

Court Win: Biden Used Lies to Illegally Deplatform Mercola

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✓ Fact Checked

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STORY AT-A-GLANCE

- › In May 2022, the attorneys general of Missouri and Louisiana, Eric Schmitt and Jeff Landry, along with the New Civil Liberties Alliance and a few individual plaintiffs, filed a lawsuit against Biden, arguing the White House is engaged in illegal suppression of protected speech
- › Discovery documents show at least 67 federal employees across more than a dozen agencies have been engaged in illegal censorship activities
- › In early July 2023, Judge Terry Doughty granted the plaintiffs' injunction, prohibiting federal agencies and Biden administration officials from working with social media companies to limit protected speech
- › September 8, 2023, the Fifth Circuit Court of Appeals upheld part of the lower court's injunction, banning the White House, surgeon general, CDC and FBI from influencing social media companies to remove "disinformation." This is a major win, but amendments to the injunction may leave loopholes
- › Most disturbingly, the Cybersecurity and Infrastructure Security Agency (CISA) is excluded from the appellate court's injunction. CISA appears to have played a major role in the government's censorship of Americans, so by excluding CISA, government censorship may continue via third party partners

Between the documentation obtained through a recent lawsuit against the White House and the [Twitter files](#)¹ released by Elon Musk, we now know that every facet of the U.S.

government, including its intelligence agencies, has been involved in illegal and unconstitutional censorship.

In May 2022, the attorneys general of Missouri and Louisiana, Eric Schmitt and Jeff Landry, along with the New Civil Liberties Alliance and a few individual plaintiffs, filed a lawsuit against President Joe Biden (Missouri v. Biden²), arguing the White House is engaged in illegal suppression of protected speech.

Two months earlier, Robert F. Kennedy Jr. had also filed a class action lawsuit (Kennedy v. Biden et.al.³), but due to their similarities and overlap, Kennedy's case has since been consolidated into Missouri v. Biden.⁴

Initially, the White House did not cooperate with discovery and fought to keep communications secret, claiming all White House communications as "privileged," but September 7, 2022, Judge Terry Doughty rejected the government's claim and ordered the White House to hand over any and all relevant records.⁵

Government Has Been Weaponized Against the People

Discovery documents from a [lawsuit against the White House](#)⁶ show at least 67^{7,8} federal employees across more than a dozen agencies have been engaged in illegal censorship activities, including officials from:

The Cybersecurity and Infrastructure Security Agency's (CISA) Election Security and Resilience team

Department of Homeland Security's (DHS) Office of Intelligence and Analysis

The FBI's foreign influence taskforce

The Justice Department's (DOJ) national security division

The Office of the Director of National Intelligence

White House staff

Health and Human Services (HHS)

Centers for Disease Control and
Prevention (CDC)

National Institutes of Allergy and
Infectious Diseases (NIAID)

The Office of the Surgeon General

The Census Bureau

The Food and Drug Administration (FDA)

The State Department

The U.S. Treasury Department

The U.S. Election Assistance
Commission

The evidence show that government agencies and Big Tech companies held monthly Unified Strategies Group (USG) meetings at which topics to be censored and suppressed were discussed.

Censored topics included stories involving COVID job refusal, especially those involving military refusals and consequences thereof, criticism against COVID restrictions and their effects on mental health, posts talking about testing positive for COVID after getting the job, personal stories of COVID job side effects, including menstrual irregularities, and worries about vaccine passports becoming mandatory.⁹ On the private industry side, notable tech participants in the censorship meetings have included:

Google

Facebook

Twitter

YouTube

Reddit

Microsoft

Verizon Media

Pinterest

LinkedIn

Wikimedia Foundation

A Win for Our Constitutional Rights

But there's good news for a change. In early July 2023, Judge Doughty granted the plaintiffs' injunction, prohibiting federal agencies and Biden administration officials from working with social media companies to limit protected speech.

The defendants appealed, but September 8, 2023, the Fifth Circuit Court of Appeals upheld the lower court's injunction banning the White House, surgeon general, CDC and FBI from influencing social media companies to remove so-called "disinformation."¹⁰

According to the judge's decision,¹¹ the White House and the surgeon general "coerced the platforms to make their moderation decisions by way of intimidating messages and threats of adverse consequences" and "significantly encouraged the platforms' decisions by commandeering their decision-making processes."

The appellate court also found that the FBI had illegally coerced social media companies to remove content. "Given the record before us, we cannot say that the FBI's messages were plainly threatening in tone or manner," the judges wrote. But "we do find the FBI's requests came with the backing of clear authority over the platforms."

As for the CDC, the judges opined that "CDC officials provided direct guidance to the platforms on the application of the platforms' internal policies and moderation activities" by telling them what was, and was not, misinformation, asking for changes to platforms' moderation policies and directing platforms to take specific actions.

"Ultimately, the CDC's guidance informed, if not directly affected, the platforms' moderation decisions," the judges said, so, "although not plainly coercive, the CDC officials likely significantly encouraged the platforms' moderation decisions, meaning they violated the First Amendment."

Appellate Court Left Door Open for Government Censorship

Unfortunately, the appellate court also reversed, vacated and modified other parts of the original injunction,¹² which leaves the door open for certain federal agencies to continue their censorship activities.

Importantly, the court excluded all federal officials and agencies from the original injunction with the exception of the White House, surgeon general's office, the CDC and FBI.

Most disturbingly, officials from the Cybersecurity and Infrastructure Security Agency (CISA) are excluded from the injunction,¹³ and as discussed in previous articles, CISA appears to have played a major, if not central, role in the government's censorship of Americans.

“ CISA appears to have played a major role in the government's censorship of Americans, so by excluding CISA, government censorship may continue via third party partners.”

CISA is partnered with the Election Integrity Partnership (EIP), later renamed the Virality Project,¹⁴ and in an Atlantic Council interview, EIP head Alex Stamos openly admitted that the partnership was set up to outsource censorship that the government could not do due to "lack of legal authorization."¹⁵

They've been coordinating the take-down of undesirable content using a real-time chat app that the DHS, EIP and social media companies all share.

The reason for the court's decision to vacate the injunction against CISA is that "although CISA flagged content for social media platforms as part of its switchboarding operations ... it's conduct falls on the 'attempts to convince,' not 'attempts to coerce,' side of the line ... There is not sufficient evidence that CISA made threats of adverse consequences ... to the platforms for refusing to act on the content it flagged."

However, CDC officials were also found to have used noncoercive methods, and made no threats of adverse consequences, yet they are still part of the injunction and were expressly found to have violated the First Amendment.

The CDC was deemed to have "encouraged" platforms' decision-making processes. So, what's the difference between "encouraging" and "attempting to convince" platforms to censor? Isn't "attempting to convince" closer to coercion than merely encouraging censorship?

Unfortunately, by excluding CISA, government censorship could potentially continue via third parties like the EIP/Virality project and other nongovernmental organizations (NGOs), provided they don't use threats of punishment or get directly involved in platform moderation of content.

Injunction Is Still a Major Win

All of that said, the injunction against the White House, surgeon general, CDC and FBI is still a considerable win. As noted by attorney Jeff Childers (who is not part of the case):¹⁶

"It's not an exaggeration to say this case is probably the most important civil rights case in our lifetimes. This ruling is terrific news. To give you some inside baseball about how good it was, I'll explain some injunction law.

There are four main elements that a party must prove to get an injunction. Three of them are tough. One of the tough ones is that the party must show a 'substantial likelihood of prevailing on the merits.' In simpler words, that means the party seeking the injunction has to convince the court it will probably win the whole case.

So when a court grants an injunction, it must also find that, at this point, it looks like the party is probably going to win. It's like an early trial, a preview of the court's final decision, a trial-before-the-trial. The party that wins the injunction then has a huge, permanent advantage in the case.

So the fact that in Missouri v. Biden, the trial court and now the appellate court have both agreed on the injunction, things are looking very bad for the government and its censorship machine."

White House Relied on Foreign Disinfo to Censor Americans

In related news, House Judiciary chairman Jim Jordan is exposing how the federal government relied on foreign disinformation to censor Americans. As reported by Townhall¹⁷ September 5, 2023, Jordan's "Facebook Files" reveal the White House and federal officials relied on false and fabricated information from [the Center for Countering Digital Hate \(CCDH\)](#).

Jordan launched an investigation into the CCDH's potential role in the Biden administration's censorship regime August 3, 2023. The group was ordered to hand over records to the Judiciary Committee detailing its interactions with the U.S. government and the executive branch by August 17.¹⁸

CCDH refused to comply, so now the group has been subpoenaed, and must respond by September 29.¹⁹ Jordan is already starting to connect the dots, though. In a series of September 5 tweets, Jordan wrote:²⁰

"The UK-based Center for Countering Digital Hate (CCDH) claimed that Robert Kennedy Jr. & 11 others were responsible for 65% of anti-vaccine content circulating on social media. But CCDH's absurd claim about the so-called 'Disinformation Dozen' was itself disinformation.

First, that 65% stat? CCDH was off by quite a bit. Facebook knew the actual number was closer to 0.05%. Second, despite attacking Robert Kennedy Jr. and the others as the co-called 'Disinformation Dozen,' a lot of their accounts were 'completely benign' according to Facebook.

As Facebook admitted internally, a lot of these accounts were just Americans expressing 'vaccine hesitancy,' which is often 'not misinfo,' even under Facebook's policies.

But that didn't stop the Biden White House from repeating the fake stat every chance they got. Jen Psaki repeated the CCDH's disinformation almost verbatim ... The CCDH published its report on March 24, 2021.

By April 2021, Facebook employees were preparing a draft memo to Mark Zuckerberg about 'pressure from ... the White House' to remove the Disinfo Dozen even though they did 'not believe we currently have a clear path for removal'...

Facebook was stunned that the Biden White House seemed to actually believe the CCDH's obviously false stat and was relying on these foreign activists' 'data' to 'guide major governmental policy decisions.'

To be clear, the Biden White House didn't just want Facebook to censor the Disinformation Dozen's Facebook posts. They wanted EVERYTHING censored – across all social media platforms. Remember when Jen Psaki said this: 'If you're banned on one social media platform, you should be banned on the other social media platforms.'

Facebook understood what that meant. If Twitter or YouTube censored you, the Biden White House wanted Facebook to censor you too ... The Biden White House's censorship demands didn't stop there. They also wanted Facebook to remove all URL links to off-platform websites, which would 'remove significant amounts of benign content posted by regular users, such as ... person experiences or government criticism' ...

And that's how the censorship regime works: Foreign activists at the CCDH feed false info to the Biden White House. The Biden admin then uses the full weight of the federal govt to coerce Facebook to censor Americans, Biden's critics and political opponents, and the truth."

Support Legislation to Penalize Government Censorship

The Protecting Speech from Government Interference Act²¹ (HR. 8752), introduced by three Republican House Representatives on the House Oversight and Reform, Judiciary, and Commerce committees, including Jordan, is specifically aimed at preventing federal

employees from using their positions to influence censorship decisions by tech platforms.

The bill would create restrictions to prevent federal employees from asking or encouraging private entities to censor private speech or otherwise discourage free speech, and impose penalties, including civil fines and disciplinary actions for government employees who facilitate social media censorship.

While the U.S. Constitution clearly forbids government censoring and restricting free speech, HR. 8752 could be a helpful enforcement tool – and we clearly need enforcement, so call your representatives and urge them to support this bill. People might tend to think twice, though, when they know there's a personal price to pay.

Sources and References

- ¹ [MSN January 3, 2023](#)
- ^{2, 6} [State of Missouri and State of Louisiana Against President Joseph Biden, Civil Action No. 22-cv-1213](#)
- ³ [Kennedy v. Biden et al March 24, 2023](#)
- ⁴ [CHD July 25, 2023](#)
- ⁵ [Washington Times September 7, 2022](#)
- ⁷ [WAFB.com October 10, 2022](#)
- ⁸ [State of Missouri and State of Louisiana Against President Joseph Biden, Civil Action No. 22-cv-1213-TAD-KDM](#)
- ⁹ [Post Millennial September 1, 2022](#)
- ¹⁰ [Yahoo! News September 8, 2023](#)
- ^{11, 12} [US Court of Appeals for Fifth Circuit Case 23-30445 September 8, 2023](#)
- ¹³ [US Court of Appeals for Fifth Circuit Case 23-30445 September 8, 2023, page 72](#)
- ^{14, 15} [Foundation for Freedom Online November 9, 2022](#)
- ¹⁶ [Coffee & Covid 2023 September 9, 2023](#)
- ^{17, 20} [Townhall September 5, 2023](#)
- ¹⁸ [Greenmedinfo.com August 3, 2023](#)
- ¹⁹ [Townhall August 30, 2023](#)
- ²¹ [HR 8752 – Protecting Speech from Government Interference Act](#)