

The Supreme Court Update - June 26, 2024

by Ian Blodger, Jessica M. Leano, and Brock Huebner

The Supreme Court of the United States issued two decisions today:

Murthy v. Missouri, No. 23-411: This case involves challenges to federal government communications with social media companies related to content moderation. In a practice known as “jawboning,” various federal officials publicly and privately encouraged social media platforms to better regulate false or misleading content about elections, COVID-19, and other subjects. Two States and five social media users sued Executive Branch agencies and officials, claiming government censorship of speech in violation of the First Amendment. A federal court issued a nationwide preliminary injunction to prohibit future such communications, which was largely affirmed by the Fifth Circuit. In a 6-3 decision authored by Justice Barrett, the Court decided the issue on procedural grounds, and held that the State and individual plaintiffs lacked Article III standing to sue. The Court considered the various theories of injuries alleged by the plaintiffs, including “direct censorship” and a “right to listen,” and concluded that neither theory, nor the allegations of past injuries, created standing for future-oriented relief—a continued injunction—against government agencies and officials with no direct role in the non-party social media platforms’ actions that caused the alleged First Amendment harms. Justice Alito dissented and was joined by Justices Thomas and Gorsuch.

View the [Court's decision](#).

Snyder v. United States, No. 23-108: This case addresses whether 18 U.S.C. § 666, which makes it a crime for state and local officials to “corruptly” solicit, accept, or agree to accept a bribe for an official act, also makes it a crime to accept gratuities given as a token of appreciation after the official act. A federal jury convicted James Snyder, the mayor of Portage, Indiana under Section 666 for accepting a check from a company a year after Portage awarded the company two contracts. On appeal, Snyder argued that Section 666 criminalizes only bribes, not gratuities. The Seventh Circuit disagreed based on circuit precedent interpreting Section 666 to cover bribes and gratuities. In a 6-3 decision authored by Justice Kavanaugh, the Court resolved a circuit split on the issue

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and reversed Snyder's conviction. The Court relied on six reasons—statutory text, statutory history, statutory structure, statutory punishments, federalism, and fair notice—that, taken together, demonstrated that Section 666 is a bribery statute and not a gratuities statute. Justice Gorsuch concurred in the judgment. Justice Jackson, joined by Justices Kagan and Sotomayor, dissented.

View the [Court's decision](#).