

Judge Rejects Biden Administration Bid to Overturn Injunction in Social Media Censorship Case

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A federal judge on Monday [denied a request by the U.S. Department of Justice \(DOJ\)](#) to pause an injunction barring the Biden administration from a wide range of communications with social media platforms.

Judge Terry Doughty of the U.S. District Court for the Western District of Louisiana Monroe Division rejected the Biden administration's argument that the injunction could hamper the government's law enforcement efforts online.

He also said the DOJ failed to provide specific examples of how the injunction "would provide grave harm to the American people or our democratic processes."

In a [13-page ruling](#), Doughty cited several examples of government censorship of online speech, including a Jan. 23, 2021, White House demand for the removal of a tweet by Robert F. Kennedy Jr., chairman on leave of [Children's Health Defense](#).

[#HankAaron](#)'s tragic death is part of a wave of suspicious deaths among elderly closely following administration of [#COVID](#) [#vaccines](#). He received the [#Moderna](#) vaccine on Jan. 5 to inspire other Black Americans to get the vaccine. [#TheDefenderhttps://t.co/vbuHt22bjz](#)

— Robert F. Kennedy Jr (@RobertKennedyJr) [January 22, 2021](#)

Doughty wrote that the plaintiffs:

"are likely to prove that all of the enjoined defendants coerced, significantly encouraged, and/or jointly participated [with] 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.”

Responding to Monday’s ruling, [Jim Hoft](#), founder and editor of The Gateway Pundit and a plaintiff in the lawsuit, wrote, “Judge Doughty is a rock [who] stands firm on the First Amendment.”

□BREAKING: The federal district court that issued the injunction in Missouri v. Biden just denied the federal government's motions for stay, keeping the injunction in place.

This is another big win, but the fight to end the government's vast censorship enterprise continues on. pic.twitter.com/oEhoRHavLh

— Eric Schmitt (@Eric_Schmitt) [July 10, 2023](#)

‘Airtight Evidence’ Feds Worked with Big Tech to Censor Speech

[Doughty issued the injunction](#) on July 4 as part of an [ongoing lawsuit](#) filed in May 2022 by the attorneys general of Missouri and Louisiana along with several medical experts and journalists, who alleged key Biden administration agencies and officials colluded with social media platforms to censor their views, which ran counter to the government’s official [COVID-19](#) narrative.

In that ruling, Doughty said there is “substantial evidence” the government violated the First Amendment by engaging in a large-scale censorship campaign.

As part of the July 4 injunction, several federal agencies and top administration officials were temporarily prohibited from working with the companies in ways that are aimed at “urging, encouraging, pressuring, or inducing in any manner for removal, deletion, suppression, or reduction of content containing protected free speech.”

These agencies and officials include the DOJ, FBI, U.S. Department of Homeland Security Secretary Alejandro Mayorkas, U.S. Department of Health and Human Services Secretary Xavier Becerra, U.S. Surgeon General Vivek Murthy, and White House Press Secretary Karine Jean-Pierre.

The July 4 ruling included a carve-out for posts involving criminal activity and threats to national security.

In Monday’s decision, Doughty clarified the definition of “protected free speech,” as applicable to his July 4 order, as “speech which is protected by the [Free Speech Clause](#) of the First Amendment of the United States Constitution in accordance with the jurisprudence of the United States Supreme Court.”

He also rejected government claims that the injunction was overbroad:

“Although this Preliminary Injunction involves numerous agencies, it is not as broad as it appears, it only prohibits something the Defendants have no legal right to do — contacting social media companies for the purpose of urging, encouraging, pressuring, or inducing in any manner, the removal, deletion, suppression, or reduction of content containing protected free speech posted on social-media platforms.”

The [DOJ filed](#) a [notice of appeal](#) on July 5, and an instant motion to stay the following day, asking the court to stay the July 4 injunction pending appeal or issue an administrative stay for seven days.

The Biden administration claimed it faced “irreparable harm” with each day the injunction remained in effect.

In response, Missouri and Louisiana, the two states leading the lawsuit, filed a [memorandum in opposition](#) to the government’s motion on Sunday, writing:

“Evidence in this case overwhelmingly shows that the way the Government supposedly ‘prevent[s] grave harm to the American people and our democratic processes’ is to pressure and induce social-media platforms to censor disfavored viewpoints on COVID-19, elections, and other core political speech. ...

“In the end, their position is fundamentally defiant toward the Court’s judgment. It demonstrates that the Government will continue violating First Amendment rights by censoring core political speech on social media as soon as it can get away with it. The motion to stay should be denied.”

In Monday’s ruling, Doughty sided with the plaintiffs. [CBS News reported](#) that following the decision, the DOJ asked the U.S. Court of Appeals for the 5th Circuit to pause this order pending appeal and requested relief by July 24, claiming:

“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 ...

“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.”

In a statement following the ruling, John Burns, an attorney representing [The Gateway Pundit](#) in the lawsuit, said:

“Judge Doughty’s brief explaining his reasoning for denying the government’s baseless motion to stay appears to also directly respond to the media’s attacks on his order preventing the government from censoring speech.

“For example, a common trope from dishonest left-wing media pundits and even law professor analysts, is that there was no evidence that the government censored speech.

“Judge Doughty’s order denying the government’s request to halt the injunction goes through several examples of airtight evidence showing the feds’ deliberate efforts to

work with [Big Tech](#) to censor speech.”

Government Sought to ‘Get Around’ First Amendment Protections

One of the examples [cited by Doughty](#) was a Jan. 23, 2021, email to Twitter from Clarke Humphrey, the digital director for the White House COVID-19 response team, requesting the removal of a tweet by Kennedy questioning COVID-19 vaccines. “Twitter files” released in January revealed this [effort by the White House to censor Kennedy](#).

Doughty also cited an April 14, 2021, demand from Rob Flaherty, the deputy assistant to the president and the White House’s director of digital strategy, for the removal of a video of Fox News hosts Tucker Carlson and Tomi Lahren questioning COVID-19 vaccines.

Flaherty “demanded immediate answers from Facebook” regarding the video. A few days later, Facebook reduced the Fox hosts’ visibility by 50%.

Doughty also cited several meetings Murthy had with social media companies, during which he described purported health misinformation, including posts questioning COVID-19 vaccines, as “poison,” and called on social media companies to do more to limit the reach of such content.

And he cited an Oct. 8, 2020, email from [Dr. Francis Collins](#), then-director of the National Institutes of Health, to [Dr. Anthony Fauci](#), saying the [Great Barrington Declaration](#) — an open letter expressing “grave concerns about the damaging physical and mental health impacts of the prevailing COVID-19 policies” — needed a “quick and devastating take-down.”

Fauci responded with information “debunking” the declaration, shortly before it was censored by social media platforms. The “[Twitter files](#)” previously revealed that signatories of the declaration, including Dr. Jay Bhattacharya — a plaintiff in the Missouri v. Biden lawsuit — also were censored by social media platforms.

Doughty also cited examples of federal agencies, such as the FBI and the Cybersecurity Infrastructure Security Agency, working closely and meeting with non-government actors such as the Election Integrity Partnership and the Virality Project — the [subject of recent “Twitter files” releases](#) — targeting social media posts questioning the prevailing 2020 election narratives and COVID-19 vaccines.

According to Doughty:

“The Election Integrity Partnership was designed ‘to get around unclear legal authorities, including very real First Amendment questions’ that would arise if government agencies were to monitor and flag information for censorship on social media.”

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