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NCLA Asks Fifth Circuit to Affirm Injunction Against Government Social Media Censorship

State of Missouri, et al. v. Joseph R. Biden, Jr., et al.

Washington, DC (August 7, 2023) – The New Civil Liberties Alliance, alongside the attorneys-general of Missouri and Louisiana, have filed a [brief](#) urging the U.S. Court of Appeals for the Fifth Circuit to affirm U.S. District Judge Terry Doughty’s [preliminary injunction](#) prohibiting a number of federal agencies and government officials from pressuring or coordinating with social media companies to suppress First Amendment-protected speech. Federal government defendants in *Missouri, et al., v. Biden, et al.* have appealed to the Fifth Circuit to overturn the injunction, which protects Americans’ free speech rights on social media. NCLA will participate in oral arguments for this landmark case on August 10 in New Orleans.

Federal officials have threatened, pressured, and colluded with social media platforms in a years-long campaign to suppress perspectives that contradict government-approved views on hotly disputed topics like mask mandate efficacy, Covid-19 vaccine concerns and the virus’s origins. The censorship has silenced influential doctors and scientists including NCLA’s clients, Drs. Jayanta Bhattacharya, Martin Kulldorff and Aaron Kheriaty, as well as activist Jill Hines. All have been blacklisted, shadow-banned, de-boosted, throttled, and censored on social media.

The government has gravely harmed the ability of NCLA’s clients to convey their views to the public, and it has deprived Americans of their right to hear perspectives that depart from the government’s. Judge Doughty correctly [determined](#) that the plaintiffs will likely succeed in proving the government violated the First Amendment, accurately describing the Administration’s conduct as “arguably the most massive attack against free speech in United States history” and “akin to an Orwellian Ministry of Truth.”

Federal government defendants in this case have failed to provide a single example to substantiate their allegation that the injunction interferes with legitimate government speech. The government’s argument that the injunction is too vague also doesn’t hold water. Judge Doughty has been very specific in detailing what conduct the government defendants may and may not participate in, never preventing them from addressing criminal speech on social media.

NCLA released the following statements:

“The government’s unconstitutional censorship regime stifled scientific debate on topics of critical importance during the Covid era, including lockdowns, school closures, mandates, and the origins of the virus. This stifling in turn led to the adoption of policies that years later have proven more harmful than beneficial. Yet the Biden Administration wants to continue to use its clout to silence dissenters with impunity. We look forward to seeing the Fifth Circuit vindicate NCLA’s clients, who like all Americans have been victims of this unlawful enterprise.”

— **Jenin Younes, Litigation Counsel, NCLA**

“The government argues that it is no longer interested in prior censorship topics, that it will be harmed more than individuals if it cannot continue to meddle in social media, and that it doesn’t understand the order the judge

issued. To the extent that the government addresses the substance of what it has done, it claims that its repeated threats of regulatory reprisal do not amount to coercion. But coercion is not required to violate the First Amendment, and any regulated entity would see things differently. Plaintiffs are confident that the government violated the First Amendment and that the lower court crafted an appropriate injunction.”

— **Zhonette Brown, Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#) or watch the case video [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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