

One Wisconsin Now: Federal court sides with One Wisconsin Now in Twitter blocking lawsuit against Republican State Representatives

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MADISON, Wis. — A federal judge has delivered [a strong opinion in favor of plaintiffs One Wisconsin Now](#) in their lawsuit over being blocked from the official government Twitter accounts of a number of Wisconsin Assembly Republicans, such as Speaker Robin Vos and budget writing committee chair Rep. John Nygren, on the basis of their political views.

Western District Judge William Conley wrote in his decision, argued on behalf of One Wisconsin Now by Attorneys Christa Westerberg and Aaron Dumas of the law firm Pines Bach, that, “ ... the court concludes that defendants’ content-based restrictions are impermissible and in violation of the plaintiff’s First Amendment rights.”

One Wisconsin Now Executive Director Scot Ross lauded the decision saying, “This is a victory for open, transparent and accountable government. Elected officials can’t exclude people from public forums just because they don’t agree with their political views or don’t want to hear what they may have to say.”

One Wisconsin Now filed suit in November 2017 against Republican State

Representatives Robin Vos, John Nygren and Jesse Kremer for blocking One Wisconsin Now on Twitter. One Wisconsin Now maintains a verified Twitter account and uses it to promote issues of concern to the organization like voting rights, free speech and student loan debt and to provide a counterpoint to the right wing and conservative ideology and messages promoted by Vos, Nygren and Kremer. In their lawsuit, plaintiffs contend that government officials can't offer a public forum and then block selected parties from participating without a lawful basis.

Westerberg praised the court's ruling, saying, "This decision shows the First Amendment has full force in the information age. Exclusion from a public forum is just as potent on social media as it is in the Town Hall."

Dumas noted, "the Defendants argued that their online acts exist in one of two alternate universes where the Constitution doesn't apply to them. In one, their overtly government acts can masquerade, when it suits them, as those of mere private citizens; in the other, they are so powerful that they swallow up the public's First Amendment rights. The Court rightly rejected these conflicting theories."

Judge Conley laid out the case for finding in favor of plaintiffs, writing:

"RELYING ON THE THREE-STEP ANALYSIS SET FORTH IN [PRIOR] DECISIONS, THE COURT SIMILARLY FINDS HERE THAT: (1) DEFENDANTS ACTED UNDER COLOR OF STATE LAW IN CREATING AND MAINTAINING THEIR RESPECTIVE TWITTER ACCOUNTS IN THEIR CAPACITY AS MEMBERS OF THE WISCONSIN STATE ASSEMBLY; (2) THE INTERACTIVE PORTION OF DEFENDANTS' TWITTER ACCOUNTS ARE DESIGNATED PUBLIC FORUMS; AND (3) DEFENDANTS ENGAGED IN CONTENT-BASED DISCRIMINATION WHEN THEY BLOCKED THE PLAINTIFF'S TWITTER ACCOUNT."

He also dismissed defendants' claim that they were not operating their account as state actors, opining:

"Defendants' interpretation of the color of state law test is unworkable, narrow, and, simply put, silly."

This is the second straight day One Wisconsin prevailed over Vos and the Republicans in a federal court decision. Yesterday, unconstitutional attacks on voting passed by Republicans and signed into law by former Gov. Scott Walker in the December lame duck legislative session were tossed out in a decisive ruling by

federal Judge James Peterson.

Ross concluded, “Two different federal courts offered the same warning to Robin Vos and the Republicans: It’s the people’s government, not theirs. Vos and the Republicans cannot suppress people’s speech simply because they don’t like what’s being said, whether it’s at the ballot box or on social media.