

Exhibit 497

Yesterday in Court We Landed a Major Blow
Against the Censorship Leviathan

July 4, 2023

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BOOM: Yesterday In Court We Landed a Major Blow Against the Censorship Leviathan

On Independence Day (fittingly), the court granted our petition in Missouri v. Biden for a temporary injunction against the government censors.



AARON KHERIATY, MD
JUL 5, 2023

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Senator Eric Schmitt (former Attorney General of Missouri, who filed the case) and You-Know-Who (one of the private plaintiffs in the case)

To avoid overloading your inboxes, my friends, I usually do not post twice in the same day; but yesterday's news was too good not to share with you immediately. Courts rarely release rulings on federal holidays, but no doubt to drive home the point about how important this case is for our constitutionally guaranteed liberties, Judge Terry Doughty released on Independence Day his 155-page [ruling](#) on our request for a preliminary injunction against the government's censorship regime.

The entire document is worth reading for those who want to dig into the details, but in short, he granted nearly all the provisions in our request, placing strict limits around any communication between government officials and social media companies. If such communications continue, they will be subject to subpoena in our case and could implicate the actors in criminal liabilities for violating the injunction.

One naturally wants to believe that an issue one is involved in is of world-historical importance. But as the judge himself wrote in the decision, "If the allegations made by Plaintiffs are true, **the present case arguably involves the most massive attack against free speech in United States' history.**" That, my friends, is a strong claim, but as I have [previously argued](#), an entirely accurate one.

As former attorney general of Missouri, now senator Eric Schmitt, [told](#) journalist Michael Shellenberger, "It's shocking. The level of coordination between senior government officials and senior social media executives is astounding. There were direct text messages from the surgeon general of the United States to senior Facebook officials saying, 'Take this down.' It's just un-American."

According to Shellenberger, Schmitt called on the Department of Homeland Security's Director of the Cybersecurity and Infrastructure Security Agency (CISA), Jennifer Easterly, to resign. He also believes that the US Congress should mandate transparency by Big Tech companies. "Jennifer Easterly ought to resign," he said, "no doubt about that. And I think that the people getting swept up in this now, who were engaged in it, they ought to be exposed, and there ought to be consequences."

Due to time pressure today with media interviews about this news, I will here quote at length Shellenberger's [report](#) from today quoting me — lazy and kind of weird, I know:

Before Judge Doughty issued his ruling, we also spoke to Dr. Aaron Kheriaty, a plaintiff in the case. Kheriaty is the former director of medical ethics at the University of California Irvine but was fired after he challenged the university's vaccine mandate in court. "You learn who your real friends are when you go through something like that," he said. "The whole experience was a bit surreal."

After taking a national stand against vaccine mandates, Kheriaty wrote a book, [*The New Abnormal: The Rise of the Biomedical Security State*](#). Through his research for the book, the government's vast censorship operation became clear to him. "Part of what made all the bad policies possible was the strict and rigid control of the flow of information," Kheriaty said.

The information he and his co-plaintiffs discovered through their lawsuit shocked even them, he told us.

"We didn't know what we would find when we turned over that rock," said Kheriaty. "And it turns out that censorship was happening not just at the behest of public health agencies, like the CDC and the NIH, but the intelligence agencies were involved—the Department of Justice, FBI, the State Department, Department of Homeland Security. So the whole military intelligence industrial complex is tangled up in the censorship industrial complex."

In his recent article in Tablet, Kheriaty called the government's program the "[Censorship Leviathan](#)." Describing this leviathan as part of a totalitarian system, Kheriaty pointed to the work of German-American political philosopher Eric Voegelin. "[Voegelin] said the common feature of all totalitarian systems... is the prohibition of questions," Kheriaty explained.

We asked Kheriaty about his reaction to the injunction, which is an important step on the road to the Supreme Court. "I know in my bones we are going to win this one: the evidence in our favor is simply overwhelming," he told us. "Yesterday's ruling marks the beginning of the end of the censorship leviathan."

Said Kheriaty, "The United States Constitution is something of a miracle. But unless we defend it, it's just a piece of paper."

I also spoke this morning to journalist Matt Taibbi, and will quote generously from his excellent [reporting](#) today on the injunction (Side note: [Shellenberger's](#) and [Taibbi's](#) Substacks are worth subscribing to if you want additional coverage of the censorship issue—both were among the initial journalists to break the Twitter Files stories and are closely following our case):

With this ruling in the *Missouri v. Biden* censorship case, Doughty went out of his way on the Fourth of July, to issue a [stern rebuke](#) at a conga line of government officials, many of them characters in the Twitter Files. *Racket* readers will recognize names like Elvis Chan and Laura Dehmlow (of the FBI), Jen Easterly and Brian Scully (of the Department of Homeland Security), Laura Rosenberger (Special Assistant to the President, and one of the creators of Hamilton 68) and Daniel Kimmage (of the Global Engagement Center), who were all just ordered to get the hell off the First Amendment's lawn. Paraphrasing, Doughty enjoined them from:

meeting with social-media companies for the purpose of pressuring or inducing in any manner the removal or suppression of protected free speech;

- flagging posts on social-media platforms and/or forwarding to social-media companies urging the same;
- collaborating with the Election Integrity Partnership, the Virality Project, the Stanford Internet Observatory, or any “like project” or group for the same purpose;
- threatening or coercing social-media companies to remove protected free speech.

The legacy media, which has been studiously ignoring this case, could not ignore yesterday's ruling, so there were reports in the *New York Times*, the *Washington Post*, the *Wall Street Journal*, *Reuters*, and so forth. The *Times* and the *Post* disappointingly tried to frame the case as a partisan issue. But of course, it's not a left/right or liberal/conservative issue at all: it's a legal/illegal issue. The only question is whether government officials did or did not violate the highest law of the land—namely, the United States Constitution. Yesterday, the court indicated that the answer to this

question is likely yes, the government's actions were probably unconstitutional and the plaintiff's are likely to succeed on the merits.

The *New York Times* [reporters](#) even wrung their hands worrying that the ruling could “curtail efforts to fight disinformation”—begging the question about who decides what constitutes disinformation. The First Amendment clearly indicates this cannot be the job of the government. More tellingly, the *Times* and the *Post* in their framing of the case simply said the quiet part out loud, indicating that these newspapers believe government censorship is good as long as it's controlling the flow of information in directions that they approve.

Taibbi goes on to comment:

Yesterday's ruling, which naturally will be dismissed as Republican clickbait, shows at least one federal judge agreed with the argument that a complex system to mass-funnel content recommendations from enforcement agencies and politicians to tech platforms represents what the Attorneys General called a “sprawling federal ‘Censorship Enterprise.’” As one of the plaintiffs, Dr. Aaron Kheriaty [wrote](#), the evidence in the suit revealed a far broader range of topics monitored by government than most people know of even now, from gender ideology to abortion to monetary policy to the war in Ukraine and beyond.

“Take any contentious issue in American public life,” said Kheriaty today, “and it seems like the federal government, once they got this machinery rolling, just thought, ‘Okay, we can combat ‘misinformation’ on all kinds of things.’”

The *Missouri v. Biden* investigators found the same fact patterns found by Twitter Files reporters like me, Michael Shellenberger, Bari Weiss, Lee Fang, David Zweig, and Paul Thacker, and then later [Andrew Lowenthal](#), [Aaron Mate](#), [Sue Schmidt](#), [Matt Orfalea](#), [Tom Wyatt](#), [Matt Farwell](#), [@Techno_Fog](#), and [many others did](#). They also echoed descriptions by like [Jacob Siegel](#) at *Tablet*, or Robby Soave at *Reason*, who [wrote about similar issues at Facebook](#).

Those of us who worked on the Twitter Files story initially experienced the same problem investigators and plaintiffs in the *Missouri v. Biden* case apparently did,

being unsure of what to make of the sheer quantity of agencies and companies involved in what looked like organized censorship schemes. I know I wasn't alone among Twitter Files reporters in being nervous to report that content moderation "requests" were coming from "[agencies across the federal government — from the State Department to the Pentagon to the CIA.](#)" It's what we were seeing, but seemed too nuts to be true. But as time went on, even more topics, government offices, and state-partnered organizations started popping up, leaving little question of what we were looking at.

Eventually, we found the same plot outlined in *Missouri v. Biden*: pressure from government in the form of threatened regulation, followed by a stream of recommendations about content from multiple agencies (the investigators in this lawsuit even found meddling by the Census Bureau). This was capped by the construction of quasi-private bureaucracies that in some cases appeared to have been conceived as a way for the government to partner on content moderation without being in direct violation of the First Amendment.

Most of us covering the Twitter Files tried to avoid delving into the constitutionality/legality question, but couldn't help wondering in some cases, for instance with Stanford's Election Integrity Partnership and Virality Project, which created cross-platform content ticketing systems about the 2020 race and Covid-19. We all thought we were looking at a potentially major problem there, since the principals from places like Stanford weren't shy about saying they wanted to "[fill the gap of the things that the government cannot do themselves](#)" because partners like DHS/CISA lacked "[the funding and the legal authorizations](#)" to do the work.

What might happen if judges or juries were presented with that whole picture, including details about the open, ongoing partnerships of these groups with government agencies like CISA and the Surgeon General? We have some idea now.

The dismissal of these complaints as partisan "tin foil hat" conspiracy by politicians like the ones who [interrogated Michael Shellenberger and me in Congress](#), and by papers like the *New York Times* and *Washington Post*, has all along felt like the the same kind of error that led to the mis-call of the 2016 election and the massive loss of audience for traditional media stations in the years that ensued.

These mainstream news observers are trapped in a bubble of their own making and can't or won't see that the average American looks at letters from the White House to shut down social media accounts, or piles of "suggestions" on content from the FBI, and feels instinctively that he or she really doesn't like that, whatever it is. One can hope at least a few censorship advocates will read the ruling and grasp that in a democracy, you can't have a situation where only half (or less) of the population thinks something as basic as the speech landscape is fairly arranged. That just won't hold, making rulings like this foreseeable, if not inevitable. No matter what, this can't be anything but good news for the First Amendment.

"Hopefully," said Kheriaty, "yesterday was the beginning of the end of the censorship Leviathan."

I'll be posting more commentary on the [ruling](#) and next steps in the case in the days ahead. Yesterday was the first victory in the long and slow road to the Supreme Court, where observers believe this case will ultimately be decided. For now, I'll leave you with a few sobering lines from the closing pages of yesterday's decision (p. 154):

Although this case is still relatively young, and at this stage the Court is only examining it in terms of Plaintiffs' likelihood of success on the merits, **the evidence produced thus far depicts an almost dystopian scenario. During the COVID-19 pandemic, a period perhaps best characterized by widespread doubt and uncertainty, the United States Government seems to have assumed a role similar to an Orwellian "Ministry of Truth."**

The Plaintiffs have presented substantial evidence in support of their claims that they were the victims of a far-reaching and widespread censorship campaign. This court finds that they are likely to succeed on the merits of their First Amendment free speech claim against the Defendants.

I trust that, in the end, we will succeed.

I want to thank all of my readers who have followed this case and encouraged my legal efforts. If you would like to support these efforts, consider becoming a paid subscriber or giving a gift

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

STATE OF MISSOURI, ET AL.

CASE NO. 3:22-CV-01213

VERSUS

JUDGE TERRY A. DOUGHTY

JOSEPH R BIDEN JR., ET AL.

MAG. JUDGE KAYLA D. MCCLUSKY

JUDGMENT

For the reasons set forth in the Memorandum Ruling on the Request for Preliminary Injunction,

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiffs’ Motion for Preliminary Injunction [Doc. No. 10] is **GRANTED in part and DENIED in part**.

IT IS FURTHER ORDERED that: the **DEPARTMENT OF HEALTH AND HUMAN SERVICES** (“HHS”) and **THE NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES** (“NIAID”), and specifically the following employees of the HHS and NIAID: **XAVIER BECERRA**,¹ Secretary of HHS; **DR. HUGH AUCHINCLOSS**, Director of NIAID; **YOLANDA BYRD**, HHS Digital Engagement Team; **CHRISTY CHOI**, HHS Office of Communications; **ASHLEY MORSE**, HHS Director of Digital Engagement; **JOSHUA PECK**, HHS Deputy Assistant Secretary, Deputy Digital Director of HHS successor (formerly **JANELL MUHAMMED**); along with their secretaries, directors, administrators and employees; **SURGEON GENERAL VIVEK H. MURTHY**, **KATHARINE DEALY**, Chief Engagement Officer for the Surgeon General, along with her secretaries, directors, administrators, and employees; the **CENTERS FOR DISEASE CONTROL AND PREVENTION** (“CDC”), and specifically the following employees: **CAROL Y. CRAWFORD**, Chief of the Digital Media

¹ All individuals named in this Judgment are being sued in their official capacities.

Branch of the CDC Division of Public Affairs; **JAY DEMPSEY**, Social-media Team Leader, Digital Media Branch, CDC Division of Public Affairs; **KATE GALATAS**, CDC Deputy Communications Director; **UNITED STATES CENSUS BUREAU** (“Census Bureau”), and specifically the following employees: **JENNIFER SHOPKORN**, Census Bureau Senior Advisor for Communications, Division Chief for the Communications Directorate, and Deputy Director of the Census Bureau Office of Faith Based and Neighborhood Partnerships, along with their secretaries, directors, administrators and employees; the **FEDERAL BUREAU OF INVESTIGATION** (“FBI”), and specifically the following employees: **LAURA DEHMLOW**, Section Chief, FBI Foreign Influence Task Force; **ELVIS M. CHAN**, Supervisory Special Agent of Squad CY-1 in the FBI San Francisco Division; **THE UNITED STATES DEPARTMENT OF JUSTICE**, along with their secretary, director, administrators, and employees; the following members of the Executive Office of the President of the United States: White House Press Secretary **KARINE JEAN-PIERRE**, Counsel to the President; **STUART F. DELERY**, White House Partnerships Manager; **AISHA SHAH**, Special Assistant to the President; **SARAH BERAN**, **MINA HSIANG**, Administrator of the United States Digital Service within the Office of Management and Budget; **ALI ZAIDI**, White House National Climate Advisor; White House Senior COVID-19 Advisor successor (formerly **ANDREW SLAVITT**); Deputy Assistant to the President and Director of Digital Strategy successor (formerly **ROB FLAHERTY**); **DORI SALCIDO**, White House COVID-19 Director of Strategic Communications and Engagement; White House Digital Director for the COVID-19 Response Team successor (formerly **CLARKE HUMPHREY**); Deputy Director of Strategic Communications and Engagement of the White House COVID-19 Response Team successor (formerly **BENJAMIN WAKANA**); Deputy Director for Strategic Communications and External Engagement for the White House COVID-

19 Response Team successor (formerly **SUBHAN CHEEMA**); White House COVID-19 Supply Coordinator successor (formerly **TIMOTHY W. MANNING**); Chief Medical Advisor to the President, **DR. HUGH AUCHINCLOSS**, along with their directors, administrators and employees; the **CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY** (“**CISA**”), and specifically the following employees: **JEN EASTERLY**, Director of CISA; **KIM WYMAN**, Senior Cybersecurity Advisor and Senior Election Security Leader; **LAUREN PROTENTIS**; **GEOFFREY HALE**; **ALLISON SNELL**; **BRIAN SCULLY**, Officials of CISA; the **UNITED STATES DEPARTMENT OF HOMELAND SECURITY** (“**DHS**”), and specifically the following employees: **ALEJANDRO MAYORKAS**, Secretary of DHS; **ROBERT SILVERS**, Under-Secretary of the Office of Strategy, Policy and Plans; **SAMANTHA VINOGRAD**, Senior Counselor for National Security in the Official of the Secretary for DHS, along with their secretary, directors, administrators, and employees; the **UNITED STATES DEPARTMENT OF STATE** (“**State Department**”), and specifically the following employees: **LEAH BRAY**, Acting Coordinator of the State Department’s Global Engagement Center (“**GEC**”); **ALEX FRISBIE**, State Department Senior Technical Advisor and member of the Technology Engagement Team at the GEC; **DANIEL KIMMAGE**, Acting Coordinator of the GEC, along with their secretary, directors, administrators, and employees **ARE HEREBY ENJOINED AND RESTRAINED** from taking the following actions as to social-media companies:²

² “Social-media companies” include Facebook/Meta, Twitter, YouTube/Google, WhatsApp, Instagram, WeChat, TikTok, Sina Weibo, QQ, Telegram, Snapchat, Kuaishou, Qzone, Pinterest, Reddit, LinkedIn, Quora, Discord, Twitch, Tumblr, Mastodon, and like companies.

(1) meeting with 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;³

(2) specifically flagging content or posts on social-media platforms and/or forwarding such to social-media companies urging, encouraging, pressuring, or inducing in any manner for removal, deletion, suppression, or reduction of content containing protected free speech;

(3) urging, encouraging, pressuring, or inducing in any manner social-media companies to change their guidelines for removing, deleting, suppressing, or reducing content containing protected free speech;

(4) emailing, calling, sending letters, texting, or engaging in any communication of any kind with social-media companies urging, encouraging, pressuring, or inducing in any manner for removal, deletion, suppression, or reduction of content containing protected free speech;

(5) collaborating, coordinating, partnering, switchboarding, and/or jointly working with the Election Integrity Partnership, the Virality Project, the Stanford Internet Observatory, or any like project or group for the purpose of urging, encouraging, pressuring, or inducing in any manner removal, deletion, suppression, or reduction of content posted with social-media companies containing protected free speech;

(6) threatening, pressuring, or coercing social-media companies in any manner to remove, delete, suppress, or reduce posted content of postings containing protected free speech;

³ “Protected free speech” means speech that is protected by the Free Speech Clause of the First Amendment to the United States Constitution in accordance with jurisprudence of the United States Supreme Court, Courts of Appeal and District Courts.

(7) taking any action such as urging, encouraging, pressuring, or inducing in any manner social-media companies to remove, delete, suppress, or reduce posted content protected by the Free Speech Clause of the First Amendment to the United States Constitution;

(8) following up with social-media companies to determine whether the social-media companies removed, deleted, suppressed, or reduced previous social-media postings containing protected free speech;

(9) requesting content reports from social-media companies detailing actions taken to remove, delete, suppress, or reduce content containing protected free speech; and

(10) notifying social-media companies to Be on The Lookout (“BOLO”) for postings containing protected free speech.

This Preliminary Injunction precludes said named Defendants, their agents, officers, employees, contractors, and all acting in concert with them from the aforementioned conduct. This Preliminary Injunction also precludes said named Defendants, their agents, officers, employees, and contractors from acting in concert with others who are engaged in said conduct.

IT IS FURTHER ORDERED that the following actions are **NOT** prohibited by this Preliminary Injunction:

(1) informing social-media companies of postings involving criminal activity or criminal conspiracies;

(2) contacting and/or notifying social-media companies of national security threats, extortion, or other threats posted on its platform;

(3) contacting and/or notifying social-media companies about criminal efforts to suppress voting, to provide illegal campaign contributions, of cyber-attacks against election infrastructure, or foreign attempts to influence elections;

(4) informing social-media companies of threats that threaten the public safety or security of the United States;

(5) exercising permissible public government speech promoting government policies or views on matters of public concern;

(6) informing social-media companies of postings intending to mislead voters about voting requirements and procedures;

(7) informing or communicating with social-media companies in an effort to detect, prevent, or mitigate malicious cyber activity;

(8) communicating with social-media companies about deleting, removing, suppressing, or reducing posts on social-media platforms that are not protected free speech by the Free Speech Clause in the First Amendment to the United States Constitution.

IT IS FURTHER ORDERED that no security is required to be posted by Plaintiffs under Federal Rule of Civil Procedure 65.

IT IS FURTHER ORDERED that this Preliminary Injunction Order shall remain in effect pending the final resolution of this case or until further orders issue from this Court, the United States Court of Appeals for the Fifth Circuit, or the Supreme Court of the United States.

IT IS FURTHER ORDERED that the Motion for Preliminary Injunction [Doc. No. 10] is **DENIED** as to the following Defendants: U.S. Food and Drug Administration; U. S. Department of Treasury; U.S. Election Assistance Commission; U. S. Department of Commerce and employees Erica Jefferson, Michael Murray, Wally Adeyemo, Steven Frid, Brad Kimberly, and Kristen Muthig; and Disinformation Governance Board (“DGB”) and its Director Nina Jankowicz.

IT IS FURTHER ORDERED that no evidentiary hearing is required at this time.

IT IS FURTHER ORDERED that Plaintiffs' request for certification of this proceeding as a class action pursuant to Fed. R. Civ. P. Article 23 (b)(2) is **DENIED**.

THUS, DONE AND SIGNED IN MONROE, LOUISIANA, this 4th day of July 2023.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE