



Supreme Court to Hear Arguments in Biden Admin's Censorship of Social Media Posts

Description

US : The U.S. Supreme Court will soon hear oral arguments in a case that concerns what two lower courts found to be a “coordinated campaign” by top Biden administration officials to suppress disfavored views on key public issues such as COVID-19 vaccine side effects and pandemic lockdowns.

The Supreme Court has scheduled a hearing on March 18 in *Murthy v. Missouri*, which started when the attorneys general of two states, Missouri and Louisiana, filed suit alleging that social media companies such as Facebook were blocking access to their platforms or suppressing posts on controversial subjects.

The initial lawsuit, later modified by an appeals court, accused Biden administration officials of engaging in what amounts to government-led censorship-by-proxy by pressuring social media companies to take down posts or suspend accounts.

Some of the topics that were targeted for downgrade and other censorious actions were voter fraud in the 2020 presidential election, the COVID-19 lab leak theory, vaccine side effects, the social harm of pandemic lockdowns, and the Hunter Biden laptop story.

The plaintiffs argued that high-level federal government officials were the ones pulling the strings of social media censorship by coercing, threatening, and pressuring social media companies to suppress Americans' free speech.

'Unrelenting Pressure'

In a landmark ruling, Judge Terry Doughty of the U.S. District Court for the Western District of Louisiana granted a temporary injunction blocking various Biden administration officials and government agencies such as the Department of Justice and FBI from collaborating with big tech firms to censor posts on social media.

Later, the Court of Appeals for the Fifth Circuit agreed with the district court's ruling, saying it was

“correct in its assessment—‘unrelenting pressure’ from certain government officials likely ‘had the intended result of suppressing millions of protected free speech postings by American citizens.’”

The judges wrote, “We see no error or abuse of discretion in that finding.”

The ruling was appealed to the Supreme Court, and on Oct. 20, 2023, the high court agreed to hear the case while also issuing a stay that indefinitely blocked the lower court order restricting the Biden administration’s efforts to censor disfavored social media posts.

Supreme Court Justices Samuel Alito, Neil Gorsuch, and Clarence Thomas would have denied the Biden administration’s application for a stay.

“At this time in the history of our country, what the Court has done, I fear, will be seen by some as giving the Government a green light to use heavy-handed tactics to skew the presentation of views on the medium that increasingly dominates the dissemination of news,” Justice Alito wrote in a dissenting opinion.

“That is most unfortunate.”

The Supreme Court has other social media cases on its docket, including a challenge to Republican-passed laws in Florida and Texas that prohibit large social media companies from removing posts because of the views they express.

Oral arguments were heard on Feb. 26 in the Florida and Texas cases, with debate focusing on the validity of laws that deem social media companies “common carriers,” a status that could allow states to impose utility-style regulations on them and forbid them from discriminating against users based on their political viewpoints.

The tech companies have argued that the laws violate their First Amendment rights. The Supreme Court is expected to issue a decision in the Florida and Texas cases by June 2024.

‘Far Beyond’ Constitutional

Some of the controversy in *Murthy v. Missouri* centers on whether the district court’s injunction blocking Biden administration officials and federal agencies from colluding with social media companies to censor posts was overly broad.

In particular, arguments have been raised that the injunction would prevent innocent or borderline government “jawboning,” such as talking to newspapers about the dangers of sharing information that might aid terrorists.

But that argument doesn’t fly, according to Philip Hamburger, CEO of the New Civil Liberties Alliance, which represents most of the individual plaintiffs in *Murthy v. Missouri*.

In a series of recent statements on the subject, Mr. Hamburger explained why he believes that the Biden administration’s censorship was “far beyond anything that could be constitutional” and that concern about “innocent or borderline” cases is unfounded.

For one, he said that the censorship that is highlighted in *Murthy v. Missouri* relates to the suppression

of speech that was not criminal or unlawful in any way.

Mr. Hamburger also argued that “the government went after lawful speech not in an isolated instance, but repeatedly and systematically as a matter of policy,” which led to the suppression of entire narratives rather than specific instances of expression.

“The government set itself up as the nation’s arbiter of truth—as if it were competent to judge what is misinformation and what is true information,” he wrote.

“In retrospect, it turns out to have suppressed much that was true and promoted much that was false.”

The suppression of reports on the Hunter Biden laptop just before the 2020 presidential election on the premise that it was Russian disinformation, for instance, was later shown to be unfounded.

Some polls show that if voters had been aware of the report, they would have voted differently.

By Tom Ozimek

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Date Created

03/18/2024