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NCLA Asks U.S. Supreme Court Not to Stay Injunction Against Government Social Media Censorship

Vivek H. Murthy, U.S. Surgeon General, et al. v. State of Missouri, et al.

Washington, DC (September 20, 2023) — Earlier this month the federal government petitioned the U.S. Supreme Court to stay the preliminary injunction issued by the Fifth Circuit Court of Appeals in *Missouri v. Biden*, which bars officials from the White House, CDC, FBI and U.S. Surgeon General’s office from pressuring social media platforms to censor constitutionally protected speech. Today, the New Civil Liberties Alliance, together with the Louisiana and Missouri attorneys-general, filed a [response](#) urging the high Court to allow the preliminary injunction to take effect, protecting Americans’ First Amendment rights while the litigation proceeds.

On September 8, a Fifth Circuit panel [upheld](#) the most significant components of U.S. District Judge Terry Doughty’s preliminary injunction prohibiting the aforementioned officials from pressuring, coercing, or significantly encouraging social media companies to suppress constitutionally protected speech. This decision vindicated NCLA clients Drs. Jayanta Bhattacharya, Martin Kulldorff and Aaron Kheriaty, and Ms. Jill Hines, who have all been blacklisted, shadow-banned, de-boosted, throttled, and censored on social media as part of the years-long censorship campaign orchestrated by the Surgeon General, CDC, and other Biden Administration officials. The government has failed to present a single convincing argument for staying the injunction any further.

The Biden Administration’s censorship regime has successfully suppressed perspectives contradicting government-approved views on hotly disputed topics such as whether natural immunity to Covid-19 exists, safety and efficacy of the Covid-19 vaccines, the virus’s origins, and mask mandate efficacy. The vast, coordinated, and well-documented effort has silenced influential voices including doctors and scientists like Drs. Bhattacharya, Kulldorff and Kheriaty, as well as those like Jill Hines who have tried to raise awareness of issues. The Supreme Court is unlikely to reverse the Fifth Circuit’s injunction against such abridgment of the First Amendment.

The Fifth Circuit recognized that the Plaintiffs did “not challenge the social-media platforms’ content-moderation policies.” Rather, Plaintiffs challenged the *government’s* unlawful efforts to influence “enforcement of those policies.” The government gravely harmed the ability of NCLA’s clients to convey their views to the public, and it deprived Americans of their right to hear opinions that differ from the government’s. Judge Doughty strikingly described 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.” The Supreme Court should allow the Fifth Circuit’s order enjoining that conduct to proceed without delay. Otherwise, Americans’ First Amendment rights will be denied.

NCLA released the following statements:

“Apparently the Biden Administration hasn’t gotten tired of losing. The government’s stay application is nothing more than a shameless attempt to convince the nation’s highest court to allow it to continue to violate Americans’ First Amendment rights. We’re confident the Court will recognize this and uphold the lower courts’ injunction. We look forward to seeing our clients’ rights vindicated yet again.”

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

“The federal government has no right to police the truth or keep narratives with which it disagrees from appearing on social media. The fact that the White House, CDC, FBI, and Surgeon General’s office want to keep censoring disfavored viewpoints on social-media platforms is abhorrent. Fortunately, the First Amendment protects the rights of the people and the States to express their views and hear the views of others without federal interference.”
— **Mark Chenoweth, President and General 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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