KNIGHT
FIRST AMENDMENT
INSTITUTE
at Columbia University

March 14, 2019

Jennifer Utrecht
Scott McIntosh
Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Ave NW Room 7710
Washington, DC 20530

Re: ***Knight First Amendment Institute, et al. v. Trump, et al.,*** **Case No. 17-CV-5205 (NRB)**

Dear Jennifer and Scott,

We are writing to request that defendants unblock all individuals who have been blocked from the @realDonaldTrump Twitter account based on viewpoint, including the individuals listed in the attached spreadsheet. We are encouraged that defendants unblocked many individuals in response to our earlier requests, contained in letters dated August 10, 2018 and September 12, 2018. However, a number of people included in our earlier requests remain blocked, and four other individuals have contacted us since our last correspondence asking to be unblocked from the President's account. We ask that you unblock these four individuals, and, for the reasons that follow, that you also unblock the accounts that you have previously declined to unblock.[1]

In your letter to us of August 28, 2018, you stated that defendants had decided not to unblock (1) people whose accounts were blocked before President Trump's inauguration; and (2) people who were not able to identify the tweet that prompted their blocking. As explained below,

[1] We do not represent any of these individuals. They have indicated to us, however, that they are comfortable with our sharing with you the information contained in the attached spreadsheet. The spreadsheet lists each individual's name (unless the individual wishes to remain anonymous), Twitter handle, and, where available, the date of blocking and information about the tweet(s) that the individual believes led to the blocking.

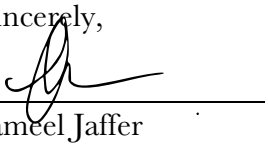
however, there is no justification for defendants' continuing to exclude these people from the public forum created by the @realDonaldTrump account.

First, although a private citizen can of course block whomever he would like to block from his social media accounts, Mr. Trump became bound by the First Amendment upon his inauguration as president. His continuing to exclude individuals from the @realDonaldTrump account now, simply because they expressed views years ago that irked him at the time, violates the First Amendment—just as it would violate the First Amendment for a city councilor to exclude individuals from city council meetings simply because they criticized her during her campaign. In this instance, a number of the individuals listed in the spreadsheet are barred indefinitely from what Judge Buchwald ruled is a public forum. No legitimate government interest could justify this indefinite ban, and we believe that continuing to block these accounts is unconstitutional.

Second, the blocked users should not bear the burden of establishing that they were blocked for viewpoint-related reasons. Some of the individuals listed in our two earlier spreadsheets do not know precisely which tweets prompted their blocking, or no longer have access to those tweets.[2] Although discovery in litigation could illuminate the timing and reason for the blocking, we believe it would be more prudent for defendants to unblock these individuals in advance of any legal suit. Given that they plausibly assert that they were blocked based on their viewpoints, that defendants adopted a practice of blocking individuals based on viewpoint, that defendants have not articulated any other basis for their blocking, and that the Constitution places the burden on the government to justify any infringement of First Amendment rights, we ask that defendants immediately unblock all of these users from the @realDonaldTrump account.

Thank you in advance for your prompt response.

Sincerely,



Jameel Jaffer
Katherine Fallow
Carrie DeCell
Alex Abdo

[2] Some of them have deleted tweets that were over a year old, for example, or are unsure of which tweets prompted the blocking, or have simply been unable to find the tweets that prompted their blocking. Three of the four new individuals do not have links to the tweets that they believe prompted their blocking, but they have provided us with screenshots of the tweets, which we are attaching to this letter.

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New York, NY 10115
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From Letter of August 10, 2018

	Name	Twitter Handle	Date Blocked	Link to Tweet that Preceded the Block
9	Craig Patruno	@cjpatruno	Unknown (2016 primaries)	Deleted
11	Danny Zuker	@DannyZuker	2013	
38	Tara Dublin	@taradublinrocks	First blocked 8/29/15, then unblocked and reblocked	https://twitter.com/taradublinrocks/status/637772819632275456 https://twitter.com/taradublinrocks/status/637869414709227520

From Letter of September 12, 2018

	Name	Twitter Handle	Date Blocked	Link to Tweet that Preceded the Block
1	Adam Wolf	@AdamWolf77		
2	Alan J. Bedenko	@buffalopundit	3/14/14	Provided large range of search results: https://twitter.com/search?f=tweets&vertical=default&q=from%3Abuffalopundit%20%40realdonaldtrump%20since%3A2013-12-31%20until%3A2014-03-31&src=typd&lang=en
3	Alex Goodman	@ThisKidneyLife	2012	
9	Billy Port	@williamgport	"When [Trump] was a candidate"	
14	Don Moynihan	@donmoyn		Deleted
16	Elizabeth West	@Limeylizzie	2012	https://twitter.com/Limeylizzie/status/260483126323736577
17	Ellen Brodsky	@NewsHoundEllen	9/6/13	https://twitter.com/search?l=&q=investigation%20from%3ANewsHoundEllen%20to%3ArealDonaldTrump&src=typd
18	Eric Uhm	@EricUhm	2015	https://twitter.com/EricUhm/status/646087887688204288?s=19 https://twitter.com/EricUhm/status/646804434849284096?s=19 https://twitter.com/EricUhm/status/647070616143663104?s=19 https://twitter.com/EricUhm/status/621368524049616896?s=19
21	Harold Itzkowitz	@Harolditz	1/17	
26	Jennifer Quinlan	@lilfirefly	3/2015	
27	Joshua Albert	@jpegjoshua	8/31/17	Deleted
29	Kathy Foschi	@eyesopen52		
30	Ken Klippenstein	@kenklippenstein	6/2017	
31	Kevin Thompson	@kevth	10/1/16	
34	Megan Ackerman	@MissMeganEmily	12/2/15	https://twitter.com/MissMeganEmily/status/672191189148282881
35	Molly Jong-fast	@MollyJongFast	7/17	
36	Patrisha Young	@SouthernCha0s		Deleted
37	Paul Equale	@paulequale	4/23/16	https://twitter.com/paulequale/status/724021370204610560?s=21
40	Rosie O'Donnell	@rosie	7/24/17	
47		@sicksadtrump		

Since Letter of September 12, 2018

	Name	Twitter Handle	Date Blocked	Link to Tweet that Preceded the Block
1	Talbert W. Swan	@talbertswan	8/17	screenshots attached
2	Benjamin Kerensa	@bkerensa	6/9/17	screenshots attached
3	Kyle Stevens	@thekylestevens	8/10/17	https://twitter.com/thekylestevens/status/895347905263013894
4	D.C. Douglas	@DC_Douglas	6/22/17	screenshot attached


Tweet
Donald J. Trump · 8/14/17
Now that Ken Frazier of Merck Pharma has resigned from President's Manufacturing Council,he will have more time to LOWER RIPOFF DRUG PRICES!
50.8K 20.8K 88.7K
You Retweeted
Bishop Talbert Swan
@TalbertSwan
Replying to @realDonaldTrump
Kenneth Frazier showed integrity by doing something you refused to do, condemning vile white supremacists! Thank you Ken!
8/14/17, 10:41 AM
1,144 Retweets 5,489 Likes


Bishop Talbert S... · 8/14/17
Replying to @TalbertSwan and @realDonaldTrump
He has proven himself to be a man of character for not wanting to be associated with an administration that supports neo nazis and the Klan!
90 608 3,375
Bishop Talbert S... · 8/14/17
Instead of taking infantile cheap shots at him over twitter like a whiny brat having a temper tantrum, you should follow his example!
67 530 3,264
Bishop Talbert S... · 8/14/17
Ken's actions demonstrated that he has a moral center, something utterly lacking in a man holding the highest office in this nation.
30 719 2,743


Tweet
Bishop Talbert S... · 8/14/17
It is disgraceful that you would attack a man because he does not want to be associated with racist miscreants and those who support them!
36 456 2,406
Bishop Talbert S... · 8/14/17
Once again, instead of mustering up an ounce of moral fiber (you probably have none), you choose to play to your white supremacist base
48 507 2,393
Bishop Talbert S... · 8/14/17
You are an utter disgrace and unfit for the office you hold. RESIGN, TODAY!
131 408 2,641



Benjamin Kerensa
@bkerensa

Replying to @realDonaldTrump

You tried to obstruct justice

6/9/17, 3:11 AM

View Tweet activity

33 Retweets **498** Likes



Benjamin Kerensa
@bkerensa

Replying to @realDonaldTrump

You bring shame to our country

6/9/17, 3:11 AM

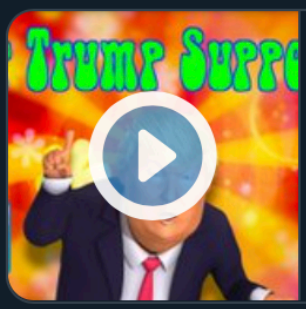
View Tweet activity

81 Retweets **1,335** Likes

D.C. Douglas 🍸
@DC_Douglas

Replying to @realDonaldTrump

Funny. You were rated worst president in US history. And that was first 100 days.



Dear Trump Supporter... (An Info Bomb/Tweaked Nipple Fro...
View more videos at https://www.dcdouglas.com Full transcript: https://www.dcdouglas.com/blog/political/dear-online-trump-supporter/ All media used is in pub...
youtube.com

3:17 PM - 22 Jun 2017

1,143 Retweets **7,775** Likes

374 1.1K 7.8K