

SCOTUS Opinion: Facebook's Security Feature Not A Prohibited Autodialer

2 Apr 2021

The Telephone Consumer Protection Act of 1991 prohibits telemarketers from using autodialers, which “store or produce telephone numbers to be called, using a random or sequential number generator,” and then dial those numbers. Meanwhile, Facebook has a security feature that automatically texts a phone number associated with an account if that account is accessed from a new device or browser. Noah Duguid started receiving Facebook's texts despite never having a Facebook account, and sued Facebook, alleging that its security feature was basically an autodialer.

The Ninth Circuit agreed with Duguid, but the Court, in a unanimous decision by Justice Sotomayor, reversed, holding that the text of the Act specifically excluded devices that do not use a random or sequential number generator. Facebook's device stored and texted numbers, but since it did not randomly or sequentially generate those numbers, it did not violate the Act. Justice Alito penned a concurrence opining that the “series-qualifier” canon of construction used by the Court in other cases is “useful” but has “limitations” in other contexts.

A link to the opinion in *Facebook v. Duguid* is here: https://www.supremecourt.gov/opinions/20pdf/19-511_p86b.pdf

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TAGGED: Telephone Consumer Protection Act of 1991, Autodialer, Facebook v. Duguid