Congressional Testimony of Robert F. Kennedy, Jr. to the House Subcommittee on the Weaponization of the Federal Government

July 20, 2023

These hearings are taking place in the aftermath of the landmark July 4 ruling by District Court Judge Terry Doughty in the case Missouri v. Biden, who issued a Preliminary Injunction requiring the federal government to stop trying to pressure, induce, or collude in social media companies' censorship of constitutionally protected speech.

This Injunction is based on a mountain of evidence that a veritable army of federal agents colluded with social media companies to censor information, viewpoints, and speakers the government didn't want people to hear.

The Court found that "the 'misinformation' to be suppressed was whatever the government deemed misinformation."

Missouri v. Biden is a landmark case — the first judicial condemnation of the federal government's massive censorship-by-proxy campaign. It is a tremendous victory for free speech. As an appellate court has issued a stay of the injunction at the Biden administration's request; the matter is likely destined for the Supreme Court.

I and the nonprofit I founded, Children's Health Defense (CHD), played a major role in this case. The suit was founded on a legal theory first developed in a case CHD brought against Meta/Facebook, currently pending in the Ninth Circuit. I am co-counsel in this case. We are arguing that because of the pressure on Meta from government agencies, Meta's censorship is state action and therefore unconstitutional. We have placed the Missouri. v. Biden discovery, fact-findings, and order before the Ninth Circuit and are hopeful it will take a stand for the First Amendment.

I and CHD are also bringing a class action suit in the Western Louisiana District Court against various government agencies on behalf of social media users, on the grounds that the First Amendment protects not only speakers, but viewers and listeners, who have a right to receive information in an uncensored public square.

Finally, we are also bringing an antitrust suit against The Washington Post and other media who were part of the Orwellian "Trusted News Initiative" (TNI). The TNI is a news censorship cartel whose members include the BBC, The Washington Post, Associated Press, Reuters, Google, Facebook, and Microsoft.

Whenever non-mainstream online news publishers report facts or viewpoints deemed by the TNI to be "misinformation," TNI members censor, shadow-ban, or deplatform those publishers.

This so-called “misinformation” has frequently included wholly legitimate, accurate reporting, for example that COVID might have originated in a virology lab in Wuhan, or that the COVID vaccines did not prevent infection or transmission.

When companies like Facebook, Google, or The Washington Post collude with the government to censor online news, they violate the First Amendment; when they collude with each other, they violate the Sherman Act.

In 1973, the Supreme Court’s Norwood v. Harrison clearly established that indirect or outsourced censorship is unconstitutional. The Court said, "[i]t is also axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish."

I have personal experience of how the Biden administration colluded with private and publicly-funded organizations to restrict speech on all the largest social media platforms.

On January 23, 2021, three days after Joe Biden was sworn in as President, Clarke Humphrey (Digital Director for the White House Covid Response Team) sent an email to Twitter flagging one of my tweets and instructing Twitter to “move on the process of having it removed ASAP.”

Three weeks later, Instagram shut down my account, which had almost 600,000 followers. The company gave no explanation.

In July 2021, the White House alleged in a press briefing that 65% of online “misinformation” was being created by 12 people, including me. It got that information from a dark-money organization called the Center for Combating Digital Hate (CCHD). The White House called on internet companies to “redesign recommendation algorithms” to “address misinformation.”

The White House backed this call with a threat. On July 20, 2021, it explicitly threatened to amend or repeal the liability protections of § 230 of the Communications Decency Act if social-media companies did not increase censorship of disfavored speakers and viewpoints.

The coercion worked. Shortly thereafter, under threat of retaliation, Facebook removed dozens of pages, groups, and accounts linked to these 12 people, wiping all of them, including me, off the platform. They did so even though they knew very well that the CCHD report was baseless, as proven by emails unearthed by journalist Paul Thacker. Facebook even posted a statement on its own platform stating that the CCHD report offered a “faulty narrative” and has “no justification” for its claim.

As it turned out, many of the “false” claims that Facebook removed turned out to be true. A July 7 Wall Street Journal op-ed, “Censorship Proved to be Deadly,” details the many truths

that were suppressed as misinformation. The subhead was: “Government and social-media companies colluded to stifle dissenters who turned out to be right.”

The article confirmed that the government and social media companies worked together to suppress empirical, scientifically-based criticism of the COVID lockdowns (such as the Great Barrington Declaration) — lockdowns that resulted in trillions of dollars of needless losses, grievous medical and educational harms, but very little evidence of saving lives. They also suppressed questions on the safety of the COVID vaccines, along with research findings about alternative treatments such as Ivermectin.

The op-ed further points out that excess non-COVID deaths soared among healthy people in 2021 and 2022 — another fact that most Americans are unaware of, precisely because it, too, was censored. The reasons for this excess death are still unknown — and unless we have free and open public discussion in this country, never will be known.

Missouri v. Biden and the Twitter Files detail government agencies’ direct requests to remove people and opinions from social media. More insidiously, media companies also try to preempt these demands by conforming to the ideological preferences of politicians. All that is necessary is for officials to signal what information is good or bad, and the censorship-industrial complex does the rest.

The censorship I experienced was not limited to Facebook and Instagram. In September 2021, my YouTube channel was summarily removed without warning. YouTube also removed

a political speech I gave in New Hampshire in March of this year. Then YouTube took down the livestream of my Presidential candidacy announcement speech on May 19. The speech did not mention vaccines. YouTube cut it short right near the beginning when I was talking about Paul Revere. They did not specify which policy the Paul Revere story violated.

On June 16, YouTube also took down an interview I conducted with Jordan Peterson. The topic, ironically enough, was “Rekindling the Spirit of the Classic Democrat.” While I made no claims about vaccine safety, the topic of vaccines came up in an historical context, as I described how it became a forbidden topic. YouTube removed the whole video. Apparently, certain words are unmentionable.

There are actions that Congress can take to address the rampant growth of censorship online. First, amend Section 230 to prohibit platforms from censoring political candidates and from discriminating on the basis of political opinion on issues of public concern.

Second, enact federal common carrier legislation banning political opinion discrimination by the big tech platforms, similar to what applied to the old phone networks. (They couldn't cut service on the basis of political opinion!)

Third, amend RICO and the Lanham Act for the Digital Age to cover platforms that deceive their users and damage third parties such as CHD.

The President can also take immediate action, by revoking Executive Order 13747, (Obama's GHSA) and dismantling White House and inter-agency censorship. It should also issue a new Executive Order adopting Judge Doughty's injunctive terms against the government interfering with social media platforms as free speech forums.

Ultimately, the Constitution is a legal document. Endless justifications may be concocted to nullify it, bypass it, or ignore it. That document only has power to the extent that we believe in it, to the extent that we invest it with political energy, hold its ideals sacred, and apply it with courage. By "we," I mean the American people, of course, and also the members of the executive branch, the courts, and Congress, including this very Committee. The time to stop censorship and reclaim our Constitution is now.