

# US supreme court hears case on government's power over online misinformation

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The supreme court heard oral arguments on Monday in a case that could upend the federal government's relationship with social media companies and with lies online. Plaintiffs in *Murthy v Missouri* argue that White House requests to take down coronavirus misinformation on Twitter and Facebook constitute illegal censorship in violation of the first amendment. The arguments began with Brian Fletcher, the principal deputy solicitor general of the justice department, making an argument that none of the government's communications crossed the line from persuasion into coercion. He also pushed back against descriptions of events in lower court rulings, stating that they were misleading or included quotations taken out of context. "When the government persuades a private party not to distribute or promote someone else's speech, that's not censorship, that's persuading a private party to do something that they're lawfully entitled to do," Fletcher said. The justices, most prominently the conservatives Samuel Alito and Clarence Thomas, questioned Fletcher on where exactly the line is between threatening companies and persuading them. Fletcher defended the government's actions as part of its broader ability to try to reduce public harm. "The government can encourage parents to monitor their children's cellphone usage or internet companies to watch out for child pornography on their platforms, even if the fourth amendment would prevent the government from doing that directly," Fletcher said. The opening arguments from Benjamin Aguiñaga, the solicitor general of Louisiana, argued that the government was covertly coercing platforms to censor speech in a violation of the first amendment. The suit, the culmination of years of a Republican-backed legal campaign, was filed by state attorneys general in Louisiana and Missouri. Jim Hoft, founder of the conservative conspiracy theory site *The Gateway Pundit*, as well as other rightwingers, also joined the plaintiffs. "The government has no right to persuade platforms to violate Americans' constitutional rights, and pressuring platforms in backrooms shielded from public view is not using the bully pulpit at all," Aguiñaga said in an opening statement. "That's just being a bully." Several justices, including the liberals Elena Kagan and Sonia Sotomayor, similarly asked Aguiñaga what kind of government outreach over potential harms would violate the first amendment and which would be warranted. Kagan suggested that the government has historically interacted with both platforms and the press over content that could be harmful, such as threats to national security. Sotomayor, meanwhile, heavily criticized factual inaccuracies in the plaintiff's case. "I have such a problem with your brief, counselor. You omit information that changes the context of some of your claims. You attribute things to people it didn't happen to – at least in one of the defendants, it was her brother that something happened to not her," Sotomayor said. "I don't know what to make of all this." Aguiñaga apologized, saying he was sorry if the brief was not as forthcoming as it should have been.