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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Eugene Robert Tucker,  
10 Petitioner,

11 v.

12 Charles L. Ryan, et al.,  
13 Respondents.  
14

No. CV-17-03383-PHX-DJH  
DEATH PENALTY CASE  
**ORDER**

15  
16 Before the Court is Respondents' motion seeking an order prohibiting members of  
17 Tucker's legal team from directly contacting the victims in this case and directing that  
18 any such contact be initiated through counsel for Respondents. (Doc. 13.) Tucker opposes  
19 the motion. (Doc. 30.)

20 In support of their request, Respondents cite provisions of state and federal law,  
21 including A.R.S. § 13-4433(B), which provides that "[t]he defendant, the defendant's  
22 attorney or an agent of the defendant shall only initiate contact with the victim through  
23 the prosecutor's office," and the Crime Victims' Rights Act (CVRA), which affords state  
24 crime victims in federal habeas cases "the right to be treated with fairness and with  
25 respect for the victim's dignity and privacy." 18 U.S.C. § 3771(a)(8).

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1 Tucker argues that the CVRA cannot be read to incorporate the provisions of §  
2 13–4433(B). (Doc. 30 at 2–4.) He also contends that such an order would impede  
3 counsel’s ability to investigate his habeas claims and violates their First Amendment  
4 rights. (*Id.* at 7–10.)

5 Courts in this district have consistently granted similar motions regulating victim  
6 contact in capital habeas cases. In *Sansing v. Ryan*, No. 11-CV-1035-PHX-SRB (D.  
7 Ariz.), Doc. 22, for example, the court ordered the petitioner to obtain consent through  
8 the respondents’ counsel before contacting a victim. In the event that a victim was  
9 contacted and did not consent, the petitioner could seek relief by filing a motion  
10 explaining why the contact was necessary. In denying the petitioner’s motion for  
11 reconsideration of the order, the court explained that its “directive requiring Petitioner to  
12 obtain consent from Respondents’ counsel to contact victims furthers the rights to dignity  
13 and privacy set forth in § 3771(a)(8). It is a reasonable limitation that does not unfairly  
14 disadvantage Petitioner.” *Id.*, Doc. 29; *see Roseberry v. Ryan*, No. 15-CV-1507-PHX-  
15 NVW (D. Ariz.), Doc. 18; *Chappell v. Ryan*, No. 15-CV-478-PHX-SPL (D. Ariz.), Doc.  
16 19; *Bearup v. Ryan*, 16-CV-3357-PHX-SPL (D. Ariz.), Doc. 18; *Speer v. Ryan*, No. 16–  
17 CV–04193–PHX–GMS (D. Ariz.), Doc. 12; *Pandeli v. Ryan*, No. 17–CV–01657–JJT (D.  
18 Ariz.), Doc. 23; *Morris v. Ryan*, No. 17–CV–00926–PHX–DCG (D. Ariz.), Doc. 11.

19 The Court adopts this reasoning. Whether or not § 13–4433(B) directly applies to  
20 these proceedings through the CVRA, the mechanism it establishes furthers the goal of  
21 respecting a crime victim’s dignity and privacy without unduly burdening the defense  
22 team’s access to victims or their First Amendment rights. Once contact has been initiated  
23 through Respondents’ counsel, Tucker’s defense team will be free to speak with any  
24 victim who agrees to the contact.

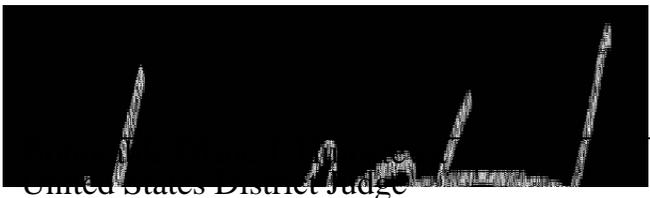
25 Accordingly,

26 **IT IS ORDERED** granting Respondents’ motion for an order precluding contact  
27 with victims. (Doc. 13.) No person who is defined as a victim in this matter pursuant to  
28 Arizona law shall be contacted by anyone working with or on behalf of Tucker or his  
counsel unless the victim, through counsel for Respondents, has consented to such

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contact. If consent is not provided and Tucker nonetheless believes contact is necessary, he may file a motion with the Court explaining the necessity for such contact.

**Dated** this 8th day of March, 2018.

A black rectangular redaction box covers the signature and name of the United States District Judge. The text "United States District Judge" is partially visible at the bottom of the redaction.