

Supreme Court skeptical of sex offender social media ban (Update)

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In this Feb. 1, 2107 file photo, members of the media gather outside the Supreme Court in Washington. With a nod to the importance of social media in American life, the Supreme Court signaled Monday, Feb. 27, 2017, it could strike down a North Carolina law that bars convicted sex offenders from Facebook, Twitter and other popular sites. (AP Photo/Jose Luis Magana, File)

With a nod to the importance of social media in American life, the Supreme Court signaled Monday it could strike down a North Carolina

law that bars convicted sex offenders from Facebook, Twitter and other popular sites.

At least five justices, a majority of the court, suggested during argument that they would rule for North Carolina resident Lester Packingham Jr. His Facebook boast about beating a traffic ticket led to his conviction for violating a 2008 law aimed at keeping sex offenders off internet sites children might use.

The state's lawyer said the law deals with the virtual world in the same way that states keep sex offenders out of playgrounds and other places children visit. More than 1,000 people have been prosecuted under the law, Packingham said in his court filing.

Justice Samuel Alito, who has backed restrictions on speech more often than his colleagues, appeared to be more open to North Carolina's argument.

But several justices said the law was so broad that it could violate free-speech rights, even of people convicted of sex crimes.

Social media sites like Facebook and Twitter are so popular that they "have become embedded in our culture," Justice Elena Kagan said.

The 56-year-old Kagan, the youngest justice and seemingly most conversant on the subject, said the law could prevent people from looking at the Twitter feeds of President Donald Trump and other elected officials.

Justice Anthony Kennedy voiced his concerns with the law by reaching back to before the digital age to note that more communication takes place online than in the traditional "public square," where the court has been skeptical of limits on speech.

Deputy North Carolina Attorney General Robert Montgomery acknowledged that some digital avenues are cut off from people convicted under the law, but he said alternatives exist. "This is a part of the internet, but it's not the entire internet that is being taken away from these offenders," Montgomery said.

Justice Ruth Bader Ginsburg was among those who wondered if a narrower law that specifically tried to prevent sex offenders from communicating with minors through social media might withstand court review.

A more constrained law might be constitutional, lawyer David Goldberg said on behalf of Packingham, but North Carolina's version goes too far.

"The law does not operate in some sleepy First Amendment quarter," Goldberg said. Instead, it "forbids speech on the very platforms on which Americans today are most likely to communicate, to organize for social change, and to petition their government."

Louisiana is the only other state with a law similar to North Carolina's, although the Louisiana law applies only to people convicted of sex crimes with children, according to a legal brief the state filed with the Supreme Court. But many states have laws that require sex offenders to provide information about their internet use to authorities. Separately, many states limit internet use as a condition of parole or probation.

Packingham, 36, originally pleaded guilty in 2002 to taking indecent liberties with a child. He had been indicted for the statutory rape of a 13-year-old and ordered to register as a sex offender.

In 2010, a Durham police officer was using his own Facebook account to look for people who shouldn't be on the site. He came across a post from Packingham, who used an alias but also included a photo of

himself and linked to an account used by his father and namesake. The officer found six other registered sex offenders in the same session, Montgomery said.

"No fine. No Court costs. No nothing. Praise be to God. Wow. Thanks, Jesus," Packingham wrote in the post that led to his conviction and suspended prison sentence.

A decision in *Packingham v. North Carolina*, 15-1194, is expected by late June.

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