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TRIALS & LITIGATION

## 6th Circuit upholds \$3.5M judgment against former assistant AG for stalking gay college student

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An appellate court upheld a \$3.5 million verdict, as well as sanctions, against a former assistant attorney general in Michigan who became notorious for using social media to attack the University of Michigan's first openly gay student body president.

[The Detroit Free Press](http://www.freep.com/story/news/local/michigan/2015/02/02/appeals-court-upholds-sanctions-former-state-attorney/22747347/) (<http://www.freep.com/story/news/local/michigan/2015/02/02/appeals-court-upholds-sanctions-former-state-attorney/22747347/>) and [The Ann Arbor News](http://www.mlive.com/news/ann-arbor/index.ssf/2015/02/court_upholds_decisions_agains.html) ([http://www.mlive.com/news/ann-arbor/index.ssf/2015/02/court\\_upholds\\_decisions\\_agains.html](http://www.mlive.com/news/ann-arbor/index.ssf/2015/02/court_upholds_decisions_agains.html)) reported Monday that the United States Court of Appeals for the Sixth Circuit **upheld** (<http://www.ca6.uscourts.gov/opinions.pdf/15a0099n-06.pdf>) (PDF) the rulings against Andrew Shirvell for stalking and harassing then-University of Michigan undergrad Chris Armstrong.

Shirvell, who at that time was still an assistant attorney general, maintained a blog named "Chris Armstrong Watch." In this blog and on Facebook, he said that Armstrong was a "privileged pervert" and "Satan's representative" who was promoting a "radical homosexual agenda" at Michigan, Shirvell's alma mater. In 2010, Shirvell went on a media blitz on national television shows, and defended his actions by invoking the First Amendment. According to the 6th Circuit opinion, Shirvell also looked up Armstrong's off-campus address; posted fliers throughout Armstrong's neighborhood; heckled Armstrong at campus events; showed up uninvited to private parties he knew Armstrong would be attending; and on several occasions marched in protest outside Armstrong's house.

Shirvell stated that these were his personal opinions and that he was allowed to do what he wanted on his own time. His boss, then-Michigan Attorney General Mike Cox, initially defended Shirvell's right to free speech before firing him in 2010. Cox said Shirvell's conduct undermined the AG office's efforts to fight cyberbullying.

Armstrong sued Shirvell for defamation, false light invasion of privacy, intentional infliction of emotional distress and stalking. Armstrong was awarded \$4.5 million ([http://www.abajournal.com/news/article/federal\\_jury\\_awards\\_u\\_of\\_mich.\\_student\\_targeted\\_in\\_blog\\_written\\_by\\_govt\\_law/](http://www.abajournal.com/news/article/federal_jury_awards_u_of_mich._student_targeted_in_blog_written_by_govt_law/)) in August 2012 (the figure was knocked down to \$3.5 million on appeal). While that lawsuit was going on, Shirvell counter-sued Armstrong's lawyer, Deborah Gordon, accusing her of colluding with Cox to get him fired. The trial court found there was no evidence of collusion and sanctioned Shirvell for his accusations.

On Monday, the appellate court found that the rulings against Shirvell were correct, though it reversed the awarded compensatory damages for false light, bringing the judgment down to \$3.5 million. The court called Shirvell's conduct "highly reprehensible" and "an ongoing pattern of intentional misconduct."

"This opinion should itself suffice to make clear that the type of litigation conduct in which Shirvell engaged is intolerable and serve as a deterrent to Shirvell from such conduct in the future," wrote the court in its opinion.

Gordon, for her part, was pleased with the result. "Mr. Shirvell vilified, smeared and stalked a college student because he was gay," Gordon wrote in an e-mail to the Free Press. "He thought all he had to do was utter the words 'First Amendment' and he would be protected from any consequences for his actions. He was incorrect. The fact that he was—and remains—an attorney made his conduct especially abhorrent. The jury set him straight, and the Court of Appeals now has affirmed their verdict."

Shirvell did not respond to the Free Press's request for comment.

This result was the second piece of bad news Shirvell has received in the last several weeks. On January 12, the Michigan Court of Appeals overturned a lower court judge's ruling ([http://www.abajournal.com/news/article/state\\_lawyer\\_fired\\_for\\_blog\\_anti\\_gay\\_blog\\_posts\\_cant\\_collect\\_unemployment\\_p](http://www.abajournal.com/news/article/state_lawyer_fired_for_blog_anti_gay_blog_posts_cant_collect_unemployment_p)) that Shirvell could collect unemployment benefits as a result of his termination from the Attorney General's office. The appellate court ruled that Shirvell was rightly fired and that his free speech rights were outweighed by the state's interests. Shirvell told the Associated Press on Jan. 12 that he planned to appeal.

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