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## **Supreme Court Addresses When a Public Official Can Block Comments on Social Media**

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The United States Supreme Court held recently that a public official may block comments by others on the official's social media page under certain circumstances. The Court considered two separate cases against public officials—one involving a City manager and one involving two school board members—who had personal social media accounts that they used from time to time to publicize government activity. In both cases, the public officials had blocked comments critical of them. The persons whose comments were blocked argued that their First Amendment rights were violated because some of the posts on the relevant pages reported on governmental activity, which created a public forum, even though there were also posts pertaining to the official's personal life.

In a unanimous decision in the case involving the Port Huron, Michigan City Manager, Justice Amy Coney Barrett articulated a new test on behalf of the Court. Public officials who censor their critics on social media only violate the First Amendment if the public official: (1) had 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.

In the case involving two California school board members, the Court remanded the matter to the Ninth Circuit Court of Appeals for application of the new test to the facts.

Links to the two decisions:

[Lindke v. Freed](#), No. 22-611, 2024 WL 1120880, at \*10 (U.S. Mar. 15, 2024);

[O'Connor-Ratcliff v. Garnier](#), No. 22-324, 2024 WL 1120878, at \*1 (U.S. Mar.15, 2024).

Please contact any of our public law attorneys if you have specific questions about the Supreme Court's recent decisions.

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