

The Supreme Court Update - April 24, 2023

by Brock Huebner

Today, the Supreme Court of the United States granted certiorari in two cases:

Lindke v. Freed and O'Connor-Ratcliff v. Garnier, Nos. 22-611, 22-324: Both cases involve whether and to what extent public officials' activity on social media constitutes "state action" subject to constitutional scrutiny. In the *O'Connor-Ratcliff* case, the Ninth Circuit held that school board members engaged in state action when they blocked constituents on Facebook and Twitter. In the *Lindke* case, by contrast, the Sixth Circuit held that a city manager did not engage in state action when he blocked a constituent on Facebook. The question presented in *Lindke* is: Whether a public official engages in state action subject to the First Amendment by blocking an individual from the official's personal social media account, when the official uses the account to feature their job and communicate about job-related matters with the public, but does not do so pursuant to any governmental authority or duty. The question presented in *O'Connor-Ratcliff* is substantially the same.

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