2026 WI 36

Supreme Court of Wisconsin

STATE OF WISCONSIN,
Plaintiff-Respondent,
v.
JONATHAN JAMES PETERSEN,
Defendant-Appellant-Petitioner.

No. 2024AP581-CR
Decided November 25, 2026

REVIEW of a decision of the Court of Appeals
Kenosha County Circuit Court (Anthony G. Milisauskas, J.) No. 2022CF809

ANNETTE KINGSLAND ZIEGLER, J., delivered the majority opinion for a unanimous court. REBECCA FRANK DALLET, J., filed a concurring opinion.

¶1 ANNETTE KINGSLAND ZIEGLER, J. This is a review of a published decision of the court of appeals, *State v. Petersen*, 2025 WI App 74, 419 Wis. 2d 246, 30 N.W.3d 449, affirming a circuit court order denying Jonathan James Petersen's ("Petersen") postconviction motion to modify the "no social media" condition of his future extended supervision. The court of appeals held that the condition did not violate the First Amendment because it is not overly broad and furthers Petersen's rehabilitation.

¶2 Petersen pleaded guilty to multiple charges arising from an incident in which he threatened to kill the victim, who worked at a

convenience store; everyone inside the convenience store; and himself. For months prior to the incident, Petersen had stalked and harassed the victim, including on social media. The victim explained in her Victim Impact Statement that "[Petersen] found my social media accounts and said harmful things about me on there," and even though "I blocked his account, he would make a new account and do it again." Eventually, she deleted her social media accounts and obtained a harassment injunction against Petersen.

¶3 At sentencing, the State proposed, as a condition of extended supervision, that Petersen be prohibited from using social media, a condition with which Petersen's trial attorney agreed. Petersen later filed a motion for postconviction relief, requesting that the "no social media" condition be modified to allow him to use social media with his supervising agent's approval. That motion was denied.

¶4 Before this court, Petersen argues that the "no social media" condition of extended supervision violates his constitutional rights because it prevents him from engaging in legitimate First Amendment activities. Petersen contends that the condition infringes on his constitutional rights because it is overly broad and not reasonably related to his rehabilitation. *See Edwards v. State*, 74 Wis. 2d 79, 246 N.W.2d 109 (1976). Petersen argues that more narrowly tailored conditions could serve the court's objective, and that his social media use should be at the discretion of his supervising agent. Petersen asserts that vesting his agent with the authority to determine his access to social media would still protect the victim while allowing him the opportunity to demonstrate improvement and success in using social media responsibly. Petersen also argues that under *State v. King*, 2020 WI App 66, 394 Wis. 2d 431, 950 N.W.2d 891, we should apply intermediate scrutiny to the "no social media" condition, and that *Packingham v. North Carolina*, 582 U.S. 98 (2017), demonstrates that "social media users employ [social media] websites to engage in a wide array of protected First Amendment activity."

¶5 We evaluate Petersen's arguments by applying the two-part test from *Edwards*, 74 Wis. 2d 79, and overrule *King*, 394 Wis. 2d 431, to the extent it mandates an intermediate scrutiny analysis in addition to the *Edwards* test. We conclude that the "no social media" condition here is not overly broad and is reasonably related to Petersen's rehabilitation and thus does not violate the First Amendment. Petersen relentlessly harassed and stalked the victim even after court intervention. Prohibiting him from

using social media is a direct response to the facts underlying his convictions and serves to protect the victim. Accordingly, we affirm the decision of the court of appeals.

I. FACTUAL BACKGROUND AND PROCEDURAL POSTURE

¶6 In January 2022, Petersen and the victim worked at the same grocery store, although they barely spoke with one another because they worked different shifts. Nonetheless, Petersen developed an obsession with the victim, and when she rejected his romantic advances, he began to engage in "alarming" behavior. Specifically, Petersen created fake social media accounts to comment on the victim's posts and then deleted those accounts because she kept blocking him. Petersen also showed up at the grocery store when the victim was working to harass and belittle her. The victim suspected that Petersen dumped food on her car on March 6, 2022, at which point she told him not to talk to her anymore.

¶7 Eventually, the victim deleted her social media accounts and was transferred to a different grocery store. Petersen discovered the location of the different grocery store and, on April 10, 2022, he showed up there using a false name. The victim let management know that Petersen's presence made her uncomfortable. The manager called the police because Petersen initially refused to leave the parking lot, although he finally left before the police arrived. On April 18, 2022, the victim obtained a two-year harassment injunction against Petersen. Because of Petersen's actions, the victim decided to leave the grocery store and found a new job at a convenience store.

¶8 On June 13, 2022, Petersen showed up at the victim's new workplace at the convenience store with a knife and a "BB gun" which he modified to look like an "AR-15" rifle. The victim was on her work break and saw Petersen enter the store, so she tried to hide. However, Petersen found the victim and pointed his gun at her, threatening to shoot her if anyone came near him. The victim asked Petersen why he came to threaten her. Petersen stated that "I have already ruined my life," and that he "was going to get back at everyone that did him wrong," which included going "to [the grocery store] to do the same thing" before killing himself. Petersen told the victim that he had been planning the incident for months since the harassment injunction hearing, during which he asked the judge if he could buy a gun. Petersen recognized that the police were coming and that he would be arrested but stated he "had to do this."

¶9 When the police arrived, Petersen repeatedly stated, "shoot me, shoot me." The police convinced Petersen to drop his gun, after which Petersen took his knife and pressed it into the right side of his neck, stating that he wanted to die. After being tazed twice, Petersen was handcuffed. One of the deputies then searched the convenience store and found several employees hiding throughout the store. Some hid in the freezer area, while others hid in the office, locked the door, and turned the lights off.

¶10 On June 15, 2022, Petersen was criminally charged with 17 counts,[1] all resulting from the June 13, 2022 incident. Two days later, Petersen was charged with an additional three counts.[2] On December 1, 2022, the day of the plea hearing, Petersen pleaded guilty to four counts set forth in an amended information: two counts of making terrorist threats, one count of stalking, and one count of false imprisonment, all with the use of a dangerous weapon. An additional count of violating a harassment injunction was dismissed but read in for sentencing purposes. Petersen's plea agreement provided that, at sentencing, "[t]he State will be free to argue as to [the] conditions of sentence." The circuit court accepted Petersen's pleas and found him guilty of the crimes.

¶11 On February 22, 2023, the circuit court held Petersen's sentencing hearing. In her Victim Impact Statement, the victim explained that "[f]or the past year, I've been trying to get as far away from defendant Jonathan Petersen. No matter what I have done, he has tracked me down causing me anxiety." Even though the victim told Petersen "to please leave me alone," he refused to do so and instead "found my social media accounts and said harmful things about me on there." The victim "blocked [Petersen's] account," but "he would make a new account and do it

[1] Sixteen counts were for making terrorist threats with use of a dangerous weapon, while the last count was for violating a harassment restraining order with use of a dangerous weapon.

[2] Two of the additional counts were for making terrorist threats with use of a dangerous weapon, while the last additional count was for stalking with use of a dangerous weapon. The two terrorist threat counts resulted from the June 13, 2022 incident, while the stalking count covered Petersen's behavior toward the victim from March 6, 2022, to June 13, 2022. Additionally, the count for violating a harassment restraining order with use of a dangerous weapon was changed to violating a harassment injunction with use of a dangerous weapon.

again," so she "finally just had to delete my social media accounts." Reflecting on the events of June 13, 2022, the victim was "scare[d] [] to think that once [Petersen] is released, he is going to come look for me" and was "worrie[d] [] to think what he may do." The victim "hop[ed] that [Petersen would] get[] a long enough sentence where he can reflect on his actions" and "finally learns to just leave me alone."

¶12 With respect to conditions of extended supervision, the State proposed, among others,[3] "that a condition of supervision should also be no usage of social media sites." The State cited "the description of [Petersen's] usage of social media to harass [the victim] and then how he was creating fake social media to continue pursuing her against her wishes" in support of the proposed "no social media" condition. Petersen's trial attorney, responding to the State's proposal, agreed that "as far as the conditions recommended by the State, I do think they're appropriate. . . . He shouldn't use social media until he can demonstrate that he can use it responsibly without harassing other people."

¶13 The circuit court, before imposing Petersen's sentence,[4] observed that "he's setup [sic] these fake . . . [s]ocial media accounts where he kept trying to have contact with somebody that said I don't want contact and he kept doing it." The circuit court sentenced Petersen to five years and six months of initial confinement and six years of extended supervision. After the circuit court listed Petersen's conditions of extended supervision, the State reminded the circuit court that it asked for "no social media," and the circuit court agreed and imposed the condition. When the circuit court asked Petersen's trial attorney if it missed anything, his attorney replied, "No, Judge."

¶14 On November 27, 2023, Petersen filed a motion for postconviction relief requesting, in pertinent part,[5] that the circuit court

[3] Other conditions that the State proposed and the circuit court adopted included no contact with the victims and no possession of weapons.

[4] The State proposed "a prison sentence" but did "not mak[e] a specific recommendation" as to its length. Petersen proposed a total sentence of six years of imprisonment, "[i]mposed and stayed for three years [of] probation."

[5] The motion also requested that the circuit court allow Petersen to participate in certain earned release programs. Because that issue is not before us, we need not address it further.

modify the "no social media" condition of extended supervision "to allow social media with agent approval." Petersen argued that the circuit court "effectively [] banished [him] from social media to protect a handful of victims." Petersen stated that "[t]here was no allegation that [he] used social media to plan or execute his criminal activity on June 13, 2022." Although Petersen conceded that "the social media ban was designed to protect the victims and rehabilitate [him]," he nonetheless argued that "in its current form it is overbroad" under an intermediate scrutiny analysis, especially because he was also prohibited, as a condition of extended supervision, from contacting the victims. Petersen argued that his requested modification "balances [his] First Amendment rights to expression and association with his rehabilitation and protection of [the victim] and other victims" (citing *King*, 394 Wis. 2d 431).

¶15 On January 22, 2024, the circuit court held a hearing on Petersen's motion for postconviction relief. The State observed that after the victim blocked Petersen on social media, "he started showing up where she worked," "would also put things on social media about her," and "[h]ad multiple accounts that he would use to harass her during the pendency of the stalking she reported." With respect to *King*, the State noted that it involved "a blanket condition saying no access to the Internet," which was "more overly broad" than "simply no social media accounts." With respect to Petersen's request that his agent approve and monitor his social media usage, the State said that, based on its experience, "the Department of Corrections has admitted they have no way to monitor it," which meant that there would be no surefire way "to protect other potential victims."

¶16 Petersen took issue with the "no social media" condition, arguing that "there are certain websites that could look like social media, but may not be considered social media." As an example, Petersen stated that WebMD, which provides information about health and well-being, has discussion boards where users can reply to one another, thus giving it a "social media aspect." Petersen contended that the Department of Corrections "does have ways to monitor" his social media use and could revoke his extended supervision if he violates the condition.

¶17 The circuit court orally denied Petersen's motion for postconviction relief "based on the facts that the State gave [it]," citing Petersen's "involv[ement] with the victims in social media usage that was disturbing, creating fake accounts using comments and deleting them." The circuit court left open the possibility of granting a refiled motion to

modify the "no social media" condition when Petersen began serving his term of extended supervision because that is when the condition would take effect, and the circuit court would have more information about Petersen's behavior and activities in prison. Two days later, the circuit court entered a written order denying Petersen's request to modify the "no social media" condition.

¶18 On March 25, 2024, Petersen filed a notice of appeal. On November 19, 2025, the court of appeals, in a published opinion, affirmed the circuit court's order denying Petersen's motion for postconviction relief. *Petersen*, 419 Wis. 2d 246, ¶1. Applying the two-part test from *Edwards*, 74 Wis. 2d 79, the court of appeals explained that the "no social media" condition is not overly broad because it "not only helps prevent Petersen from harassing the young-woman victim and other June 13 victims in this case, it also helps prevent him from harassing additional young-women victims, or others, in the future." *Id.*, ¶14. The court of appeals further explained that the condition is reasonably related to Petersen's rehabilitation because it "can assist [him] with conforming his conduct to the law by preventing him from beginning a stalking or harassment social media campaign against future victims." *Id.*, ¶16.

¶19 On December 18, 2025, Petersen petitioned this court for review. On May 20, 2026, we granted the petition for review.

II. STANDARD OF REVIEW

¶20 Petersen asks this court to reverse the circuit court's denial of his motion for postconviction relief to modify the "no social media" condition of his extended supervision to allow for social media use with agent approval. "Circuit courts are granted broad authority to hold those convicted of crimes accountable for their actions—including discretion to impose conditions on extended supervision," so challenges to conditions of extended supervision are typically reviewed for erroneous exercise of discretion. *State v. Williams-Holmes*, 2023 WI 49, ¶8, 408 Wis. 2d 1, 991 N.W.2d 373. However, Petersen raises a constitutional challenge under the First Amendment. "The constitutionality of a condition of [extended supervision][6] raises a question of law, which this court reviews

[6] This court has imported principles from cases involving probation and parole into extended supervision because all three "involve persons under

independently without deference to the decisions of the circuit court or the court of appeals." *State v. Oakley*, 2001 WI 103, ¶8, 245 Wis. 2d 447, 629 N.W.2d 200 (footnote added), *opinion clarified on denial of reconsideration*, 2001 WI 123, 248 Wis. 2d 654, 635 N.W.2d 760.

III. ANALYSIS

¶21 Our analysis proceeds as follows. We first explain the two-part test from *Edwards* governing conditions of extended supervision. We then reach the merits of Petersen's challenge to his "no social media" condition[7] and apply the two-part test to conclude that the condition does not violate Petersen's First Amendment rights. In so doing, we overrule *King* to the extent it mandates an intermediate scrutiny analysis in addition to the two-part *Edwards* test, and we distinguish *Packingham* on several grounds.

A. THE *Edwards* TEST

¶22 A condition of extended supervision "is granted with the goals of rehabilitation and protection of society in mind" and "must meet the needs of the particular case." *Edwards*, 74 Wis. 2d at 83. Because "a convicted felon does not stand in the same position as someone who has not been convicted of a crime," courts can restrict a defendant's constitutional rights via conditions of extended supervision to a degree that might be impermissible for another member of the public. *Oakley*, 245 Wis. 2d 447, ¶19. A condition may infringe on a defendant's constitutional rights so long as it is "not overly broad and [is] reasonably related to the [defendant's] rehabilitation." *Edwards*, 74 Wis. 2d at 84–85. The defendant will prevail on a challenge to a condition if he or she demonstrates either that the condition is overly broad or that it is not reasonably related to his or her rehabilitation. *See id.* at 85 (concluding that, because "[t]he condition was reasonably related to [the defendant's] rehabilitation *and* it

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community supervision." *State v. Rowan*, 2012 WI 60, ¶10, 341 Wis. 2d 281, 814 N.W.2d 854.

[7] The State argues that we should not reach the merits of Petersen's challenge and instead should affirm the court of appeals on various procedural grounds, namely forfeiture, waiver, judicial estoppel, or ripeness. Because we affirm the court of appeals on the merits, we need not determine whether any of these procedural doctrines would otherwise be dispositive.

was not overbroad," it "was therefore permissible and proper" (emphasis added)).

¶23 "[T]he nature of the underlying offense and the facts specific to [the defendant's] particular case" are two important considerations for whether a condition is overly broad. *State v. Rowan*, 2012 WI 60, ¶15, 341 Wis. 2d 281, 814 N.W.2d 854. A condition can sweep broader than is strictly necessary to accomplish its end and still not be overly broad. *See id.*, ¶14. "A condition is reasonably related to the [defendant's] rehabilitation 'if it assists the convicted individual in conforming his or her conduct to the law.'" *Id.*, ¶10 (quoting *Oakley*, 245 Wis. 2d 447, ¶21). Part of the rehabilitation analysis includes ensuring "decreased criminality and greater public safety." *Id.*, ¶18. The *Edwards* test has been applied numerous times by this court and the court of appeals. *E.g.*, *Oakley*, 245 Wis. 2d 447, ¶¶20–21; *Rowan*, 341 Wis. 2d 281, ¶¶11–19; *State v. Simonetto*, 2000 WI App 17, ¶8, 232 Wis. 2d 315, 606 N.W.2d 275 (Ct. App. 1999). *Edwards* remains good law.

B. APPLICATION

¶24 We apply the *Edwards* test to Petersen's "no social media" condition and conclude that it is not overly broad and is reasonably related to his rehabilitation. As such, the "no social media" condition does not violate Petersen's First Amendment rights, and the circuit court correctly denied his postconviction motion to modify the condition to allow him to use social media with agent approval. The court of appeals properly affirmed the circuit court.

1. Not Overly Broad

¶25 With respect to the first part of the *Edwards* test, Petersen argues that "the [no social media] condition is not narrowly tailored because the circuit court ignored other, more narrowly tailored conditions that would just as effectively promote the governmental interests in protecting the victim and the public." Petersen points to the condition that the circuit court imposed prohibiting him from contacting the victim as evidence that the "no social media" condition is "overly broad." Petersen places considerable emphasis on the notion that "[his] supervisi[ng] agent will be in the better position to determine whether his access to a particular social media site at a given time will place [the victim] or anyone else in danger." Petersen insists that the alternative conditions he proposes "reflect the reality that '[t]he forces and directions of the Internet

are so new, so protean, and so far reaching that courts must be conscious that what they say today may be obsolete tomorrow'" (alteration in original) (quoting *Packingham*, 582 U.S. at 105). Ultimately, Petersen believes that by refusing to vest his agent with supervisory authority over his social media use, the circuit court prohibited his "access to one of 'the most important places (in a spatial sense) for the exchange of views'" (quoting *Packingham*, 582 U.S. at 104).

¶26 We disagree and conclude that the "no social media" condition is not overly broad. Petersen's abuse of social media was central to his months-long harassment and stalking campaign against the victim from January 2022 to the threatened mass shooting on June 13, 2022, a campaign involving repeated unwarranted contact. As reflected in the Victim Impact Statement, for months Petersen created and then deleted social media accounts to "sa[y] harmful things about" the victim until she "finally just had to delete [her] social media accounts." When Petersen showed up at the convenience store and pointed his gun at the victim, he knowingly violated the harassment injunction she obtained against him just two months prior.[8] The State observed at the hearing on Petersen's motion for postconviction relief that his use of social media "was one of the factors that led to what occurred at the [convenience store] in this case." The circuit court recognized that Petersen disregarded the harassment injunction "and then he's setup [sic] these fake media accounts . . . where he kept trying to have contact with somebody that said I don't want contact and he kept doing it." Thus, the circuit court crafted a condition that appropriately responded to Petersen's weaponization of social media for criminal purposes against a victim who just wanted to be left alone.

¶27 That the circuit court could have imposed a narrower condition that allowed Petersen some access to social media with his agent functioning as a gatekeeper may be Petersen's preference, but it is not constitutionally required. *See, e.g.*, *Rowan*, 341 Wis. 2d 281, ¶14 ("[T]he aspects of the condition that are more intrusive [than standard conditions of extended supervision] are still not overly broad such that they violate [the defendant's] protections under the Fourth Amendment or Article I, Section 11 [of the Wisconsin Constitution]."). We recognize that courts

[8] Petersen's deliberate violation of the harassment injunction shows why a "no contact" condition, without more, would insufficiently protect the victim.

have considered the extent to which conditions of extended supervision may allow or restrict internet access. *United States v. Alvarez*, 478 F.3d 864, 868 (8th Cir. 2007) (defendant's probation agent controlling the defendant's access); *United States v. Carpenter*, 803 F.3d 1224, 1240 (11th Cir. 2015) (condition allowing an exception for employment).[9] But, Petersen essentially argues that he has a First Amendment right to use social media during his extended supervision. To be clear, Petersen's use of social media was part of a pattern of harassing conduct toward the victim, and the "no social media" condition directly relates to the facts of this case, the victim's protection, and Petersen's rehabilitation. This condition was not broadly aimed at internet access generally, but was targeted at Petersen's use of social media in order to protect the victim and other potential victims from harassment and stalking, both of which can be perpetrated through social media in a way that cannot easily be detected or monitored. Petersen is not restricted from engaging in other types of protected First Amendment activities, such as giving speeches or joining organizations, nor is he restricted from using the internet in ways that do not endanger the victim, such as reading news stories or watching movies. Thus, the "no social media" condition is not overly broad in light of "the nature of the underlying offense[s] and the facts specific to [Petersen's] particular case."[10] *Rowan*, 341 Wis. 2d 281, ¶15.

¶28 Petersen's argument that the "no social media" condition may "remov[e] his access to sites like YouTube or LinkedIn" or potentially "ban[] him from simply reading or watching the content published by

[9] At least one court has upheld a total internet ban that did not give the defendant the opportunity to seek permission from his probation agent. *United States v. Paul*, 274 F.3d 155, 169–70 (5th Cir. 2001).

[10] Our conclusion that the "no social media" condition is not overly broad is consistent with our conclusions in *Edwards, Oakley*, and *Rowan* that the conditions at issue were not overly broad. *Edwards v. State*, 74 Wis. 2d 79, 84–85, 246 N.W.2d 109 (1976) (condition preventing defendant from having any contacts with codefendants); *State v. Oakley*, 2001 WI 103, ¶¶6, 20, 245 Wis. 2d 447, 629 N.W.2d 200 (condition preventing defendant from having any more children until he could show he could support them and the children he already had), *opinion clarified on denial of reconsideration*, 2001 WI 123, 248 Wis. 2d 654, 635 N.W.2d 760; *Rowan*, 341 Wis. 2d 281, ¶¶7, 14 (condition subjecting defendant's person, residence, or vehicle to suspicionless searches for firearms by law enforcement).

other users" seems to be a request for us to provide a definition of "social media." While delineating the precise boundary between the internet in general and social media in particular may be necessary in a future case, it is unnecessary in this one for several reasons. Petersen did not challenge the "no social media" condition as being unconstitutionally vague. Additionally, this condition must be construed "to avoid unreasonable or absurd results," not "in derogation of common sense." *State v. Lo*, 228 Wis. 2d 531, 538–39, 599 N.W.2d 659 (Ct. App. 1999) (citation omitted). Most importantly, Petersen criminally used social media to stalk and harass a victim who just wanted to be left alone.

¶29 Before proceeding to the second part of the *Edwards* test, we pause to address arguments Petersen raises in his briefing. Petersen substitutes the words "narrowly tailored" for "overly broad," but the term "narrowly tailored" has a specific meaning in constitutional parlance, being a requirement for both intermediate scrutiny and strict scrutiny.[11] This is distinct from whether a condition of extended supervision is "overly broad." The *Edwards* test does not mandate that a condition of extended supervision be "narrowly tailored" to be constitutional. Instead, Petersen seems to conflate this constitutional standard, drawing from *King*. In *King*, the court of appeals, after citing the *Edwards* test, declared that "[w]here, as here, the condition is content neutral, that is to say, where the condition is imposed without reference to the content of the regulated activity, intermediate scrutiny is applied." 394 Wis. 2d 431, ¶¶21–23 (first citing *State v. Jackson*, 2020 WI App 4, ¶6 n.4, 390 Wis. 2d 402, 938 N.W.2d 639 (Ct. App. 2019); and then citing *Packingham*, 582 U.S. at 105–06). "The intermediate scrutiny test allows the government to impose reasonable, content-neutral restrictions on speech that are 'narrowly tailored to serve a significant governmental interest.'" *Id.*, ¶23

[11] The United States Supreme Court has explained that "[i]n order to survive intermediate scrutiny, a law must be 'narrowly tailored to serve a significant governmental interest.'" *Packingham v. North Carolina*, 582 U.S. 98, 105–06 (2017) (quoting *McCullen v. Coakley*, 573 U.S. 464, 486 (2014)). Narrow tailoring requires that a law "must not 'burden substantially more speech than is necessary to further the government's legitimate interests.'" *McCullen*, 573 U.S. at 486 (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 799 (1989)). Narrow tailoring is also a requirement for strict scrutiny. *Brown v. Ent. Merchs. Ass'n*, 564 U.S. 786, 799 (2011) (explaining that, to satisfy strict scrutiny, a law must be "justified by a compelling government interest and [be] narrowly drawn to serve that interest").

(quoting *Packingham*, 582 U.S. at 105–06). But *King*'s treatment of *Packingham* was internally inconsistent. The court of appeals in *King* distinguished *Packingham* because *Packingham* analyzed a statute that banned social media access to people even after supervision ended. *Id.*, ¶43. Yet the court of appeals adopted *Packingham*'s constitutional standard absent from *Edwards*. *Id.*, ¶23.

¶30 In short, the court of appeals in *King* erred in engrafting an intermediate scrutiny analysis onto the analysis of the *Edwards* test. Narrow tailoring has no place in the constitutional analysis of whether a condition of extended supervision is overly broad. Accordingly, we overrule *King* to the extent it mandates an intermediate scrutiny analysis in addition to the analysis under the *Edwards* test.[12]

¶31 As for Petersen's reliance on *Packingham*, that case is readily distinguishable.[13] It does not support Petersen's argument that the "no social media" condition is overly broad. First, *Packingham* involved the constitutionality of a North Carolina statute barring social media access that was applicable to all registered sex offenders. 582 U.S. at 101. By contrast, Petersen's condition was based on his repeated use of social media to stalk and harass the victim, which were facts particular to his case. Second, *Packingham* observed that the statute "impose[d] severe restrictions on persons who already have served their sentence and are no longer subject to the supervision of the criminal justice system." *Id.* at 107. By contrast, Petersen's condition "will expire at the end of his term of [extended supervision]." *Oakley*, 245 Wis. 2d 447, ¶20. We reject importing the standard applied in *Packingham* to conditions of extended

[12] *King* has continued to generate confusion in the law. In a recent, unpublished decision the court of appeals relied on *King* to support the conclusion that a condition of extended supervision must be analyzed under both the two-part test and intermediate scrutiny if it implicates the First Amendment. *State v. Brister*, No. 2024AP1516-CR, unpublished slip op., ¶10 (Wis. Ct. App. June 30, 2026) ("[B]inding case law makes clear that content-neutral sentencing conditions burdening a defendant's First Amendment rights are subject to intermediate scrutiny, and therefore, must be 'narrowly tailored to serve a significant governmental interest.'" (quoting *State v. King*, 2020 WI App 66, ¶23, 394 Wis. 2d 431, 950 N.W.2d 891)).

[13] Petersen recognizes as much in his reply brief when he concedes that "[he] and the defendant in *Packingham* are differently situated."

supervision.[14] The *Edwards* test is unaffected by *Packingham* and remains good law.

2. Reasonably Related

¶32 With respect to the second part of the *Edwards* test, Petersen concedes that the "no social media" condition "may relate tangentially to his rehabilitation," although he argues that "it does not assist him in conforming his conduct to the law in that it does not allow him the opportunity to demonstrate improvement and success." Petersen states that "[e]ven convicted criminals—and in some instances especially convicted criminals—might receive legitimate benefits from these means for access to the world of ideas, in particular if they seek to reform and to pursue lawful and rewarding lives" (quoting *Packingham*, 582 U.S. at 108). Petersen believes that "the ubiquity of social media in modern life" entitles him to a condition of extended supervision that does not completely prohibit his use of social media. Noting that once his 11-year sentence is completed, he will no longer be subject to supervision and "will be entirely free to use social media however he pleases," Petersen contends that "appropriate oversight and guardrails" during his extended supervision, namely allowing social media use with agent approval, will provide an "assurance that he has learned how to safely and appropriately interact with others on social media."[15]

¶33 We disagree and conclude that the "no social media" condition is reasonably related to Petersen's rehabilitation. It will "assist[] [him] in conforming his . . . conduct to the law." *Oakley*, 245 Wis. 2d 447, ¶21. Petersen's argument that a total social media ban "does not allow him the opportunity to demonstrate improvement and success" rings

[14] Many courts that have addressed whether *Packingham* applies to conditions of extended supervision have similarly concluded that it does not. *E.g.*, *United States v. Perrin*, 926 F.3d 1044, 1048–49 (8th Cir. 2019); *Alford v. State*, 279 So. 3d 752, 756 (Fla. Dist. Ct. App. 2019); *United States v. Bobal*, 981 F.3d 971, 977–78 (11th Cir. 2020); *People v. Landis*, 497 P.3d 39, ¶25 (Colo. App. 2021).

[15] Some of these arguments may pertain more to the overly broad part than the reasonably related part of the *Edwards* test. However, because Petersen makes them as part of his argument that the "no social media" condition is not reasonably related to his rehabilitation, we address them in this part of our analysis.

hollow because he has repeatedly demonstrated an inability to conform his conduct to the law. The victim explained to the police that Petersen "had a history of harassing and stalking her." Petersen "would often create fake social media accounts with similar usernames, comment on her posts, and then delete the accounts." Petersen's abusive use of social media was directly related to his harassment and stalking campaign against the victim, which culminated in the convenience store incident. The prohibition on social media will help Petersen conform his conduct to the law by forcing him to "recogniz[e] that [his] prior criminal conduct demonstrated a pattern involving" harassment and stalking on social media. *Rowan*, 341 Wis. 2d 281, ¶18. Additionally, Petersen retains the "opportunity to demonstrate improvement and success" by strictly following the "no social media" condition and relying on his strict compliance to support a request to modify his condition. *See* WIS. STAT. § 302.113(7m) (2023–24).

¶34 As part of Petersen's rehabilitation, the "no social media" condition also increases public safety because of "the ubiquity of social media in modern life." Rehabilitation encompasses the goal of protecting the public by preventing future crimes. *See Rowan*, 341 Wis. 2d 281, ¶18 ("[D]ecreased criminality and greater public safety are logically connected to successful rehabilitation efforts."). The State asked at the hearing on Petersen's motion for postconviction relief "how do we know or how are we able to protect other potential victims who [Petersen] feels slighted by for not pursuing relationships with him." It can reasonably be inferred that because Petersen used social media to commit crimes in the past, he will use social media to commit crimes in the future. Prohibiting Petersen from using social media greatly reduces the chances that he can begin other harassment and stalking campaigns against the victim here and other potential victims.

IV. CONCLUSION

¶35 We evaluate Petersen's arguments by applying the two-part test from *Edwards*, 74 Wis. 2d 79, and overrule *King*, 394 Wis. 2d 431, to the extent it mandates an intermediate scrutiny analysis in addition to the *Edwards* test. We conclude that the "no social media" condition here is not overly broad and is reasonably related to Petersen's rehabilitation and thus does not violate the First Amendment. Petersen relentlessly harassed and stalked the victim even after court intervention. Prohibiting him from using social media is a direct response to the facts underlying his

convictions and serves to protect the victim. Accordingly, we affirm the decision of the court of appeals.

By the Court.—The decision of the court of appeals is affirmed.

REBECCA FRANK DALLET, J., concurring.

¶36 I join the majority opinion, which correctly concludes that, based on nature of the crime of stalking and Petersen's use of social media to perpetuate it, the "[n]o social media" condition imposed on Petersen's extended supervision is not overly broad and is reasonably related to his rehabilitation. I write separately to caution, however, that this condition is sweeping and may therefore be overly broad in another case.

¶37 Under the *Edwards* test, conditions of extended supervision "may impinge upon constitutional rights as long as they are not overly broad and are reasonably related to the person's rehabilitation." *Edwards v. State*, 74 Wis. 2d 79, 84–85, 246 N.W.2d 109 (1976). While this standard gives circuit court judges great leeway in crafting appropriate conditions of extended supervision, those conditions still must be fashioned according to the particular facts and circumstances of each case, taking into account the nature of the underlying offense.

¶38 Here, based on the facts and circumstances of Petersen's case and the nature of the offense of stalking, the "no social media" condition was not overly broad. Petersen began stalking the victim by relentlessly harassing her on social media. Whenever she blocked one of his social-media accounts, he created another one to continue sending her unwanted and harmful messages. As a result, the victim felt that she had no alternative but to delete all of her social-media accounts. After Petersen could no longer contact her online, his conduct escalated to face-to-face harassment, culminating in the violent terrorist threats he made at the victim's workplace.

¶39 The other conditions of extended supervision imposed by the circuit court in this case, standing on their own, may have been insufficient to protect the public at large from the earliest steps of a future stalking campaign. Only the victim in this case would be protected by the condition that Petersen "[m]ay not have contact with victims listed on bond for no contact." The Department of Corrections' standard rules of extended supervision,[1] which forbid a supervisee from committing further

[1] *Standard Rules of Community Supervision*, WIS. DEP'T OF CORRS., https://doc.wi.gov/Pages/AboutDOC/CommunityCorrections/SupervisionRules.aspx, (last visited Nov. 16, 2026).

criminal acts, could be insufficient as well. Such a condition may not protect the public from the earliest acts of a future stalking campaign, which might include non-criminal social media activity like following an individual's posts or leaving comments on their accounts.[2] Petersen argues that allowing his agent to approve any social media use would still adequately protect the victim and the public against future stalking. But as the majority correctly notes, "[t]hat the circuit court could have imposed a narrower condition" is not enough to prove that his condition was overly broad in this case. Majority op. ¶27.

¶40 Nevertheless, a blanket ban on all social media use—a reasonable interpretation of a "no social media" condition—may be overly broad in a case with different facts and circumstances or involving a different underlying offense. In such a case, a narrower and more precisely defined condition may be all that *Edwards* permits. For example, a case might involve social media only tangentially. In such a case, the facts and circumstances will provide little reason for concern that the defendant will misuse social media in the future. Or the underlying offense might involve acts that are clearly criminal from the outset. When that is true, the public and victim may be sufficiently protected by standard no-contact and no-crimes conditions. Additionally, failing to define "social media" when imposing a condition of extended supervision in other cases may also cause the condition to be overly broad. That is because undefined terms sometimes sweep broader than intended, and a condition of extended supervision might impinge upon a defendant's constitutional rights in ways that are unwarranted by the particular facts and circumstances of the case.[3]

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[2] Stalking can consist of acts that are not, in isolation, wrongful or potentially criminal. Only once these acts are coupled with other qualifying acts "carried out over time, however short or long, that shows a continuity of purpose," do they constitute a "course of conduct" punishable as stalking. *See* WIS. STAT. § 940.32(1)(a), (2).

[3] This is distinct from a void-for-vagueness challenge brought pursuant to the Due Process Clause of the Fifth and Fourteenth Amendments, where a criminal law is facially invalid if it fails to "define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Kolender v. Lawson*, 461 U.S. 352, 357 (1983) (collecting cases); *see also State v. Lo*, 228 Wis. 2d 531, 535, 599 N.W.2d 659 (Ct. App. 1999) ("A statute [and, therefore, a condition of probation] is unconstitutionally vague if it either

¶41 There are further reasons why circuit courts should take care before imposing blanket "no social media" conditions like the one at issue in this case. A total prohibition on social media use may hinder, rather than help, a defendant's rehabilitation if, for example, it prevents a defendant from using websites such as LinkedIn or Indeed to find a job or using social media to access peer support. As the Supreme Court has recently recognized, "[s]ocial-media platforms, as well as other websites, have gone from unheard-of to inescapable," structuring "how we relate to family and friends, as well as to businesses, civic organizations, and governments." *Moody v. NetChoice, LLC*, 603 U.S. 707, 716 (2024); *see also Packingham v. North Carolina*, 582 U.S. 98, 104 (2017) ("Social media offers 'relatively unlimited, low-cost capacity for communication of all kinds.'") (quoting *Reno v. ACLU*, 521 U.S. 844, 870 (1997)).

¶42 Considering how universal social media has become and its many legitimate uses, imposing a blanket "no social media" condition of extended supervision should be a last resort for circuit courts when they use their broad discretion to impose conditions on extended supervision. *See State v. Williams-Holmes*, 2023 WI 49, ¶8, 408 Wis. 2d 1, 991 N.W.2d 373 (citing WIS. STAT. § 973.01(5)). Before imposing such a condition, they should consider whether restrictions on a defendant's use of social media are appropriately tailored to the nature of the convicted offense and the specific facts of the case. In this case, the "[n]o social media" condition imposed by the circuit court meets that standard. Accordingly, I respectfully concur.

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fails to afford proper notice of the prohibited conduct or fails to provide an objective standard for enforcement.") (citing another source). Petersen does not argue that his condition is void for vagueness, and such a claim is not before the court.