harassment, defamation, etc. exists, they do not appear to have relied on *In re ROA* to any significant extent.

For example, various defamation cases have been dismissed at preliminary stages, without much evaluation of the merits. [thegoldenfish v crazbatics](#) was dismissed for not alleging any false statements. [Birdish v Moved \[2025\] Civ 1](#) and [NotCommunist366 v SDIOA \[2025\] Civ 14](#) were dismissed for misconduct by the plaintiffs or their counsel.

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## V. REQUESTED RELIEF

The petitioner prays the court to partially reconsider the ruling of *In re ROA* and issue updated guidance on the constitutional protections of free expression: political and religious speech ought to be interpreted as the floor of what counts as protected speech, not the ceiling. Rather than appealing a particular decision that relied on such, the petitioner seeks prospective not retroactive guidance. As an *ex parte* petition with no clear respondent, the court ought to summarily issue an opinion (after also considering the numerous *amicus curiae* briefs that are likely to be submitted).

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## VI. VERIFICATION

Under penalties of perjury, I have read the foregoing Complaint and know the contents thereof; that the pleading is true of my own knowledge, except for those matters therein contained stated upon information and belief, and that as to those matters, I believe them to be true. I declare under penalty of perjury under the law of the State of SimDem that the foregoing is true and correct.

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Ben

u/benbookworm97,  
*Certified Attorney*