

The Supreme Court Update - March 15, 2024

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

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

Lindke v. Freed, No. 22-611: This case addresses whether a public official violates the First Amendment by blocking individuals from commenting on the public official's social media page. James Freed, the city manager of Port Huron, Michigan, maintained a public Facebook page that he used to post about his personal life and his city manager position. Specifically, Freed posted about the COVID-19 pandemic, and some posts related to his personal life, while others related to his job as city manager. Kevin Lindke commented on the posts, expressing displeasure with the city's approach to the pandemic, and Freed blocked Lindke from commenting on the Facebook page. Lindke sued Freed under 42 U.S.C. § 1983, claiming he had a First Amendment right to comment on Freed's Facebook page. The district court granted summary judgment for Freed, concluding that Freed managed the Facebook page in his private capacity and only state action can give rise to liability under Section 1983. The Sixth Circuit affirmed. The Supreme Court, in a unanimous decision authored by Justice Barrett, held that a public official who blocks someone from commenting on the official's social-media page engages in state action under Section 1983 only if the official both (1) possessed actual authority to speak on the State's behalf on a particular matter, and (2) purported to exercise that authority when speaking in the relevant social-media posts. The Court remanded the case for further proceedings consistent with its decision.

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

O'Connor-Ratcliff v. Garnier, No. 22-324: Like Lindke, the petitioners in this case created public social media pages on which they posted content related to their positions on the Ponway Unified School District. The Garniers posted critical comments on the petitioners' social media pages, and petitioners blocked the Garniers from commenting. The Garniers sued under 42 U.S.C. § 1983, arguing this was a violation of their First Amendment rights. The district court dismissed the Garniers' claim for damages, but allowed the case to proceed on the merits based on the theory that the petitioners acted

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under color of law when they blocked the Garniers. The Ninth Circuit affirmed. Today, in a per curiam opinion, the Supreme Court remanded the case to the Ninth Circuit for further proceedings in light of *Lindke*.

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

Pulsifer v. United States, No. 22-340: This criminal sentencing case addresses eligibility for “safety valve” relief under the federal sentencing statute. That provision exempts certain defendants from mandatory minimum penalties, allowing courts to give them lighter prison terms. To qualify for safety-valve relief, a defendant must meet several criteria, one of which addresses criminal history. That criminal history criterion requires that the defendant “does not have” three criminal history traits. Today, in a 6-3 decision authored by Justice Kagan, the Court held that a defendant fails to meet that criterion (and so cannot get safety-valve relief) if he has any one of the three criminal history traits. In other words, the defendant is eligible for the relief only if he does not have any of the three traits. Justice Gorsuch dissented (joined by Justices Sotomayor and Jackson), contending that a defendant is eligible for safety-valve relief unless he possesses all three traits.

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