



Written by [Michael Tennant](#) on July 10, 2019

First Amendment Prohibits Trump From Blocking Twitter Critics, Appeals Court Rules

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President Donald Trump cannot block critics from his Twitter account without violating the First Amendment's guarantee of freedom of speech, a federal appeals court ruled Tuesday.



"The First Amendment does not permit a public official who utilizes a social media account for all manner of official purposes to exclude persons from an otherwise-open online dialogue because they expressed views with which the official disagrees," [wrote](#) Judge Barrington Parker of the Second U.S. Circuit Court of Appeals in New York City.

Parker was one of three judges to hear the Trump administration's appeal of a 2018 decision by U.S. District Judge Naomi Reice Buchwald. Buchwald [ruled](#) that "the 'interactive space' where Twitter users may directly engage with the content of the President's tweets" constitutes a "public forum" under Supreme Court precedent, and as such, prohibiting people from responding to tweets because of their political views is a violation of the First Amendment.

The circuit-court judges upheld Buchwald's decision, rejecting the administration's argument that Trump's Twitter account is private and therefore not subject to the First Amendment.

"The account was intentionally opened for public discussion when the president, upon assuming office, repeatedly used the account as an official vehicle for governance and made its interactive features accessible to the public without limitation," penned Parker. "We hold that this conduct created a public forum."

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In addition, the court observed "that senior White House officials have described the @realDonaldTrump handle as an official account, answered congressional records requests with references to the account, and used the account as a medium through which to communicate major policy decisions like the ban on transgender military personnel," according to the [Daily Caller](#). "The National Archives has determined that tweets from the handle are subject to the Presidential Records Act, Parker notes."

The administration also claimed that even if Trump's account is considered public, his tweets constitute government speech, which is not required to be viewpoint-neutral. The judges took issue with this contention as well, pointing out that while Trump's tweets are indeed government speech, the responses to those tweets "are not government speech under any formulation."

"In resolving this appeal," Parker wrote in conclusion, "we remind the litigants and the public that if the First Amendment means anything, it means that the best response to disfavored speech on matters of



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public concern is more speech, not less.”

The lawsuit was brought by Columbia University’s Knight First Amendment Institute on behalf of several individuals who had been blocked from the @realDonaldTrump account after criticizing the president. Knight Institute executive director Jameel Jaffer [praised](#) the circuit court’s finding, saying, “This decision will ensure that people aren’t excluded from [public officials’ social media accounts] simply because of their viewpoints, and that public officials aren’t insulated from their constituents’ criticism. The decision will help ensure the integrity and vitality of digital spaces that are increasingly important to our democracy.”

The administration, of course, expressed disappointment with the decision. Justice Department spokesperson Kelly Laco said they are “exploring possible next steps,” which could include requesting a review of the ruling by the full circuit court or appealing to the Supreme Court.

Meanwhile, two Empire State political figures have taken advantage of the Second Circuit’s decision to file lawsuits against Representative Alexandria Ocasio-Cortez (D-N.Y.) for blocking them from her Twitter account.

Joseph Saladino, a Republican who is seeking his party’s nomination to challenge incumbent Democratic Congressman Max Rose, [tweeted](#) Tuesday that he has “officially filed [his] lawsuit against AOC for blocking [him] on twitter. Trump is not allowed to block people, will the standards apply equally? Stay tuned to find out!”

Dov Hikind, a Democrat who recently retired after 35 years in the New York State Assembly, is also taking Ocasio-Cortez to court.

“Alexandria Ocasio-Cortez has blocked me on Twitter yesterday apparently because my critique of her tweets and policies have been too stinging,” Hikind said in a statement obtained by [Fox News](#). He accused the congresswoman of being a “hypocrite” for “brag[ging] about the millions of followers she has” while blocking those who criticize her.

“I’m looking forward to the day where she has to unblock me,” Hikind added, “so that free speech in America is guaranteed even when it offends!”

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