

ARIZONA COURT OF APPEALS, DIVISION ONE

Commans v. Dunbar

No. 1 CA-CV 25-0256, Arizona Court of Appeals, Division One (February 6, 2026)

SUMMARY

The Arizona Court of Appeals reversed Daniel Commans’ criminal contempt conviction arising from his use of a vulgar, coded email address during a virtual municipal-court hearing. The court held that the conduct did not constitute contempt under Arizona law and that summary disposition violated due process because immediate punishment was unnecessary and Commans was not given an opportunity to be heard. A partial dissent would have remanded for a due-process hearing and also concluded that the 180-day sentence violated the Eighth Amendment.

CASE DETAILS

COURT	Arizona Court of Appeals, Division One
WRITING FOR THE COURT	Jennifer M. Perkins; Kent E. Cattani; David D. Weinzweig
JURISDICTION	Arizona Court of Appeals, Division One
DECIDED	February 6, 2026
DOCKET	1 CA-CV 25-0256
DISPOSITION	reversed
PROCEDURAL POSTURE	Commans appealed the Mohave County Superior Court's denial of special action relief affirming his municipal-court criminal contempt conviction and 180-day sentence arising from conduct during a virtual arraignment.
STANDARD OF REVIEW	The court reviewed the denial of special action relief and considered the municipal court's contempt determination for abuse of discretion, while reviewing preserved and fundamental legal errors under applicable legal standards.
PRECEDENTIAL VALUE	published
PARTIES	Daniel Commans v. Honorable Judge Peter M. Dunbar, Honorable Judge Mitchell Kalauli, Lake Havasu Municipal Court

TOPICS

- criminal procedure
- procedural due process
- due process
- first amendment
- appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

contempt

QUESTIONS PRESENTED

1. Whether Commans's vulgar email address constituted unprotected fighting words outside First Amendment protection.
2. Whether the conduct justified a criminal contempt finding under Arizona Rule of Criminal Procedure 35.1(b).
3. Whether the municipal court could summarily find Commans in contempt without providing notice and an opportunity to be heard when the conduct did not require immediate correction.

HOLDINGS

1. The email address was not unprotected fighting words because there was no indication that it provoked or was likely to provoke a violent reaction; the speech therefore remained subject to First Amendment protection.
2. The First Amendment did not prevent the court from regulating vulgarity in the courtroom or maintaining courtroom decorum, although the particular contempt finding was improper for other reasons.
3. The conduct did not constitute contempt under Rule 35.1(b) because, considering the totality of the circumstances, it did not unreasonably obstruct the administration of justice or lessen the court's dignity and authority.
4. Summary contempt proceedings were inappropriate because the vulgar email address did not require immediate correction or punishment, and the municipal court was required to provide Commans notice and an opportunity to be heard before entering the contempt finding.

KEY QUOTATIONS

“Regardless, the municipal court judge abused his discretion by holding Commans in contempt because (1) Commans’ conduct under these circumstances did not justify it, and (2) the court did not provide him an opportunity to challenge the holding.” (¶ 8)

“Unless there has been direct contempt that requires immediate correction, a finding of contempt under Rule 35.2 should never be entered without first giving the interested party an opportunity to be heard.” (¶ 16)

“Here, there was no need for immediate punishment because the vulgar email address was not noticed until after the hearing.” (¶ 18)

FACTUAL BACKGROUND

At a virtual arraignment for misdemeanor resisting-arrest and criminal-trespass charges, unrepresented defendant Daniel Commans provided an email address containing a coded vulgar insult directed at the prosecutor. The hearing proceeded without interruption, and neither the judge nor prosecutor reacted to the address on the record. After the hearing, the municipal court ordered Commans to show cause and later found him in direct contempt,

imposing the maximum 180-day jail sentence without first allowing him to present evidence or otherwise challenge the contempt finding.

PROCEDURAL HISTORY

During a virtual arraignment on misdemeanor resisting-arrest and criminal-trespass charges, Commans provided a vulgar email address. The Lake Havasu Municipal Court later found him in direct contempt and imposed 180 days in jail, consecutive to other jail time, without giving him an opportunity to present evidence before the contempt finding. The superior court affirmed, concluding that summary disposition was permissible for direct contempt and that the email address constituted unprotected fighting words. The Court of Appeals reversed the contempt conviction.

DISPOSITION

reversed

CASES CITED

- *Bridgeman v. Certa*, 251 Ariz. 471, 474–77, ¶¶ 7–14 (App. 2021)
- *Citizen Publ'g Co. v. Miller*, 210 Ariz. 513, 519, ¶ 24 (2005)
- *Zal v. Steppe*, 968 F.2d 924, 929 (9th Cir. 1992)
- *State v. Fernandez*, 216 Ariz. 545, 554, ¶ 32 (App. 2007)
- *In re Little*, 404 U.S. 553, 554–56 (1972)
- *Hirschfeld v. Superior Ct.*, 184 Ariz. 208, 209–12, 215–16 (App. 1995)
- *Ong Hing v. Thurston*, 101 Ariz. 92, 98–99 (1966)
- *In re Oliver*, 333 U.S. 257, 275 (1948)
- *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 832 (1994)
- *Riley v. Superior Ct.*, 124 Ariz. 498, 499 (App. 1979)
- *State v. Ring*, 204 Ariz. 534, 552, ¶¶ 45–46 (2003)
- *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 581 n.18 (1980) (plurality opinion)
- *State v. Kasic*, 228 Ariz. 228, 231, ¶ 13 (App. 2011)
- *State v. Berger*, 212 Ariz. 473, 481, ¶ 39 (2006)