

SPEECH

For some time, I've been noting that Donald Trump has chosen his political martyrs poorly. Every person he takes out in his authoritarian abuse could serve as one more person who will inspire others to fight back.

I wasn't specifically thinking of Jimmy Kimmel, whose show ABC suspended after Brendan Carr complained about the things Kimmel said about Charlie Kirk's killer.

But sure, Kimmel's suspension removes a familiar voice from the living rooms of a certain aging demographic, but more importantly, points to the system of power behind the suspension: not just the cancel campaign to silence discussion of Charlie Kirk's real statements, but Brendan Carr's egregious politicization of the FCC, and in response, the abject cowardice from multinationals like ABC, Sinclair, and Nexstar. While Carr absolutely made inappropriate comments as a regulator (see Mike Masnick for a predictably excellent post on why his comments were illegal), the specific means by which Carr silenced Kimmel was the learned helplessness of massive corporations putting speech considerations behind their hopes of regulatory approval for expansion.

The Kimmel suspension comes as Larry Ellison's family moves to take control of vast swaths of public speech in the US. David Ellison bought Paramount Skydance and promptly set about replacing news with Bari Weiss' propaganda, and now Larry looks set to acquire TikTok and probably Warner Brothers.

Then, if all goes according to plan, Mr. Trump could soon hand an 80 percent stake in TikTok, the powerful social media platform, to the existing shareholders, among them KKR and General Atlantic, plus a new consortium that includes Mr. Ellison's Oracle and a16z, the Silicon Valley venture capital firm

whose co-founder Marc Andreessen is close with the administration.

There's more: The Ellisons are also, reportedly, preparing a bid – of perhaps \$80 billion, according to some estimates – for Warner Bros. Discovery, the media conglomerate that controls such jewels as HBO Max, the Warner Bros. movie studio and CNN.

Jimmy Kimmel's plight is a good way to make the consolidation and control of the media by oligarchs and Trump flunkies visible and meaningful to people who otherwise wouldn't care. So depending on what happens (he has not yet been fired and so might capitulate to demands Sinclair is making of him, and it's not clear how long he'd remain under contract if he tried to quit), this could be a really useful teaching opportunity for people who hear Kimmel but not more political actors.

But I wasn't thinking about Kimmel. I have used the phrase with people like Mahmoud Khalil, the Columbia University activist and Green Card holder threatened with deportation based on his advocacy for Palestinians. Last week, a Louisiana immigration court approved the Administration's attempt to retcon their retconned basis to deport Khalil (a claim he made a misrepresentation on his change of status petition, as opposed to his speech itself), putting his bid to stay in the country on fast track before an immigration appeals court. In a letter sent yesterday to the court that ruled his deportation unconstitutional retaliation for Khalil's speech, his attorneys described how absent outside action he may soon be deported to Algeria or Syria.

On September 12, the IJ issued three separate orders denying Petitioner's (1) motion for an extension of time, (2) motion to change venue, and (3) application for a waiver, without conducting an evidentiary hearing.

(Copies of each order are attached as Exhibits A, B, and C.)

[snip]

Respondents' continued pursuit of Petitioner's removal on the Post-Hoc Charge and these latest, highly unusual developments—including Respondents' decisions to move forward with the waiver process on a compressed schedule despite seeking and obtaining a partial stay of that courtordered requirement and to deny an ordinarily granted waiver without the normal hearing—is part and parcel of Respondents broader effort to retaliate against Petitioner for his constitutionally protected expression in support of Palestinian rights. It represents a substantial threat to Petitioner's liberty, family integrity and if ultimately removed, his physical safety.

Petitioner now has thirty days from September 12 to notice an appeal to the Board of Immigration Appeals (BIA). In light of the above, and given statements targeting Petitioner by name for retaliation and deportation made by the President and several senior U.S. government officials, undersigned counsel have ample reason to expect that the BIA process—and an affirmance of the IJ's determination—will be swift. Upon affirmance by the BIA, Petitioner will lose his lawful permanent resident status, including his right to reside and work in the United States, and have a final order of removal against him. Compared to other courts of appeals, including those in the Third and Second Circuits, the Fifth Circuit almost never grants stays of removal to noncitizens pursuing petitions for review of BIA decisions. 4 As a result, the only meaningful impediment to Petitioner's

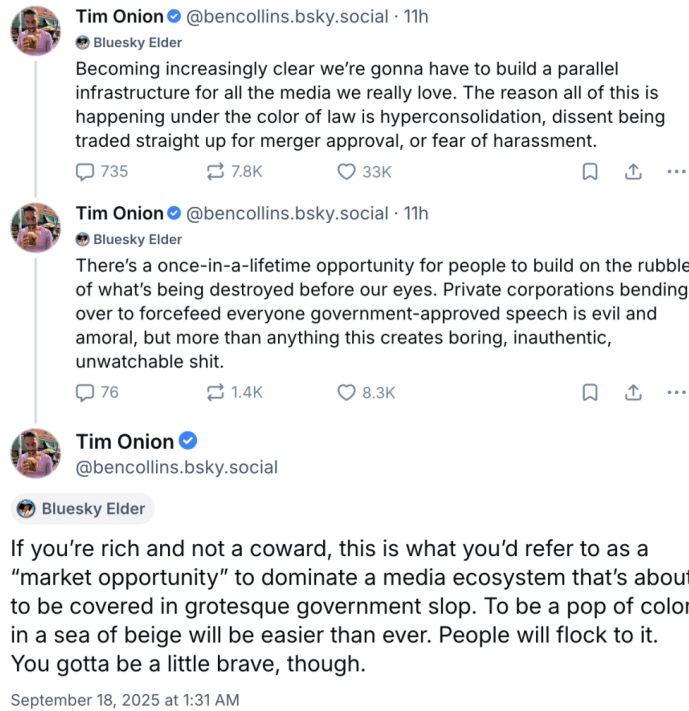
physical removal from the United States would be this Court's important order prohibiting removal during the pendency of his federal habeas case. See ECF 81 (ordering pursuant to the All Writs Act that, "Petitioner shall not be removed from the United States, unless and until this Court issues a contrary order ... to preserve the Court's jurisdiction, so that the Petition can be reviewed and ruled on"). And nothing would preserve his lawful permanent resident status.

Back when Khalil was the center of focus, I really did believe that his charisma and poise might keep a focus on Marco Rubio's egregious actions to deport people based on speech. That hasn't happened. I learned of these latest developments from press releases from his lawyers and saw someone compare the First Amendment attack on Khalil with that on Kimmel. But any focus on Khalil's plight has been replaced by 100 other abuses. Trump's minions are still working overtime to silence Khalil, just like Kimmel; they're just using different means – means that are (and have been ruled to be) a more direct assault on the First Amendment.

And that brings me back to the concerns I raised here.

There's a lot that's terrible. But even a lot of the good things that are happening escape notice, largely from the two forces that buried Khalil's fate: surging mobs of attention, corporate control on news, and the resultant increased difficulty in finding good news anymore. Corporate news and most existing social media is already broken and dying. One reason it was easy for ABC to suspend Kimmel is he's no longer the fixture he used to be.

Ben Collins (who bought the Onion and has been fighting to take over Alex Jones' empire) responded to yesterday's news by describing this as a market opportunity.



Collins is right: because mass media is largely dead, there is an opportunity to build up new media that is both more trusted because it is not subject to Carr's threats and on that basis popular, a media that can compete with whatever slop the Ellisons are putting out.

But until we get there and likely even after, we need to find ways to bridge the gaps in the media environment right now. We need to do so to ensure that stories – of people like Khalil, of the families being destroyed by Stephen Miller's attacks, the impact of RFK Jr's assault on public health, the disastrous effects of Trump's financial policies – keep getting told. We need to convey what Democrats are actually doing, such that criticism is based on reality, rather than outright fabrications. The biggest challenge, Democrats need to be engaged in a media environment shared to the extent it is possible to hold Republicans, from Trump on down, accountable among those who normally support them.

Trump and Carr's assault on the media – accompanied by their oligarch friends' attempt to buy it all up – is an attempt to disrupt all that accountability. For now, at least, it's actually possible to bypass those dying media

outlets. But it takes work. And awareness.

And whatever else the Jimmy Kimmel suspension does, it provides that moment of awareness. It provides a wake-up call that we need to lay the foundation to bypass the oligarch-owned media.

Updated: Corrected Collins' name. Curse his Bluesky handle!