



Written by [David Kelly](#) on July 11, 2023

Judge Denies Biden Admin in Social-media Censorship Case

On Monday a federal judge [denied](#) the Department of Justice's (DOJ) request to stay last week's [injunction](#) that restricts the Biden administration from certain communications with social-media firms that clearly violates the First Amendment.

U.S. District Court Judge Terry Doughty issued a 155-page [preliminary injunction](#) last week on a May 2022 lawsuit that alleged the Biden administration "colluded with and/or coerced social media companies to suppress disfavored speakers, viewpoints, and content on social media platforms by labeling the content 'disinformation,' 'misinformation,' and 'malinformation.'" Those government actions were found to suppress free speech, according to the [lawsuit](#), with the government assuming a "role similar to an Orwellian 'Ministry of Truth.'"



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The preliminary injunction blocks several government agencies, such as the Justice Department and FBI, along with their secretaries, directors, administrators, and employees, including Homeland Security Secretary Alejandro Mayorkas, Health and Human Services Secretary Xavier Becerra, Surgeon General Vivek Murthy, and White House Press Secretary Karine Jean-Pierre, from engaging in a range of communications with social-media companies.

Missouri Attorney General Andrew Bailey and Louisiana Attorney General Jeffrey Landry submitted a [Memorandum in Opposition](#) to the DOJ's stay on Sunday. The memo shared that the DOJ was seeking to stay the preliminary injunction, "claiming that the injunction 'may' cause 'grave harm' by 'prevent[ing]' the Government from engaging in a vast range of lawful and responsible conduct." The attorneys general argued that "after months of searching on this very issue," the DOJ didn't provide "a single specific example of supposedly 'grave harm' that the injunction might cause, or a single specific example of 'lawful and responsible' government conduct that the injunction prevents."

Noting the DOJ's claim that the government "will suffer irreparable harm absent a stay of the preliminary injunction," stating the ruling was "sweeping in scope and vague in its terms," the memo claimed that argument "is meritless."

"The scope of the injunction matches the scope of the ongoing First Amendment violations found by the Court, and Defendants cite no evidence to the contrary," stated the memo.

Adding that the injunction only prohibited unlawful conduct, the attorneys general reiterated that the ruling only prevents "Defendants from communicating with social-media platforms 'for the purpose of urging, encouraging, pressuring, or inducing in any manner the removal, deletion, suppression, or



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reduction of content containing protected free speech posted on social-media platforms.”

Those actions, the memo claimed, are “conduct that federal officials obviously should not be performing because it plainly violates the First Amendment. The only surprising thing about this ruling is that an injunction was needed to stop them from doing it in the first place. Defendants will suffer no cognizable harm from complying with an order that prohibits only plainly unconstitutional conduct.”

Holding firm to the injunction, Judge Doughty agreed with the memo by denying the stay, [citing](#) on Monday that the “plaintiffs are likely to prove” that the federal government “coerced, significantly encouraged, and/or jointly participated social-media companies to suppress social-media posts by American citizens that expressed opinions that were anti-COVID-19 vaccines, anti-COVID-19 lockdowns, posts that delegitimized or questioned the results of the 2020 election, and other content not subject to any exception to the First Amendment. These items are protected free speech and were seemingly censored because of the viewpoints they expressed. Viewpoint discrimination is subject to strict scrutiny.”

CBS [reported](#):

Following the denial by Doughty, the Justice Department asked the U.S. Court of Appeals for the 5th Circuit to pause the lower court’s order pending appeal and is requesting relief by July 24.

“The district court issued a universal injunction with sweeping language that could be read to prohibit (among other things) virtually any government communication directed at social-media platforms regarding content moderation,” Justice Department lawyers wrote. “The court’s belief that the injunction forbids only unconstitutional conduct, while protecting the government’s lawful prerogatives, rested on a fundamentally erroneous conception of the First Amendment, and the court’s effort to tailor the injunction through a series of carveouts cured neither the injunction’s overbreadth nor its vagueness.”

As *The New American* [reported](#) last week, the fight to end unconstitutional government censorship is far from over, as this lawsuit, injunction, and most likely continued appeals will prove. The bottom line here is that no government entity has the legal right to suppress free speech.



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