

22-611 LINDKE V. FREED

DECISION BELOW: 37 F.4th 1199

LOWER COURT CASE NUMBER: 21-2977

QUESTION PRESENTED:

Courts have increasingly been called upon to determine whether a public official who selectively blocks access to his or her social media account has engaged in state action subject to constitutional scrutiny. To answer that question, most circuits consider a broad range of factors, including the account's appearance and purpose. But in the decision below, the court of appeals rejected the relevance of any consideration other than whether the official was performing a "duty of his office" or invoking the "authority of his office." App. 5a.

The question presented is:

Whether a public official's social media activity can constitute state action only if the official used the account to perform a governmental duty or under the authority of his or her office.

CERT. GRANTED 4/24/2023