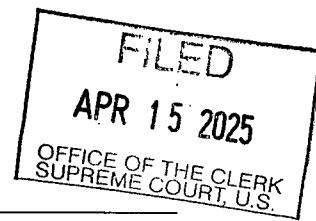


24-7025
No. _____



In The
Supreme Court of the United States

James R. Todino - Petitioner,

VS.

Twitter, Inc., "et al". - Respondents.

On Petition for a Writ of Certiorari to
The Massachusetts Supreme Judicial Court

PETITION FOR A WRIT OF CERTIORARI

James R. Todino

Pro Se Petitioner

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QUESTION(S) PRESENTED

- 1. Whether Section 230 of the Communications Decency Act provides continued immunity to internet platforms that knowingly host user-generated content involving impersonation, harassment, child exploitation, and death threats after repeated notifications, law enforcement referrals, and ignored court orders—especially where such conduct implicates federal criminal statutes and exposes the legal void in regulating online harm.**
- 2. Whether the Massachusetts Appeals Court erred in upholding dismissal without considering claims that platforms supported criminal activity, and whether the Supreme Judicial Court violated due process by denying further appellate review, thereby barring civil remedies based on an overbroad interpretation of Section 230, contrary to Congressional intent to permit recovery for criminal harms.**

PARTIES TO THE PROCEEDING

Petitioner:

James R. Todino was the plaintiff in the Middlesex Superior Court in Woburn, Massachusetts, the appellant in the Massachusetts Appeals Court and in the Supreme Judicial Court of Massachusetts, and is the petitioner in this Court.

Respondents:

The following parties were defendants in the Middlesex Superior Court, appellees in the Massachusetts Appeals Court and the Supreme Judicial Court of Massachusetts, and are the respondents in this Court:

- X Corp., successor in interest to Twitter, Inc.**
- Pinterest, Inc.**
- Brian S. McWilliams / O'Reilly Media, Inc.**
- Tim O'Reilly / O'Reilly Media, Inc.**
- Meta Platforms, Inc. (formerly Facebook, Inc.)**
- Horseneck Media LLC**
- Condé Nast**
- Wattpad, Inc. & Disqus, Inc.**
- Google LLC, a subsidiary of Alphabet Inc.**

RELATED PROCEEDINGS

James Todino v. Twitter Inc., & others, Supreme Judicial Court of Massachusetts (docket FAR-29937), an order denying petitioner's application of further appellate review and denial of his motion for reconsideration. (Appendices C and D).

James Todino v. Twitter, Inc., & others, Massachusetts Appeals Court (docket # 2023-P-0588), an unpublished memorandum and order under Appeals Court Rule 23 affirming the trial court's dismissal of petitioner's case against the defendants. (Appendix A).

James Todino v. Twitter, Inc., Middlesex Superior Court, Woburn Massachusetts (docket # 2181CV00966), the dismissal of a complaint. (Appendix B).

The additional defendants were initially filed against separately but were consolidated by the Superior Court under James Todino V. Twitter (Docket # 2181CV00966) above.

The other defendants' original cases were:

Todino v. McWilliams & O'Reily Media (2181CV00967);

Todino v. Pinterest Inc. (2181CV00968);

Todino v. Disqus Inc. (2181CV00970);

Todino v. Google Inc. (2181CV00971);

Todino v. Facebook Inc. (2181CV00972);

Todino v. Wattpad Inc. (2181CV00973);

Todino v. Horseneck Media LLC. (2181CV00974);

Todino v. Conde Nast Inc. (2181CV00975);

Todino v. PayPal (2181CV00965) is not part of this appeal, given that it was resolved in another venue.

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**The Supreme Judicial Court denial of Motion for Reconsideration,
January 17, 2024. (Appendix D).**

**The Supreme Judicial Court denial of Further Appellate Review,
November 14, 2024. (Appendix C).**

Appeals Court's unpublished decision, July 16, 2024. (Appendix A).

**Superior Court's Memorandum of Order and Decision allowing
Defendants' motion to dismiss, April 13, 2022, and denying Motion for
Reconsideration, October 7, 2022. (Appendix B).**

JURISDICTION

**Mr. Todino's application for further appellate review was denied on
November 14, 2024, and his motion for reconsideration of that denial was
denied on January 17, 2025, by the Massachusetts Supreme Judicial Court.**

**Mr. Todino, therefore, invokes this Court's jurisdiction under 28 U.S.C. §
1257, having timely filed this petition for a writ of certiorari within ninety
days of the final judgment of the Massachusetts Supreme Judicial Court.
This petition is timely pursuant to Rule 13.1 of the Rules of the Supreme
Court of the United States.**

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

First Amendment, U.S. Const. amend. I

Protects the right to petition the courts. Petitioner was denied judicial relief for harms including impersonation and harassment.

Fifth Amendment, U.S. Const. amend. V

Guarantees due process. Claims were dismissed without hearings or discovery.

Fourteenth Amendment, U.S. Const. amend. XIV, § 1

Ensures equal protection and due process. State courts denied both in dismissing criminally-linked claims.

28 U.S.C. § 1257(a)

Grants SCOTUS jurisdiction to review final state court decisions.

Fed. R. Civ. P. 12(b)(6)

Used to dismiss claims improperly without factual review.

Fed. R. Civ. P. 60(b)

Allows relief from judgment due to new evidence; wrongly denied here.

47 U.S.C. § 230 (Communications Decency Act)

Courts overextended immunity even after platforms were notified of illegal content.

18 U.S.C. §§ 2252, 1591, 2339B, 1343, 1030

Federal laws addressing child exploitation, trafficking, terrorism, wire fraud, and computer crimes — all implicated by the conduct at issue.

Mass. Gen. Laws ch. 268, § 34A; ch. 265, § 43A

Criminal impersonation and harassment statutes relevant to Petitioner's state claims.

Massachusetts Declaration of Rights, Arts. XI & XII

Guarantees legal remedy and due process; denied by lower courts.

STATEMENT OF THE CASE

Todino suffered for over 10 years from various internet accounts on multiple social media platforms, which targeted him personally. The problem began around 2011 with the appearance of impersonation accounts (i.e., those claiming to be Todino) on Twitter, Inc., where those accounts multiplied into thousands over the years. The problem quickly spread to other social media platforms (i.e., the remaining Defendants in this case), all pursuing campaigns of attack against Todino which were highly sophisticated and persisted for years, such that they collectively reached a saturation point on the internet that produced cataclysmic consequences for Todino and years of futile effort to eradicate the problem.

The acts on the various social media platforms started with extreme and atrocious forms of defamation that conditioned and influenced nearly everything else done to him. The accounts appeared to track and reveal Todino's whereabouts while displaying his personal address, photos showing what he looked like and his cell phone, all while exhorting people to kill him and to do other acts of violence to him. This led to very unwanted personal contact by people who appeared to be stocking him, including vandalism of his home, motor vehicle and a shed on his property, as well as stealing from his property.

Many of these accounts had links to sites that sold guns and drugs, portraying Todino as a serious criminal, while also disseminating large amounts of false defamatory information about Todino alleged to be from Wikipedia and from published books. Further, there were many links on Google that showed Todino as a terrorist and associated his image with the terrorist Osama bin Laden and others. Many sites and tweets also claimed that Todino was mentally ill with schizophrenia as well. Despite sustained efforts over a long period of time, however, Todino could not get rid of these links.

Among the most egregious attacks were impersonation accounts pretending to be Todino, with literally thousands of them having been generated. These accounts published vile and obscene material in Todino's name, including displaying nude pictures of children, people being

tortured and people shooting at babies. Twitter had clickable links that went to nude photos of children along with Todino's image, a lot of other sexual material and hate speeches attributed to him.

In addition, Todino received an endless stream of hate messages and death threats from Twitter accounts and to his cell phone. This material, together with exhortations to do violence and to kill Todino, drove the stocking of him by unknown persons, the vandalism of his property and created a constant state of physical danger that he suffered from for over a decade.

As a result of this vast campaign against him, Todino's name and reputation suffered grievously, with profound consequences for him. Todino had a thriving business, for example, which was an electrical supply house that served professional electricians who operated as contractors and sub-contractors. He would supply electricians with all of the specialized items necessary for professional commercial and residential electrical work. Todino is also a master electrician who had a second business at the same time as running his supply house. In this business, Todino employed as many as 15 people that he would send out to do commercial and residential electrical work.

Both of these businesses were destroyed because of the campaign against him, which reached such a saturation point that the vile imagery,

accusations against him and the exhortations to violence became common knowledge among many people in Todino's life. As a result, Todino began losing contractors who had accounts at his supply house, some of whom he had known for years. He was often told by them that they cannot do business with someone like him—either someone with serious mental illness, criminality or sexual perversity. Because Todino lost his contractors his supply house collapsed. He could not readily get new contractors, given that it takes time (sometimes years) to develop these business relationships.

The same happened with the electricians who worked for Todino, until he lost all the people that worked for him and could not find new people to replace them. The collapse of Todino's businesses caused him to file for Chapter 7 bankruptcy protection, where he was ultimately declared bankrupt (it was for over \$1 million). The bankruptcy, in turn, had and continues to have negative consequences for Todino.

Another notable consequence for Todino was that he suffered much public ridicule, insults and expressions of hatred by fellow citizens in his city of Woburn, MA when he ran for a City Council seat to represent his Ward. During his election campaign, Todino went to public places and events to introduce himself and meet people, but would be routinely confronted with insults (e.g., people calling him crazy, sexually perverse or a criminal), being told publicly that no one wanted to see him in office and

being told to go away and leave the area. This public disgracing of Todino, of course, destroyed his campaign for election.

Todino also suffered from severe PTSD, depression and anxiety, where he ultimately checked himself into hospitals several times for treatment (where he was diagnosed with the above conditions). His conditions were so debilitating that they left this once outgoing, entrepreneurial and civically engaged man a disabled shadow of his former self.

Lastly, Todino lived in constant fear of violence, which made him insecure in his own home and degraded his personal freedom of movement in society because he felt compelled to avoid physical violence from whoever was terrorizing him. Throughout this multi-year ordeal, Todino attempted many times to remedy this nightmare. He appealed to authorities, such as police and FBI, which generated reports, but never led to any type of investigations. Most importantly, however, Todino did try to enlist the help of the social media platforms in question (i.e., the Defendants) to remove or block the offending material.

Specifically, Todino made hundreds of telephone calls and sent as many emails to these social media companies over a period of years, where he would explain the problem, provide URLs and links to the offending material and request that the material be removed.

The responses Todino got from the defendants were broadly similar. They generally refused Todino's requests and often stated that the sites he was complaining about did not violate their policies. Despite the defendants' refusals, Todino continued reaching out to them by telephone and email, continued to explain the problem (including new developments), provided more URLs and links to the offending material, and continued to request their help. Despite these efforts, the defendants continued to fail to take action and continued to allow the offending sites to operate on their platforms. The Direct Appeal and Further Appellate Review

Todino's direct appeal of the dismissal of his case focused on the fact that the totality of the allegations made in his complaint did make out a case that could have entitled him to relief, such that the motion judge wrongly allowed the motion to dismiss. The standard for allowing a motion to dismiss under the Massachusetts Rules of Civil Procedure 12(b)(6) is very high. A motion to dismiss "is to be denied unless 'it appears beyond doubt that the plaintiff can prove no set of facts in support of [his] claim which would entitle [him] to relief.'" Karty v. Mid-America Energy, Inc., 74 Mass.App.Ct. 25, 26 (2009), quoting from Nader v. Citron, 372 Mass. 96, 98 (1977). A plaintiff's burden to defeat a motion to dismiss in Massachusetts is low. "[A] plaintiff need only sketch a bare silhouette of a cause of action. A court is not to consider the ability or lack of ability to produce evidence in support of allegations regardless of how improbable alleged facts may

appear to be. **Natick Auto Sales, Inc. v. Department of Procurement and General Services**, 47 Mass.App.Ct. 625 (1999). See, also, **Kattar v. Demoulas**, 433 Mass. 1 (2000); **Harvard Law School Coalition for Civil Rights v. President & Fellows of Harvard College**, 413 Mass. 66 (1992); **Farbiano v. Boston Redev. Auth.**, 49 Mass.App.Ct. 66 (2000).

Todino had met this burden. This assertion is based on the fact that the motion judge ignored significant facts in Todino's case which showed a large amount of criminality done to him and that, despite his pleadings with the defendants over a period of years, the defendants chose to do nothing, and thereby knowingly tolerated and provided a platform for criminal conduct against Todino. Todino's facts and claims were beyond mere negligence or defamation.

Todino relies on language in the Communications Decency Act (Appendix E) and other federal statutes that suggest that he should be able to recover civilly from the harms done to him such that the immunity shield provided by the CDA is thus not total. The Motion Judge Ignored Facts and Allegations That Extend Far Beyond Defamation, Encompass Criminal Conduct and Which Focus on The Defendant's Conduct The motion judge unduly narrowed the nature of Todino's complaints to a mere claim that he was defamed by the defendants either through publishing defamatory content or by allowing such content to be posted on their respective online platforms by an unknown third party. The motion judge also said that

Todino makes negligence claims and alleges that the defendants carelessly allowed false statements to be published on their platforms and failed to remove such statements after the plaintiff notified them of their falsity.

The motion judge agreed with the defendants that § 230 of the Communications Decency Act (hereinafter the CDA) shields interactive service providers from liability for information that originates from third party users of the platform, citing Mass. Port Auth. v. Turo Inc., 487 Mass. 235, 240 (2012). 47 USC § 230(c). In finding that Todino's complaints come under the immunity provisions of the CDA and thus allowing the motion, the judge found that the facts satisfied the three factors that trigger this immunity. See, Turo, 487 Mass. at 240, citing Doe v. Backpage.com LLC., 817 F.3d 121, 18 (1st Cir. 2016). He found that the defendants were 1) interactive service providers, 2) that Todino's claims against them were based on information provided by another information content provider, and 3) Todino's claims would treat the defendants as the publishers or speakers of that information. Id.

As is made evident below, the judge's construction of the nature of Todino's complaints was dramatically inadequate and simply reflected the defendants' argument, as put forth in their motion to dismiss, which placed Todino's complaints squarely under the immunity provision of the CDA. 47 USC § 230(c).

It is clear that providers of interactive computer services, including the internet, are immune from liability due to the defamatory postings of third parties on those platforms because they are not the publishers of that information. 47 USC § 230(c)(1) See, Turo, 487 Mass. at 240. The intent of § 230 was to maintain a robust internet while keeping government interference to a minimum. Force v. Facebook, Inc., 934 F.3d 53, 63 (2d Cir. 2019). Todino does not contest this in his complaints and allegations.

Regarding the second factor applied by the motion judge (i.e., that the complaints are based on the information placed on their platforms by third parties), this information is the context rather than the cause of Todino's complaints, which are focused on the defendants themselves.

Regarding the third factor, Todino's complaints would not treat the defendants as the actual publishers or speakers of that information, but as knowing and reckless facilitators of a vast array of criminal acts against him. Had the motion judge reviewed the totality of Todino's complaints and allegations, he would have had to take account of the vast array of criminal conduct Todino has alleged which, together with recent changes in the law (see below), create the possibility of liability for the defendants.

There were certainly no legal barriers preventing the defendants from assisting Todino in removing the offensive and harmful material. The defendants are all shielded from liability from any good faith act to restrict access to or availability of material that the provider or user

deems to be obscene, lewd, violent, or harassing, even where the material is constitutionally protected. 47 USC § 230(c)(2)(A) It is also now arguable that the defendants have an obligation to remove the criminal content of the material and they were certainly authorized by law to do so, such that they were reckless in not doing so. For a period of years, Todino reached out to the defendants through telephone calls and emails to inform them of what was occurring, provided them the URLs and links to the materials and then to enlisted their help in removing the materials. The defendants generally refused to take action. Instead, after learning of the deeply egregious and illegal nature of the published content, the defendants knowingly and recklessly allowed their sites to host the dissemination of this material for years, with all of the consequent harm and damage done to Todino. It is the defendants' own conduct in light of the above, then, that Todino is complaining of, not the mere posting of defamatory material. Where interactive service providers have knowledge and awareness of serious criminal activity conducted by third party content providers on their platforms and fail to take action, then they are either reckless or willfully blind to such criminality and to the harms done to its victims. Providing internet space to such criminals, who operate with impunity (especially when anonymous) and whose criminal conduct can thus grow to vast and horrendous levels, facilitates the criminal conduct and its resultant harms. And where persons conducting such crimes

against victims are fully anonymous, they are free from criminal and civil liability. If victims of such crimes cannot hold interactive service providers liable for knowingly facilitating such crimes (and allowing the criminals to do so in anonymity, which shields them from liability), then the victims of crimes have no legal remedy. In fact, the shield of immunity given to these platforms, if impermeable, allows them to offer a shield of immunity to anonymous criminals, leaving the victims of such crimes totally denuded of any shield of protection otherwise provided by law.

In Todino's case, he was intentionally targeted by criminals whose crimes were ongoing for a long number of years and where the injury done to him was overwhelming. Despite being informed of these crimes for years and receiving many demands for assistance, the defendants turned a blind eye and allowed them to continue. The Motion Judge Ignored Provisions in the CDA that expressly do not shield the defendants from liability

The CDA does not shield the defendants from criminal liability. While this relates to any federal criminal statute, the CDA especially references obscene material and the sexual exploitation of children, both relating to a number of Todino's allegations. 47 USC § 230(e)(1). Causes of action under state laws may also be brought, provided they are consistent with the CDA, which would certainly be true regarding state criminal statutes where the defendants' conduct is at issue. 47 USC § 230(3).

Congress began taking steps to hold interactive service providers liable for certain criminal acts by third party content providers and to allow for civil damages for victims. The Fighting Online Sex Trafficking Act (FOSTA) was enacted by Congress in 2018 toward that end, where interactive service providers can be held civilly liable for sex trafficking crimes on their platforms. 18 USC § 1595(a). The language that criminalizes conduct is where they are in “in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used” causes a person to engage in the sex acts in question. 18 USC § 1591(a). This includes participation in a venture, which means “knowingly assisting, supporting, or facilitating a violation of subsection a(1).” 18 USC § 1591(e)(4). See, Doe v. Twitter, 555 F. Supp. 3d 889 (N.D. Cal. 2021) (opens door to liability to service providers based on how they respond to reports of illegal content on their platforms).

There are numerous other federal statutes, in addition to state criminal corollaries, that criminalize conduct (online and otherwise) and provide for civil damages recovery for victims. Federal law criminalizes the production, distribution, advertising, receipt and possession of child pornography. 18 USC §§ 2251, 2252, and 2252A. It criminalizes the production of child pornography, including live visual content, outside the United States, if the person intended that the content would be imported

or transmitted into the United States. 18 USC § 2260. It criminalizes the persuasion or enticement of a minor using any means of interstate commerce (e.g., the internet) to engage in prostitution or any sex act for which a person can be charged with a crime. 18 USC § 2422(b). And it authorizes a private cause of action for victims of Federal exploitation crimes if those crimes occurred while they were minors, including crimes relating to sexual abuse, child pornography, sex and labor trafficking, and enticement. 18 USC § 2255.

The broad immunity protections of the CDA, then, are not impenetrable when it comes to criminal conduct. Broad protections of § 230 have also been called into question in case law. See, for example, *In re Facebook*, 625 S.W.3d 80, 91-93 (Tex. 2021) (denying motion to dismiss under Section 230 immunity as it relates to state law sex trafficking claims); *Malwarebytes, Inc. v. Enigma Software Grp. USA, LLC*, 141 S. Ct. 13, 15 (2020) (acknowledging that the prevailing interpretation of Section 230 is not the only plausible understanding).

The Facts of Criminality Alleged by Todino, Together With Openings in The Law, Further Indicate That The Judge Should Have Denied The Motion to Dismiss. It is by no means a forgone conclusion that Todino could not prevail in court, given that the immunity of s. 230 is no longer impenetrable. The numerous federal criminal statutes and their Massachusetts corollaries now offer the possibility of obtaining relief in

court, such that it cannot be said that it is beyond doubt there is no construction of facts that could entitle Todino to relief. Karty, 74 Mass.App.Ct. at 26, quoting Nader v. Citron, 372 Mass. 96, 98 (1977). The facts do make out at least a silhouette of a case that could lead to relief, which means the motion should have been denied. Natick Auto Sales, 47 Mass.App.Ct. at 625.

The motion judge never considered the extent to which the defendants are culpable for their own conduct here, that is, in knowingly allowing identity theft of Todino on their platforms, allowing child pornography and other obscene imagery to be hosted on their platforms in Todino's name, in allowing death threats and the exhortations to kill Todino (which had real world consequences), in allowing the purported effort to traffic in guns and drugs in Todino's name and in allowing the other crimes alleged.

The recent changes in the law noted above imply that the older idea of notice liability can lie in court, at least for some crimes, such that the role of the defendants in knowingly allowing this activity puts them in the role of facilitators of it. And given the anonymity of the criminals in question, which is also allowed by the defendants, holding the defendants responsible for facilitating the criminal campaigns against Todino is his only way to obtain a legal remedy.

The Denial of Todino's Application for Further Appellate Review and his Motion for Reconsideration. The current construction of Massachusetts caselaw in terms of the federal Communications Decency Act (CDA), 47 USC § 230(c), creates a Catch-22 dilemma that can and should be addressed by this Court and which relates directly to the petitioner's contestation of the allowance his motion to dismiss his case in the trial court.

The dilemma occurs where a person can be victimized by the publication of criminal content on an interactive service provider's platform, where the criminal content is against that person and which exhorts others to engage in acts of violence and stalking of that person, while the person is fully barred of a remedy in court.

Though Congress never intended the CDA to shield interactive service providers from liability for criminal activity on their platforms, Massachusetts Caselaw apparently interprets the immunity shield of the CDA as including criminal activity against a person (as if it was indistinguishable from mere defamation). See, Mass. Port Authority v. Turo Inc., 487 Mass. 235, 240 (2021).

And the third-party perpetrators of such criminal acts are fully anonymous, a situation allowed by the interactive service providers themselves, which also bars a victim of crime from a remedy in court against the anonymous perpetrators.

Yet, Congress did not intend to create such a dilemma. There are a series of federal statutes that allow for civil liability against interactive service providers for their own conduct regarding the criminal conduct by third parties on the platforms of such providers. The statutes focus on the knowing and reckless conduct of the interactive service providers and especially where they fail to take action regarding such criminal conduct on their platforms. The broad language in *Turo, supra*, that the CDA provides immunity to interactive service providers from any cause of action that would hold them liable for third-party postings on their platforms is both imprecise and too broad. *Turo*, 487 Mass. at 240.

The above language is imprecise because it ignores the conduct of the interactive service providers themselves regarding their knowing and reckless toleration and support of criminal acts by third parties. It is too broad because Congress never intended to shield these providers from liability for criminal activity or their support of it.

It is also obvious that the only potential remedy available to a victim of such crimes is through the interactive service providers. Anonymous third-parties who post on platforms provided by interactive service providers are unreachable by their victims in court. The interactive service providers also have total control over who can post on their platforms and under what conditions, such that it is a relatively easy matter for them to eliminate criminal conduct (especially when a victim

points it out to them). Last, the conduct of such providers themselves in recklessly supporting criminal activity on their platforms should make them liable in court. However, while relevant federal statutes allow a victim of such criminal conduct a civil remedy in court, Massachusetts caselaw has failed to grapple with this issue.

The result is that a resident of Massachusetts who has been so victimized by anonymous perpetrators and who has made substantial efforts to get the interactive service providers to remove the criminal content has no solution, but is condemned to suffer. This Court should reconsider whether such a potential remedy as suggested above should lie in a Massachusetts court and, if so, whether the Appellant has thus made out at least a silhouette of a case in the trial court, such that the motion to dismiss should have been denied.

This case presents a critical constitutional inflection point for the digital age. The facts underlying this petition are not merely an unfortunate anomaly; they reflect a broader structural failure in which powerful platforms are afforded near-absolute immunity, while individual victims of ongoing digital crimes are systematically denied judicial recourse. Section 230 of the Communications Decency Act (CDA) has, through judicial expansion, effectively nullified victims' access to the courts—even when platforms act with knowledge, intent, and in concert with clearly illegal conduct.

The failure of both federal and state courts to properly construe the statutory exceptions contained in Section 230(e)—including exceptions for federal criminal law, civil enforcement, and intellectual property—undermines Congress's original legislative intent. Petitioner respectfully submits that a re-evaluation of judicial overreach in the application of the CDA is necessary to prevent platforms from becoming legal sanctuaries for bad actors. Courts must not abdicate their constitutional responsibility to balance statutory construction with the fundamental rights of access to justice, due process, and equal protection.

In light of these considerations, this Court should grant certiorari to reaffirm that statutory immunity provisions do not abrogate the constitutional right to be heard. Section 230 was never intended to serve as an insurmountable barrier to claims rooted in well-documented criminal activity and demonstrable systemic harm. The denial of every form of redress—administrative, civil, and criminal—by both digital platforms and the judiciary itself demands this Court's intervention.

Petitioner's experience is not an isolated outlier; it is emblematic of a growing population of victims left stranded by the judicial expansion of Section 230 immunity. Across the country, individuals suffering from identity-based harassment, deepfake pornography, coordinated defamation, and targeted stalking are routinely denied access to discovery or civil recourse based solely on the invocation of CDA immunity at the

pleadings stage. This judicial trend has created a two-tiered justice system—one for platforms and none for victims.

As a result, courts have effectively removed themselves from any oversight of digital misconduct, regardless of its egregiousness. Petitioner's claims were dismissed without an evidentiary hearing, a subpoena, or a single interrogatory. In no other context would such allegations—spanning impersonation, child exploitation, and terroristic threats—be procedurally extinguished without fact-finding. The erosion of judicial review in these matters has enabled a legal black hole that swallows even the clearest demonstrations of criminal abuse.

This petition therefore presents more than a statutory interpretation dispute; it asks whether access to civil justice survives in the internet age. If this Court declines to act, lower courts will continue to interpret Section 230 as a jurisdictional override, displacing not only state tort law but also the constitutional minimums of due process and equal protection for victims of criminal misconduct facilitated online.

The implications of this case extend beyond Mr. Todino. Thousands of pro se and represented litigants have faced the same judicial barricade: meritorious claims dismissed without discovery because courts refuse to look behind the curtain of “user-generated content.” Unless this Court reaffirms that immunity is not impunity, Congress’s statutory framework

will continue to be distorted into a doctrine that prioritizes profit margins over public safety. The Supreme Court has long held that statutes should not be interpreted to silently eviscerate constitutional rights. Yet the lower courts have permitted just that under Section 230(c)(1), allowing private actors to knowingly facilitate criminal abuse and escape liability through procedural technicalities. The petitioner respectfully submits that it is time for this Court to clarify that the internet is not a constitutional dead zone—and that victims, no matter how digitally targeted, are still entitled to be heard.

Section 230 was never intended to be a shield for criminal negligence or corporate indifference. The legislative intent behind the Communications Decency Act was to encourage good-faith moderation—not to sanction the willful enabling of crimes against individuals through inaction. Yet in the current legal landscape, platforms knowingly hosting impersonation accounts, links to child pornography, and death threats are insulated by courts unwilling to pierce even the thinnest veil of procedural immunity.

Petitioner's experience serves as a constitutional warning sign—one that cannot be ignored. If the courts refuse to differentiate between passive hosting and active, reckless disregard for criminal conduct, then the legal system has not merely failed the petitioner; it has declared open season on every American's digital identity. Platforms now possess greater

protection under law than the individuals harmed by their negligence, a reversal of justice that this Court must rectify.

What is at stake here is nothing less than the legitimacy of civil redress in the digital age. If private entities can knowingly abet criminal conduct, ignore subpoenas, refuse cooperation with law enforcement, and remain immune, then we have created a parallel system of ungovernable power—one that undermines democratic accountability, victim rights, and Todino the Pro se Petitioner urges this Court to act not just for himself, but for every future victim of digital impersonation, harassment, and abuse. The decision below invites lawlessness cloaked in statutory immunity. It undermines state sovereignty, forecloses justice, and signals to victims that neither courts nor Congress will stand between them and unchecked corporate harm. Such an outcome is incompatible with the Constitution and the values this Court is charged to protect.

In conclusion, the petitioner respectfully requests that this Court grant certiorari to address these pressing issues. The time has come to reaffirm that the rights of victims must be protected in the digital age, and that the principles of justice, accountability, and due process cannot be sacrificed at the altar of immunity. The integrity of our legal system and the safety of individuals in the digital realm depend on this Court's intervention.

Procedural History

James Todino filed a civil complaint against Twitter Inc. (Twitter) in the Middlesex Superior Court on April 30, 2021 (docket # 2181CV00966). He also filed nine additional civil complaints against similar defendants on the same day (see list of parties above).

The complaints alleged that the defendants were liable for their many years of knowingly allowing and facilitating a vast array of criminal acts that targeted Todino over a long period of years.

The superior court ordered the consolidation of all dockets in the name of judicial economy on May 4, 2021 (entered on May 6, 2021).

Twitter filed a Notice of Motion to Dismiss on July 1, 2021 and Todino filed a Motion to Amend Complaint on July 27, 2021 (allowed on August 30, 2021). Twitter then responded with a Notice on Motion to Dismiss the Amended Complaint on September 13, 2021 and filed the actual Motion to Dismiss the Amended Complaint on October 28, 2021. On the same Day, Todino filed his opposition to Twitter's motion to dismiss and Twitter filed its Reply in Further Support of Motion to Dismiss.

Todino filed a Motion for Additional Statement of Claims on March 8, 2022, but the court made no decision on the motion.

A hearing on the motion to dismiss was then held on March 18, 2022 and the motion judge issued a Memorandum of Order and Decision allowing the motion to dismiss on April 14, 2022. (Appendix B). Todino filed a

Motion for Reconsideration on April 21, 2022 and Twitter filed its opposition to Todino's motion on May 5, 2022. Todino then filed a reply to Twitter's opposition on May 13, 2022. The motion judge then issued a Memorandum of Order on October 14, 2022, denying Todino's motion for reconsideration.

Todino then filed a timely notice of appeal on November 4, 2022 and was heard in the Massachusetts Appeals Court on June 3, 2024. The Appeals Court affirmed the superior court's dismissal of Todino's complaint in an unpublished decision on July 16, 2024.

Todino then filed an Application for Further Appellate Review with the Supreme Judicial Court of Massachusetts on August 5, 2024, which was then denied on November 14, 2024. Finally, Todino filed a Motion for Reconsideration to the SCJ on November 27, 2024, which was denied on January 17, 2025.

REASONS FOR GRANTING THE WRIT

This case presents urgent constitutional, statutory, and jurisprudential questions that demand this Court's review. The lower courts' categorical dismissal of Petitioner's claims—without discovery, evidentiary hearings, or recognition of federal statutory carve-outs—reflects a growing departure from both Congressional intent and foundational due process protections.

I. Section 230 Has Been Interpreted in a Manner That Conflicts with Its Text and Structure

The lower courts applied Section 230(c)(1) of the Communications Decency Act (47 U.S.C. § 230) as a blanket immunity that overrides other statutory and constitutional provisions. This interpretation contravenes Section 230(e), which expressly excludes from immunity:

- **Federal criminal law (§ 230(e)(1));**
- **Intellectual property law (§ 230(e)(2));**
- **State laws consistent with federal standards (§ 230(e)(3));**
- **Civil enforcement of federal statutes (§ 230(e)(4)).**

Petitioner's claims—rooted in impersonation, publication of unauthorized nude images, and persistent online harassment—plainly implicate federal criminal statutes, including:

- **18 U.S.C. § 2261A (cyberstalking),**
- **18 U.S.C. § 875 (threats and extortion), and**
- **18 U.S.C. § 2252 (distribution of child exploitation material).**

Despite the applicability of these exceptions, both the trial and appellate courts refused to even permit discovery that could have established the

facts necessary to overcome immunity. The decisions below thus misapplied the statute and stripped it of its internal limits.

II. The Courts Below Denied Petitioner Fundamental Due Process

The denial of discovery and refusal to consider key evidence—such as verified police reports, forensic findings, and sworn affidavits—violated the Petitioner’s right to be heard under the Due Process Clause of the Fourteenth Amendment. The courts dismissed his claims under Mass. R. Civ. P. 12(b)(6) without ever testing the factual allegations through an evidentiary process.

Petitioner was denied access to any meaningful legal remedy. Despite raising detailed, plausible claims concerning criminal abuse and platform inaction, he was met with silence—not just from the platforms, but from the courts themselves. This constitutes a procedural and substantive due process violation, as well as a denial of equal protection under law.

III. Lower Courts Are in Disarray Over the Scope of Section 230 Immunity

Federal and state courts are deeply divided over the scope of Section 230 immunity—especially in cases involving criminal content, impersonation, and intentional torts. This case provides the Court with an opportunity to resolve a growing conflict of authority on several points:

- Whether Section 230 shields platforms from claims involving federal criminal statutes;
- Whether plaintiffs are entitled to limited discovery to establish statutory exceptions;
- Whether platforms that act as co-developers or knowingly facilitate illegal conduct lose immunity under Fair Housing Council v. Roommates.com, LLC, 521 F.3d 1157 (9th Cir. 2008) (en banc);
- Whether the refusal to enforce subpoenas or respond to verified law enforcement requests renders a platform complicit in criminal misconduct.

At least three circuits—the Ninth, Second, and Seventh—have issued opinions that either narrow or question the universal scope of Section 230(c)(1), particularly in light of the platform’s role in developing, endorsing, or refusing to remove unlawful content. Meanwhile, state courts and other circuits continue to interpret the provision as a categorical bar, creating widespread legal confusion.

IV. Victims of Online Abuse Are Left Without Any Legal Remedy

Petitioner’s experience is not unique; it is emblematic of a broader, national failure in which victims of online impersonation, defamation, and targeted harassment are systematically denied redress. When platforms

refuse to act—and courts refuse to hear—constitutional rights become illusory.

This Court’s intervention is needed to clarify that Section 230 is not a license for impunity, nor a vehicle for insulating platforms that knowingly host or profit from unlawful conduct. Without intervention, courts will continue to misapply statutory immunity, foreclose discovery, and abandon those most vulnerable to digital abuse.

CONCLUSION

For the reasons set forth above, the petition for a writ of certiorari should be granted.

This case raises foundational questions about the proper interpretation of Section 230 of the Communications Decency Act, the limits of judicial deference to private platform immunity, and the constitutional rights of individuals subjected to sustained online abuse. The courts below interpreted Section 230 as a total shield against liability—even when presented with credible allegations of criminal impersonation, unauthorized distribution of nude images, cyberstalking, and direct threats to personal safety. By dismissing the Petitioner’s claims without discovery or evidentiary review, the lower courts rendered federal statutory exceptions meaningless and deprived the Petitioner of due process under the Fourteenth Amendment.

This is not merely a private grievance. It is a pressing constitutional and societal crisis. If allowed to stand, the decisions below will continue to embolden online platforms to disregard subpoenas, ignore law enforcement, and profit from criminal misconduct under the false cover of “neutrality.” Victims of impersonation, child exploitation, terrorist content, and other digital abuses will be left without any recourse—not because the law compels it, but because judicial interpretation has artificially expanded immunity far beyond Congress’s intent.

The petitioner has pursued every legal remedy available: filing ten consolidated civil cases, appealing to state appellate and supreme courts, filing police reports, submitting forensic evidence, and cooperating with federal and state agencies. Yet no court, no agency, and no platform has allowed his claims to be heard or resolved. If access to justice is denied even in the face of such overwhelming evidence and diligence, the rule of law itself is endangered. This Court’s review is essential to restore clarity to Section 230, affirm the constitutional right to a meaningful remedy, and ensure that platforms cannot weaponize immunity to shield known illegal conduct. The balance between innovation and accountability must be recalibrated. The Petitioner respectfully urges this Court to accept review and correct the injustice reflected in the decisions below. Accordingly, the petition for a writ of certiorari should be granted.