SUPREME COURT OF ARIZONA

STATE OF ARIZONA, Plaintiff/Petitioner, v. THE HONORABLE ERIC E. GORDON, Judge of the SUPERIOR COURT, of the STATE OF ARIZONA, in and for the COUNTY of MOHAVE, Respondent Judge, and GREGORY JAMES OWEN, Defendant/Real Party in Interest.	Arizona Supreme Court No. CR-24-0064-PR Court of Appeals Division One No. 1 CA-SA 23-0162 Mohave County Superior Court No. CR-2023-00497 Lake Havasu City Court No. M844TR2022000209

AMICUS CURIAE BRIEF OF CATHY FECK, DOLORES ADAMS, AND THE ESTATE OF CHARLES FECK (THROUGH CATHY FECK AS PERSONAL REPRESENTATIVE) IN SUPPORT OF PLAINTIFF/PETITIONER STATE OF ARIZONA

(Filed with consent of all parties)

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INTRODUCTION

The defendant killed Charles Feck and injured his wife Cathy and sister Dolores when the defendant's motorhome plowed into their vehicle, which had properly stopped at a red light. The defendant argues that because he hit the victim's car a few feet before the intersection, he cannot be held criminally liable under Arizona's enhanced penalty statute.

The defendant's interpretation contradicts both the plain text of the relevant statutes and common sense. The red-light statute, A.R.S. § 28-645(A)(3)(a), requires drivers to "stop before entering the intersection" when facing a red light. The enhanced penalty statute, A.R.S. § 28-672(A)(1), imposes criminal liability when a violation of the red-light statute "results in an accident causing serious physical injury or death." Here, the defendant's failure to stop before entering the intersection directly resulted in the catastrophic accident that killed Charles Feck. The fact that the initial impact occurred moments before the defendant's motorhome carried both vehicles through the intersection does not absolve him of criminal liability. Contrary to the defendant's argument, the red-light statute focuses on whether the defendant stopped before entering the intersection.

The Court should affirm the conviction.

INTEREST OF AMICI CURIAE

Amici are the victims of the defendant's crime. The defendant killed Charles Feck, and injured Cathy Feck (his wife) and Dolores Adams (his sister), who were together in a vehicle stopped at a red light when the defendant's motorhome barreled through. Amici have a strong interest in seeking justice. The Arizona Constitution guarantees "victims' rights to justice" and their participation in the judicial process. Ariz. Const. art. 2, § 2.1. Amici had their lives upended. Charles lost his life and Cathy and Dolores lost their husband and brother, in addition to being injured themselves.

The traffic and penal statutes in this case were enacted precisely to protect people like amici—law-abiding people harmed or killed at an intersection because someone ran a red light. Amici believe that the defendant's conduct falls squarely within these statutes. They have an interest in ensuring that this Court properly interprets the statutes in administering justice. They also have a strong interest in ensuring that the Court rejects the defendant's false narrative of the accident, in which he tries to blame the victims—a narrative every court below decisively rejected.

To that end, this brief "provide[s] information, perspective," and "argument that can help the appellate court beyond the help that the parties' lawyers" have provided. Ariz. R. Crim. P. 31.15(b)(2)(B)(iii).

ARGUMENT

I. A.R.S. § 28-672(A)(1) does not require a vehicle to have entered the intersection before the initial collision.

A. The failure to "stop before entering the intersection"—the statute's focus—necessarily occurs before entering the intersection.

1. The red-light violation—the failure to "stop before entering the intersection"— caused the initial collision.

This case "begins and ends with the plain meaning of the legislature's chosen words." *Welch v. Cochise Cnty. Bd. of Supervisors*, 251 Ariz. 519, 523 ¶ 11 (2021). The textual analysis requires combining two statutes: the penalty statute (A.R.S. § 28-672(A)(1)), and the red-light statute (A.R.S. § 28-645(A)(3)(a)). So let's do that, substituting the red-light statute's text for "violates" and "violation" in the penalty statute:

"A person is guilty … if the person [fails to 'stop before entering the intersection and … remain standing,'] and the [failure to 'stop before entering the intersection and … remain standing'] results in an accident causing serious physical injury or death." A.R.S. §§ 28-672(A)(1); 28-645(A)(3)(a).

Or, cleaned up, the combined statutes become:

> A person is guilty if the person fails to stop before entering the intersection and remain standing, and the failure to stop before entering the intersection and remain standing results in an accident causing serious physical injury or death.

Combined, these two statutes focus on whether a defendant "stop[ped] before entering the intersection." If he did not "stop before entering the intersection," and

his failure to stop before entering caused an accident, then his conduct falls within A.R.S. § 28-672(A)(1). Answering the Court's rephrased question, A.R.S. § 28-672(A)(1) does not require a vehicle to have entered the intersection before the initial collision occurs because A.R.S. § 28-645(A)(3)(a) expressly focuses on what occurred "before entering the intersection"—i.e., whether a defendant stopped and remained standing. The court of appeals therefore correctly held that the penalty statute's text "does not require a collision to occur within the intersection." Op. ¶ 16.

Here, the defendant's failure to stop and remain standing before entering the intersection resulted in an accident. In fact, the defendant's failure to stop and remain standing before entering the intersection resulted in *the initial collision*, even setting aside anything that happened later, and even setting aside any dispute about the meaning of the statutory term "accident." The light was red. Instead of stopping and remaining standing, the defendant bulldozed into amici's car, which had already stopped and remained standing for the red light. (Although the defendant disputes whether he violated the red-light statute, every court below disagreed, and his argument contradicts the video evidence of the accident. *See* Argument § II, below.)

Using the combined text of the two statutes above, therefore, this case's facts fit the conviction: The defendant "fail[ed] to stop before entering the intersection and remain standing, and the failure to stop before entering the intersection and remain standing results in an accident[.]" (There's no serious dispute that the

"accident" here, the initial collision, "caus[ed] serious physical injury or death.")

For these reasons, even considering the initial collision alone (rather than the broader statutory term "accident"), the defendant violated A.R.S. § 28-645(A)(3)(a) and is subject to the penalties in A.R.S. § 28-672(A)(1).

The Opinion therefore correctly held that "[w]hen, as here, a driver fails to stop and remain standing at a red light and then hits another vehicle, immediately propelling both vehicles into the intersection, the entire event—from *initial collision* to when the vehicles ultimately cease movement—is an accident that resulted from the driver's *failure to stop* at the red light." Op. ¶ 19 (emphases added). The municipal court got this right, too, properly focusing on "[t]he accident that he caused by *not stopping before the intersection*." APP-21 (emphasis added); *accord* APP-20-21 ("stop before entering the intersection"; "failure to stop"; "unable to stop before entering the intersection").

2. The defendant's arguments ignore that the statute requires stopping before entering.

The defendant argues that a red-light violation cannot include anything that occurs "before the vehicles went through the" intersection. Supp. Br. at 19. But the statute's text contradicts the defendant's narrowing construction. The text explicitly requires a driver to stop "*before* entering the intersection." A.R.S. § 28-645(A)(3)(a) (emphasis added); *see also* § 28-645(A)(3)(b) (clarifying that "stopp[ing] in obedience to a red signal" means stopping "at the entrance to the intersection"). In

other words, a driver's conduct *before* entering the intersection is not only covered by the statute—it is the statute's central focus. The Legislature did not prohibit being in the intersection while a light is red (which would focus on what happened after entering); it prohibited failing to stop before entering the intersection. The operative conduct occurs *before* entering.

The defendant's interpretive error fundamentally misconstrues the temporal relationship the Legislature established between the prohibited conduct (failing to stop) and the spatial reference point (entering the intersection). By focusing exclusively on the moment of intersection entry, the defendant effectively excises the critical phrase "stop before" from the statutory text, violating the core principle that courts must "give meaning, if possible, to every word … so that no[ne] … is rendered superfluous." *Nicaise v. Sundaram*, 245 Ariz. 566, 568 ¶ 11 (2019).

The defendant also insists that the "violation did not result in the accident." Supp. Br. at 19. This argument again implicitly relies on construing the statute to consider only what happens *after* entering. But the statute specifically focuses on the defendant's prior failure to stop and remain standing *before* entering. That failure "resulted in" the initial collision, and therefore the accident.

Consider a hypothetical statute defining breaking and entering as "breaking and entering a dwelling without the owner's consent," and a hypothetical penalty statute: "a person is guilty if the person violates the breaking-and-entering statute

and the violation results in an event causing property damage or theft." A criminal smashes a window to gain access, and then enters. Breaking the window still "results in [the] event" under the hypothetical penalty statute, even though the breaking-and-entering statute still ultimately requires the defendant to enter.

The defendant misses this key point—that the combined statutes turn on his failure to stop *before* entering the intersection.[1] Although the defendant carefully construes the penalty statute, he never seriously grapples with the text of the red-light statute. Here's an example from his brief:

> Thus, to convict Owen, the State was required to prove [1] that Owen committed the red-light violation by entering the intersection facing a steady red signal "and [2] that the violation result[ed] in an accident causing serious physical injury or death to another person."

Supp. Br. at 5-6 (alterations in original). He accurately quotes from the penalty statute (A.R.S. § 28-672(A)(1)), but paraphrases the red-light statute (A.R.S. § 28-645(A)(3)(a)), omitting the statutory requirement "stop before entering the intersection and [] remain standing." The omitted, paraphrased text he glosses over is exactly the conduct he committed in violation of the statute.

The superior court made the same interpretive error. It erroneously held that "it was the entrance into the intersection in violation of the red light that 'results in

[1] The AACJ amicus brief similarly presupposes that activity before entering the intersection doesn't matter, even though the statute focuses on precisely that. Under the AACJ's analysis, breaking the window is not part of the violation because it occurs before entering.

an accident causing serious physical injury or death to another person.'" APP-16. The superior court (like the defendant) quoted the penalty statute, but incorrectly improvised the red-light statute without quoting it, thereby obscuring the focus on what occurs before entering. The municipal court and court of appeals correctly rejected the defendant's interpretation, as should this Court.

The superior court called the State's case "hyper-technical," a phrase the defendant seized upon. APP-17; Supp. Br. at 12. Hyper-technicality obviously isn't a defense to a criminal statute; the statutory text governs the contours of the crime. But the "hyper-technical" accusation doesn't even fit—the defendant's red-light violation killed Charles Feck under plain and ordinary speech. The superior court also claimed to have identified a statutory "gap[]," and mused about "pre-crime." APP-16-17. But there's no statutory gap, and this is not a "pre-crime." Charles Feck is dead and his wife and sister are injured all because the defendant failed to stop before entering the intersection.

The defendant cites *Lemieux v. Superior Ct.*, 132 Ariz. 214, 215 (1982), as supporting the view that he committed a red-light violation only once his "vehicle[] went through the intersection," rather than when he "'fail[ed] to stop and remain standing at a red light *and then* hit[]' … [the Jeep]." Supp. Br. at 18-19 (emphasis in original) (quoting Op. ¶ 19). But *Lemieux* didn't purport to resolve these conflicting interpretations. It addressed an unrelated question about hypnosis. Moreover,

Lemieux's passing dictum merely means that if "the traffic light was yellow" when the vehicle entered the intersection then there was no violation—a proposition no one disputes and which did not occur here. 132 Ariz. at 215.

A court has, however, rejected the defendant's interpretation. A Georgia court addressed a materially identical statute ("shall stop at a clearly marked stop line or, if there is no stop line, … before entering the intersection."). *Brogdon v. State*, 683 S.E.2d 99, 104 (2009). It held that any "reasonable reading of the statute requires that a driver facing a red traffic light stop behind the stop line or crosswalk and also behind those vehicles stopped in observance of the traffic light." *Id.* In a footnote, the defendant points out that the driver in *Brogdon* was impaired and identifies other factual differences. Supp. Br. at 17 n.34. But those differences do not affect the statutory interpretation, nor did they affect the result in *Brogdon*. The material facts are the same: a driver rearended a car stopped at an intersection facing a red light.

The defendant claims that the State's interpretation would lead to absurd results. First, he says he would have violated the red-light statute "even if his vehicle had not entered the intersection." Supp. Br. at 18. Failing to "stop before entering the intersection," A.R.S. § 28-645(A)(3)(a), may still require "entering the intersection," even in cases like this one where the initial collision results from a failure to stop before entering the intersection. Just like in the breaking-and-entering example, where even though a defendant ultimately must enter the dwelling, the pre-

entry window smashing still falls within the statute's scope. In any event, the Court need "not address" whether the statute always requires entering the intersection "because Owen's motorhome entered the intersection." Op. ¶ 13 n.2.

In sum, the defendant's statutory argument assumes the red-light violation did not result in the initial collision. *See* Supp. Br. at 19-24. Although it is true that the initial collision started before the defendant entered the intersection, the plain text of the penalty and red-light statutes establishes that the violation—the defendant's failure "to stop before entering the intersection and … remain standing," A.R.S. § 28-645(A)(3)(a)—is precisely what resulted in the initial collision.

B. Alternatively, the red-light violation caused an "accident," which encompasses more than the initial collision, and that accident caused injury and death.

Alternatively, even if the defendant's red-light violation did not cause the *initial collision*, the violation still caused an "accident," and that accident "caus[ed] serious physical injury or death." A.R.S. § 28-672. An accident includes more than just the initial collision. Here, the vehicles remained in contact while the defendant entered the intersection. Regardless of whether the term "accident" extends to other portions of a continuous event, it unquestionably includes the period when the defendant's motorhome was in physical contact with amici's vehicle. In other words, even accepting the defendant's view that the analysis begins only upon entering the intersection, the penalty statute still applies.

1. The red-light violation caused an "accident" within the meaning of the penalty statute because the vehicles remained in contact into the intersection.

The defendant's motorhome did not hit the victims' car and then immediately stop, with no further contact. As the factfinder found, the defendant's motorhome "barrel[ed] into the back of the victim's vehicle (at an estimated speed of 34mph), forcing *both of the vehicles* through the red light and finally coming to a stop on the other side of the intersection." APP-20 (emphasis added).

"[R]esolv[ing] all reasonable inferences against the defendant," a "rational trier of fact could have found" that the defendant's motorhome was still in contact with the victims' car after the defendant had entered the intersection. *State v. Allen*, 253 Ariz. 306, 341 ¶ 109 (2022). The following frame from the video confirms this, showing the vehicles in contact as the motorhome enters the intersection:

Video (disc on file with clerk) at 10:27:56.

This means that even under the defendant's theory of statutory interpretation, where the red-light "violation" doesn't begin until the vehicle enters the intersection,

the two vehicles were still in contact at that point. The penalty statute therefore applies, even though the initial collision occurred before he entered.

The defendant principally disputes whether the *violation* resulted in the accident. He focuses on the causal link because in his view "the accident and injury indisputably occurred before the vehicles went through the red light"—a phrase he repeats three times. Supp. Br. at 7, 14, 19. But the image above puts that assertion to rest. The vehicles were still in contact after going "through the red light," in his parlance. The State therefore established the causal link between the red-light "violation" and the "accident," even accepting the defendant's interpretation of the statute as focusing on what occurred as he entered the intersection.

Properly construing the statutory term "accident" bolsters this conclusion. Citing contemporaneous dictionaries, prior Arizona cases, and other authorities, the court of appeals correctly held that "accident" is "a continuous event" that "encompass[es] more than a single 'collision[.]'" Op. ¶¶ 15-16. So did the municipal court: "[T]he term 'accident' is a series of events, not just one moment in time and that in using the term 'accident' the legislature intended to mean that series of events that constitute an accident." APP-21. This Court rephrased the issue to match that meaning: "Did the court of appeals err in holding that the enhanced penalty statute—A.R.S. § 28-672(A)(1)—does not require a vehicle to have entered the intersection

before the initial collision occurs *when the accident comprises one continuous event* resulting from a driver's failure to stop at a red light?" (Emphasis added.)

For all the reasons the municipal court and the court of appeals gave, this has to be the right interpretation. Consider also another hypothetical collision, where a red car hits a blue car, sending the blue car into a wall. The blue car's driver survives the initial collision, but dies when his car hits the wall. The "accident" includes the entire sequence, including hitting the wall. Here, at a minimum, "accident" includes when the vehicles are still in contact. The defendant criticizes the court of appeals' construction of "accident" as including a continuous event. Supp. Br. at 22-23. But he does not offer a different definition, nor does he cite a source supporting a narrower meaning.

2. The accident caused amici's death and injuries within the meaning of the penalty statute.

The second causal link in the penalty statute requires that the "*accident* caus[e] serious physical injury or death to another person." A.R.S. § 28-672(A) (emphasis added). The factfinder found this element satisfied: the "accident … resulted in the tragic death of Charles[.]" APP-20. There's no serious dispute that the *accident* caused Charles's death, or that the *accident* caused Cathy and Dolores's injuries.

Instead, on this element, the defendant again misconstrues the statute. The penalty statute has two causal requirements: "[1] the violation results in an accident [2] causing serious physical injury or death to another person." A.R.S. § 28-672. In

other words, (1) the violation must result in an accident, and (2) the *accident* must cause the injury or death. The court of appeals properly distinguished between the two causal requirements, explaining, "the required conduct is the violation of the red-light statute and the required result is the accident causing serious physical injury or death." Op. ¶ 18.[2]

The defendant collapses the two causal requirements into one, suggesting that the *violation* must cause the injury or death. The superior court made the same key mistake, framing the issue as "whether … it was the fact that Defendant's vehicle entered the intersection when the light was … red that resulted in … injury"). APP-16. As does AACJ. AACJ Amicus Br. at 16 ("violation resulted in serious physical injury or death"). That is wrong. Under the plain text, the "accident," not the violation, must cause the injury or death. The defendant's interpretation violates the "last antecedent rule," under which the "qualifying phrase" ("causing serious injury or death") "applie[s] to the … immediately preceding" word—accident. *Phoenix Control Sys., Inc. v. Ins. Co. of N. Am.*, 165 Ariz. 31, 34 (1990).

For support, the defendant heavily relies on a dictum from another court of appeals decision that made the same mistake about the statute's causation

[2] This portion of the Opinion also confirms that, contrary to the AACJ's amicus brief (at 21), the Court of Appeals did not treat the statute as solely a result-based offense. It accurately considered the required conduct (red-light violation) and the required result (an accident causing serious physical injury). Op. ¶¶ 18-19.

requirement. In *Phoenix City Prosecutor's Off. v. Nyquist*, 243 Ariz. 227, 232 ¶ 16 (App. 2017), the court of appeals paraphrased the statute as requiring "that *the violation caused serious physical injury or death*." (emphasis added). This is simply wrong. But the statement had nothing to do with the actual issue in the case and was not the product of serious textual analysis. It is an erroneous dictum inconsistent with the plain text. Under the plain text, the *accident* must cause the injury or death.

The defendant also argues (along with amicus AACJ) that the Opinion's interpretation "does not require the … violation to occur before the resulting accident," which is contrary to the "meaning of 'result,' which connotes a cause *preceding* a consequence." Supp. Br. at 21-22. Not so. The court of appeals's interpretation requires the violation to precede at least some portion of the accident (that is, occur during the accident). Here, the violation occurred as early as the initial collision (Argument § I.A), or at the very latest when the motorhome entered the intersection while still in contact with the amici's car (Argument § I.B.1), meaning the violation preceded the parts of the accident where the cars barreled through together and the Jeep rolled and collided with another car. The facts of this case present no sequencing problem.

Regardless, as explained above, forces continued to be applied to the Jeep while the two cars were in contact. "[R]esolv[ing] all reasonable inferences against the defendant," the video evidence allowed a "rational trier of fact [to] have found"

that the motorhome was still transferring force when it entered the intersection, and that force exacerbated the victims' injuries. *Allen*, 253 Ariz. at 341 ¶ 109.

C. The Legislature intended to criminalize this conduct and protect victims like the amici.

The Legislature enacted the penalty statute to prevent fatalities at intersections. *See State v. Patel*, 251 Ariz. 131, 139 ¶ 32 (2021) ("The Senate Fact Sheet … provided … detailed statistics illustrating the problem…. In particular, the Fact Sheet compared Arizona to the rest of the country with respect to … traffic fatalities per 100,000 persons, [and] the percentage of intersection fatalities"). The Legislature intended to punish many different types of intersection-related violations and included eight different ones. APP-16.

The superior court mistakenly thought that this legislative history narrowly "concern[ed] accidents caused by a vehicle being in an intersection." APP-16. But, as explained above (Argument §§ I.A.1, I.B.1), the red-light statute is not so limited. It also addresses collisions caused by a driver's failure to stop on red before entering an intersection. Similarly, many other intersection-related violations in the penalty statute address not only what happens inside an intersection, but also at or before the intersection (due to the unique hazards caused by vehicles approaching intersections). *See, e.g.*, A.R.S. §§ 28-771 ("vehicles enter[ing] or approach[ing] an intersection"); 28-772 (vehicles "within the intersection or so close to the intersection as to constitute an immediate hazard"); 28-773 (same); 28-792 (at a

crosswalk "the driver … approaching from the rear shall not overtake … the stopped vehicle"); 28-797(G) ("all vehicles shall come to a complete stop at the … crossing"); 28-855(B) (vehicle "approaching a stop sign shall stop before entering the crosswalk").

II. Sufficient evidence supported the conviction, and the Court did not agree to review that issue.

Most of the defendant's supplemental brief tries to convince the Court that he did not violate the red-light statute at all. Supp. Br. at 9-19. But the Court did not grant review on this issue, and it should not review the factbound issue.

More fundamentally, the defendant's argument contradicts the video evidence, flouts the standard of review from a criminal conviction, and relies on an absurd theory that boils down to trying to avoid liability by calling the victims—amici here—overly cautious for not gunning through the yellow light. Amici have a strong interest in ensuring that the Court understands the facts, both found by the factfinder and as shown in the video evidence of the accident (on file with the clerk).

This Court granted review on only a narrow, rephrased issue, which assumes that the defendant committed a red-light violation—a finding all three lower courts agreed on. This Court typically reviews only "important issues of law" or "conflicting decisions," Ariz. R. Crim. P. 31.21(d)(1)(C), not "questions or findings of fact in the lower court," *Hunt v. Norton*, 68 Ariz. 1, 5 (1948) (citation omitted). It should not address the argument that he did not commit a red-light violation.

In any event, the evidence amply supports the conviction. The factfinder found that the defendant "was unable to stop before entering the intersection against what was clearly a red light." APP-20. This Court must "view the evidence in the light most favorable to sustaining the verdict and resolve all reasonable inferences against the defendant." *Allen*, 253 Ariz. at 341 ¶ 109 (quotation omitted). The defendant's argument fails if any "rational trier of fact could have found guilt." *Id.*

The video evidence supports this finding. The image below shows that when the light for perpendicular travel is green (i.e., the light is red for the defendant), the defendant was far behind the intersection:

Video at 10:27:55.

That perpendicular signal is still green (i.e., his light is still red) as he enters:

Video at 10:27:56. As the municipal court found, "he was unable to stop until after he had gone all the way through the intersection[.]" APP-20.

Rather than dispute these dispositive facts, the defendant blames the victim. His main theory is that he could have made it through the intersection if the victims hadn't stopped: "As the light turned yellow, Owen intended to make the light," and "the Jeep could have lawfully made it through the intersection and so could have Owen's motorhome, if the Jeep had not stopped[.]" Supp. Br. at 9, 16-17. He claims to have been thwarted by the victims: "the Jeep stopped at the intersection while the facing light was still yellow[.]" *Id.* at 6. His point is that the victims could have gunned it through the yellow, and his 40-ft motorhome could have, too. But because the victims chickened out by slowing and stopping, they made him run the red light.

This theory offers no defense. The only questions under § 28-645(A)(3)(A) are whether the light was red (it was), and whether he failed to stop and remain standing (he did). If the law excused someone who "could have made it" if the car ahead wasn't so cautious, Arizona roads would be much more dangerous and many more people would suffer the terrible fate that the amici suffered. Tellingly, the defendant offers no legal support for this victim-blaming theory.

Moreover, the defendant's theory has no basis in the record. It's based on the false premise that the amici braked suddenly and stopped quickly. But the factfinder expressly rejected this claim, finding that amici made a controlled stop: "While there

was testimony by the defense expert that the victim's stop was 'pretty quick,' the Court was able to view the video of the accident and it is clear that *the stop was made under control the entire time*." APP-20 (emphasis added). The defendant invokes the testimony (from himself and his expert) that the factfinder rejected, even though this Court cannot reweigh the evidence when reasonable evidence supported the verdict. At this stage, the Court must "view the evidence in the light most favorable to sustaining the verdict and resolve all reasonable inferences against the defendant." *Allen*, 253 Ariz. at 341 ¶ 109. Here, the video shows the victims' Jeep appropriately slowing to a controlled stop.

The defendant also claims that entering the intersection was not the "result of Owen's voluntary act or omission" because he "had already lost control." Supp. Br. at 17 (citing A.R.S. § 13-201). But his failure to stop and remain standing was a voluntary omission. Regardless, the defendant's theory is like saying a shooter lost control of the bullet after it left the chamber, and if successful would excuse all unintended yet unavoidable effects of one's voluntary act or omission. In any event, the Court did not grant review on this issue.

CONCLUSION

The Court should affirm.

RESPECTFULLY SUBMITTED this 31st day of January, 2025.

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