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Weekly International Law Review

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Executive Summary (One Minute Read)

Moody v Netchoice (SCOTUS) - Lower court decisions upholding State statutes prohibiting social media companies from moderating content posted by third parties were reversed for failure to conduct proper First Amendment analysis

Murthy v Missouri (SCOTUS) - First Amendment claim that Federal Government unlawfully pressured social media companies to suppress content was rejected because plaintiffs failed to show a causal link between government conduct and suppression of their speech

HABEAS CANEM

The scent on the breeze



Benchmark

Summaries With Link (Five Minute Read)

Moody v Netchoice 603 US ____ (2024)

Supreme Court of the United States

The States of Florida and Texas enacted legislation that prohibited internet platforms from moderating third-party content based on content. The Supreme Court found serious First Amendment implications that the lower courts failed to properly consider. The cases were remanded to the courts below. The Court cited to *Miami Herald Publishing Co v Tornillo*, 418 US 241 (1974), where it was held that a Florida statute requiring newspapers to offer a right of reply violated the First Amendment because it consisted of compelled speech. Compelled speech can violate the First Amendment as much as suppression of speech. The Court said that government cannot meddle in speech by claiming that it is improving the marketplace of ideas. Here, the Court concluded that states were not likely to succeed in prohibiting the platforms from enforcing the platforms' own content moderation rules. The Court said that the States' attempt to better balance the mix of viewpoints on the internet by restricting content moderation amounted to an interference with speech decisions made by the private platforms. The Court added that a State cannot prohibit speech to rebalance the speech market. Inasmuch as the content moderation practices amounted to speech decisions by the platforms, the government was not free to enact laws that infringed those private speech rights.

[Moody](#)

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Murthy v Missouri 603 US ____ (2024)

Supreme Court of the United States

With respect to both COVID-19 and the election of 2020, major social media companies undertook a range of actions to suppress false or misleading content posted by users. During this period, Federal agency officials regularly communicated with the big platforms about dealing with misleading information being posted by users. The plaintiffs, consisting of two States and five individuals, claimed that the government's actions amounted to suppression of speech in violation of the First Amendment. The Supreme Court found that the plaintiffs lacked standing to bring suit because they could not link the restrictions placed on their communications to the actions of the Federal government. The Court found that the media platforms were already taking actions against misinformation prior to any contact from the government. Further, the plaintiffs failed to establish a likelihood that the platforms' actions were traceable to government conduct. Without evidence of causation, the claims failed. As to the possibility of speech suppression in the future, the Court held that, unless there existed evidence of continued government pressure on the platforms, the social media companies were free to enforce their content moderation policies even if the policies had been tainted by initial governmental coercion.

[Murthy](#)

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Poem for Friday

Iceland

By Jonas Hallgrímsson (1807-1845)

Charming and fair is the land,
and snow-white the peaks of the jokuls [glaciers],
Cloudless and blue is the sky,
the ocean is shimmering bright,
But high on the lave fields, where
still Osar river is flowing
Down into Almannagorge,
Althing no longer is held,
Now Snorri's booth serves as a sheepfold,
the ling upon Logberg the sacred
Is blue with berries every year,
for children's and ravens' delight.
Oh, ye juvenile host
and full-grown manhood of Iceland!
Thus is our forefathers' fame
forgotten and dormant withal.

Jonas Hallgrímsson was born in Iceland on 16 November, 1807. He is a revered figure in Icelandic literature, writing in the Romantic style. His love of the Icelandic people and country side and pride in the national identity comes through his poetry. He was a promoter of the Icelandic Independence Movement. He was employed for a time by the sheriff of Reykjavik as a clerk. He studied law at the University of Copenhagen. He also worked as a defence lawyer. He founded the Icelandic periodical Fjölfnir first published in 1835. He died on 26 May 1845, after slipping on stairs and breaking his leg, the previous day. He died of blood poisoning aged 37 years. His birthday each year is recognised as the Day of the Icelandic Language.

Ég bið að heilsa, words by Jónas Hallgrímsson, composition by Ingi T. Lárusson
<https://www.youtube.com/watch?v=6OqbfGSJDUc>

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