

(ORDER LIST: 595 U.S.)

MONDAY, MARCH 7, 2022

ORDERS IN PENDING CASES

21A398 KEIL, MATTHEW, ET AL. V. NEW YORK, NY, ET AL.

The application for an injunction addressed to Justice Gorsuch and referred to the Court is denied.

21M84 THOMAS, SUZZETTE V. MARTIN-GIBBONS, PATRICIA, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

21M85 POLITE, RHONDA N. V. KIJAKAZI, COMM'R, SOCIAL SEC.

The motion for leave to proceed as a veteran is denied.

21M86 GATSBY, LINSAY L. V. GATSBY, KYLEE D.

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

21M87 DONZINGER, STEVEN R. V. ATTORNEY GRIEVANCE COMMITTEE

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

21M88 COLLIER, IRINA V. UNIV. OF CA, BERKELEY

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

21M89 BROADEN, MICHAEL V. DEPT. OF TRANSPORTATION

The motion for leave to proceed as a veteran is granted.

20-1034 GOLAN, NARKIS A. V. SAADA, ISACCO J.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae*, for divided argument, and for enlargement of time for oral argument is granted in part, and

the time is allotted as follows: 20 minutes for petitioner, 15 minutes for the Solicitor General, and 35 minutes for respondent.

21-248 BERGER, PHILIP E., ET AL. V. NC CONFERENCE OF NAACP, ET AL.

The motion of respondents for divided argument is granted.

21-599 KINNEY, MARGARET L. V. HSBC BANK USA, N.A.

The Solicitor General is invited to file a brief in this case expressing the views of the United States.

21-6906 JACKSON, SAMANTHA J. V. AT&T RETIREMENT SAVINGS, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until March 28, 2022, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

20-7805 KNIGHT, MELVIN V. PENNSYLVANIA

21-494 LEWIS, RALPH V. POWER RESEARCH, INC., ET AL.

21-594 ALPHABET INC., ET AL. V. RHODE ISLAND

21-629 SANTA FE ALLIANCE, ET AL. V. SANTA FE, NM, ET AL.

21-632 VAZQUEZ-GUERRA, EDITH N., ET AL. V. GARLAND, ATT'Y GEN.

21-651 LUMAJ, EDMOND V. GARLAND, ATT'Y GEN.

21-761 OPTUMHEALTH CARE SOLUTIONS, LLC V. PETERS, SANDRA M.

21-787 RUSSOMANNO, GINA V. DUGAN, DAN, ET AL.

21-792 BILLIONI, MICHAEL V. BRYANT, SHERIFF, ET AL.

21-793 PENNSYLVANIA V. COSBY, WILLIAM H.

21-816 GEAR, MELVYN V. UNITED STATES

21-828 ESTATE OF OMAR FONTANA V. ACFB ADMINISTRACAO JUDICIAL

21-955 RISMILLER, KHRISTY G., ET AL. V. GEMINI INS. CO., ET AL.

21-958 A. A. V. M. A.

21-961 OKLAHOMA V. OLIVE, PATRICK W.

21-963 McNAUGHTON, NEIL V. ADAMS, MAYOR, ET AL.

21-987 SALIS, OWOLABI V. MAYORKAS, SEC. OF HOMELAND

21-990 BOSS, ALDRICH L. V. UNITED STATES, ET AL.

21-992 YATES, DORI, ET AL. V. HILLSBORO SCH. DIST., ET AL.

21-1032 BERRY, JASON T. V. FBI, ET AL.

21-1054 SONG, SHAOMING V. BECERRA, SEC. OF H&HS, ET AL.

21-1070 GONZALEZ, GABRIELA V. RONEY, HARVEY, ET AL.

21-1088 ALVAREZ, JOSE L. V. PINON, GABRIEL

21-1106 GABARA, THADDEUS V. FACEBOOK, INC.

21-1107 FTS USA, LLC, ET AL. V. MONROE, EDWARD, ET AL.

21-1120 THOMPSON, CHAD, ET AL. V. DeWINE, GOV. OF OH, ET AL.

21-5649 SHELBY, JAVON P. V. UNITED STATES

21-5875 JACKSON, KENNETH J. V. UNITED STATES

21-6171 GRANDA, CARLOS V. UNITED STATES

21-6196 I. A. V. KANSAS

21-6382 RAHEEM, ASKIA M. V. FORD, WARDEN

21-6431 SMITH, VEGAS D. V. UNITED STATES

21-6484 BATTLE, THOMAS L. V. CALIFORNIA

21-6486 GREEN, GARY V. LUMPKIN, DIR., TX DCJ

21-6492 GALVEZ, JAIME V. MUNIZ, WARDEN

21-6636 FEARS, LEROY V. PENNSYLVANIA

21-6752 McPHERSON, FRANKLIN V. KEYSER, SUPT., SULLIVAN

21-6763 JOHNSON, JABARI J. V. LAMBKINS, ET AL.

21-6766 DeATLEY, ALAN E. V. COLORADO

21-6774 HARRIS, BRANDON S. V. OKLAHOMA

21-6779 HITE, TROY A. V. MICHIGAN

21-6783 WARFIELD, BRODERICK J. V. DEPT. OF AIR FORCE, ET AL.
21-6794 WINNINGHAM, JOHN W. V. BROKEN ARROW, OK, ET AL.
21-6796 WEBSTER, LARRY E. V. KIJAKAZI, COMM'R, SOCIAL SEC.
21-6798 EVERETT, DANIEL V. JUSTICES OF SUPREME COURT OF CA
21-6811 CUMMINGS, STEPHEN V. LIGHTSTORM ENTERTAINMENT, INC.
21-6827 PICK, RYAN T. V. VIRGINIA
21-6832 TRUE, DOUGLAS D. V. PAYNE, DIR., AR DOC
21-6851 QUILES, JOEL V. MASSACHUSETTS
21-6866 LAWLESS, RICHARD R. V. MULDER, KAT, ET AL.
21-6883 BOOKER, WALTER D. V. ENGELKE, M. E., ET AL.
21-6913 LITTLEJOHN, TIMOTHY D. V. BOWMAN, SGT., ET AL.
21-6947 CHRISTMAS, RAYSHAWN J. V. JACKSON, JEFF, ET AL.
21-6959 COX, KENNETH J. V. CALEY, WARDEN, ET AL.
21-6974 GONZALEZ, ALFREDO V. QUIROS, COMM'R, CT DOC
21-6976 KARKI, TEJ B. V. DEPT. OF HOMELAND SEC., ET AL.
21-6990 ROBERTS, ROGER D. V. UNITED STATES
21-6996 STIVERS, ROBERT V. ILLINOIS
21-6998 PAPE, ROBERT L. V. CALIFORNIA
21-7000 ADAMS, DOMINIC D. V. UNITED STATES
21-7002 WREN, JEFFREY C. V. NDOH, WARDEN
21-7021 GAYDEN, JOHN M. V. UNITED STATES
21-7031 DAVIS, JOSEPH D. V. UNITED STATES
21-7037 BREEST, ROBERT V. NEW HAMPSHIRE
21-7042 NELSEN, CRAIG V. SOUTHERN POVERTY LAW CENTER
21-7054 WALKER, ERVIN V. UNITED STATES
21-7057 NAVA, VICTOR V. UNITED STATES
21-7062 SMITH, MICHAEL D. V. UNITED STATES
21-7063 SHAHEED, SALAHUDIN V. UNITED STATES

21-7065 MAJORS, LORI V. UNITED STATES
 21-7066 BREWER, KEVIN V. UNITED STATES
 21-7069 CLARKE, JAVAR D. V. UNITED STATES
 21-7070 DUKE, ANDERSON C. V. UNITED STATES
 21-7071 WILSON, KEAON V. UNITED STATES
 21-7072 WISE, DONTRELL R. V. UNITED STATES
 21-7074 DENNIS, BENNY V. UNITED STATES
 21-7078 FORTIA, JAWAN V. UNITED STATES
 21-7080 GIBSON, GALVIN V. UNITED STATES
 21-7081 STASIV, MARKO V. UNITED STATES
 21-7089 JORDAN, LeANDRE V. OHIO
 21-7090 O'NEAL, LARRY V. UNITED STATES
 21-7092 MALAUULU, EPATI V. UNITED STATES
 21-7101 JAMES, MARTAVIS S. V. UNITED STATES

The petitions for writs of certiorari are denied.

21-201) ABDELNABI, NEHAD V. SEKIK, FATMA A.
)
 21-971) ABDULNABI, NAHED V. SEKIK, FATMA A.

The motions of respondent for leave to proceed *in forma pauperis* are granted. The petitions for writs of certiorari are denied.

21-6777 GARRARD, CAROL, ET AL. V. NEWSOM, GOV. OF CA, ET AL.

The petition for a writ of certiorari is denied. Justice Breyer took no part in the consideration or decision of this petition.

21-6868 WEBB, MICHAEL D. V. FAUCI, ANTHONY S., ET AL.

The petition for a writ of certiorari before judgment is denied. Justice Alito took no part in the consideration or decision of this petition.

21-7099 DISLA, EDWIN V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition.

MANDAMUS DENIED

21-6780 IN RE LORI SKLAR

The petition for a writ of mandamus is denied.

REHEARINGS DENIED

20-8015 BROWN, NOEL V. PENNSYLVANIA

21-621 FLAHERTY, VINCE, ET AL. V. HOLLY HILL INVESTMENTS

21-635 FIELDS, LARRY V. CINCINNATI POLICE DEPT., ET AL.

21-5919 MOSES, ROBERT A. V. TEXAS

21-6072 SAKUMA, PATSY N. V. APARTMENT OWNERS, ET AL.

21-6153 WIJE, SURAN V. BURNS, DAVID A., ET AL.

21-6306 SHORTESS, JASON T. V. GOOGLE, LLC

21-6308 SANDERS, IONA V. CHRISTWOOD

21-6416 DAVIC, BRADFORD S. V. OHIO

21-6624 JONES, ARTHUR F. V. UNITED STATES

The petitions for rehearing are denied.

21-6315 WEIDRICK, MARY JO V. BIDEN, PRESIDENT OF U.S., ET AL.

The petition for rehearing is denied. The Chief Justice took no part in the consideration or decision of this petition.

Statement of THOMAS, J.

SUPREME COURT OF THE UNITED STATES

JANE DOE *v.* FACEBOOK, INC.

ON PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF TEXAS

No. 21–459. Decided March 7, 2022

The petition for a writ of certiorari is denied.

Statement of JUSTICE THOMAS respecting the denial of certiorari.

In 2012, an adult, male sexual predator used Facebook to lure 15-year-old Jane Doe to a meeting, shortly after which she was repeatedly raped, beaten, and trafficked for sex. Doe eventually escaped and sued Facebook in Texas state court, alleging that Facebook had violated Texas’ anti-sex-trafficking statute and committed various common-law offenses. Facebook petitioned the Texas Supreme Court for a writ of mandamus dismissing Doe’s suit. The court held that a provision of the Communications Decency Act known as §230 bars Doe’s common-law claims, but not her statutory sex-trafficking claim.

Section 230(c)(1) states that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” 47 U. S. C. §230(c)(1). The Texas Supreme Court emphasized that courts have uniformly treated internet platforms as “publisher[s]” under §230(c)(1), and thus immune, whenever a plaintiff’s claim “‘stem[s] from [the platform’s] publication of information created by third parties.’” *In re Facebook, Inc.*, 625 S. W. 3d 80, 90 (Tex. 2021) (quoting *Doe v. MySpace, Inc.*, 528 F. 3d 413, 418 (CA5 2008)). As relevant here, this expansive understanding of publisher immunity requires dismissal of claims against internet companies for failing to warn consumers of product defects or failing to take reasonable

Statement of THOMAS, J.

steps “to protect their users from the malicious or objectionable activity of other users.” 625 S. W. 3d, at 83. The Texas Supreme Court acknowledged that it is “plausible” to read §230(c)(1) more narrowly to immunize internet platforms when plaintiffs seek to hold them “strictly liable” for transmitting third-party content, *id.*, at 90–91, but the court ultimately felt compelled to adopt the consensus approach, *id.*, at 91.

This decision exemplifies how courts have interpreted §230 “to confer sweeping immunity on some of the largest companies in the world,” *Malwarebytes, Inc. v. Enigma Software Group USA, LLC*, 592 U. S. ___, ___ (2020) (slip op., at 1) (statement of THOMAS, J., respecting denial of certiorari), particularly by employing a “capacious conception of what it means to treat a website operator as [a] publisher or speaker,” *id.*, at ___ (slip op., at 8) (internal quotation marks omitted). Here, the Texas Supreme Court afforded publisher immunity even though Facebook allegedly “knows its system facilitates human traffickers in identifying and cultivating victims,” but has nonetheless “failed to take any reasonable steps to mitigate the use of Facebook by human traffickers” because doing so would cost the company users—and the advertising revenue those users generate. Fourth Amended Pet. in No. 2018–69816 (Dist. Ct., Harris Cty., Tex., Feb. 10, 2020), pp. 20, 22, 23; see also Reply Brief 3, n. 1, 4, n. 2 (listing recent disclosures and investigations supporting these allegations). It is hard to see why the protection §230(c)(1) grants publishers against being held strictly liable for third parties’ content should protect Facebook from liability for its *own* “acts and omissions.” Fourth Amended Pet., at 21.

At the very least, before we close the door on such serious charges, “we should be certain that is what the law demands.” *Malwarebytes*, 592 U. S., at ___ (slip op., at 10). As I have explained, the arguments in favor of broad immunity under §230 rest largely on “policy and purpose,” not

Statement of THOMAS, J.

on the statute’s plain text. *Id.*, at ____ (slip op., at 4). Here, the Texas Supreme Court recognized that “[t]he United States Supreme Court—or better yet, Congress—may soon resolve the burgeoning debate about whether the federal courts have thus far correctly interpreted section 230.” 625 S. W. 3d, at 84. Assuming Congress does not step in to clarify §230’s scope, we should do so in an appropriate case.

Unfortunately, this is not such a case. We have jurisdiction to review only “[f]inal judgments or decrees” of state courts. 28 U. S. C. §1257(a). And finality typically requires “an effective determination of the litigation and not of merely interlocutory or intermediate steps therein.” *Market Street R. Co. v. Railroad Comm’n of Cal.*, 324 U. S. 548, 551 (1945). Because the Texas Supreme Court allowed Doe’s statutory claim to proceed, the litigation is not “final.” Conceding as much, Doe relies on a narrow exception to the finality rule involving cases where “the federal issue, finally decided by the highest court in the State, will survive and require decision regardless of the outcome of future state-court proceedings.” *Cox Broadcasting Corp. v. Cohn*, 420 U. S. 469, 480 (1975). But that exception cannot apply here because the Texas courts have not yet conclusively adjudicated a personal-jurisdiction defense that, if successful, would “effectively moot the federal-law question raised here.” *Jefferson v. City of Tarrant*, 522 U. S. 75, 82 (1997).

I, therefore, concur in the Court’s denial of certiorari. We should, however, address the proper scope of immunity under §230 in an appropriate case.