



MEDIA COALITION

DEFENDING THE FIRST AMENDMENT SINCE 1973

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MEDIA GROUPS URGE SUPREME COURT TO HOLD THAT STOLEN VALOR ACT VIOLATES FIRST AMENDMENT

WASHINGTON, D.C., January 20, 2012—Stating that “the integrity of the military award system relies more on a free press than on the threat of prosecution,” media organizations, writers, and performers urged the Supreme Court to hold that a federal law that makes it a crime to lie about having received a military medal violates the free speech protections of the First Amendment.

The federal government has asked the Supreme Court to reverse a court of appeals decision that held the statute unconstitutional. In so doing, the government is seeking to strip First Amendment protection from and criminalize factually false speech even when the speaker does not defame or defraud anyone, whenever the government says there is a strong governmental interest in the “truth.” In their amicus curiae brief, the media groups argue that while defamation and fraud are recognized historic exceptions to the First Amendment, there has never been an exception for false speech.

The media groups point out that briefs in support of the law filed by veterans groups had credited “investigative journalists” and other media with exposing false claims of having received military medals, “resulting in humiliation, shame, exhumation from Arlington National Cemetery, censure, and loss of employment,” demonstrating that the truth is best established through a free press, not criminal prosecution.

The amicus brief was filed on behalf of American Booksellers Foundation For Free Expression, American Federation of Television and Radio Artists, Association Of American Publishers, Inc., Comic Book Legal Defense Fund, Entertainment Merchants Association, Freedom to Read Foundation, PEN American Center, Village Voice Media

Holdings, LLC, and Writers Guild of America, West, Inc. The brief was coordinated by Media Coalition, Inc, a trade association defending the First Amendment since 1973.

“It is dangerous to suggest that the government can punish false speech as long as there is a strong governmental interest,” David Horowitz, Executive Director of Media Coalition, said. “There are many areas where there is a strong governmental interest – such as whether there were weapons of mass destruction in Iraq in 2002 and the causes of climate change – where vigorous public dialogue should be encouraged, not chilled by criminal penalties.”

The amicus curiae brief also points out that the title of the federal law, the Stolen Valor Act, is misleading. “The Act actually covers not only valor awards but also any decoration or medal” awarded to members of the military, the brief said. There are over 200 such medals and decorations and tens of millions of recipients. While the case before the Supreme Court involves a false boast of having received the Congressional Medal of Honor, the amicus brief stated, “This Court should not sustain Alvarez’s conviction unless it also would be prepared to sustain the conviction of a veteran who falsely told a grandchild of having won the Navy Expert Rifleman Medal with a motive no more malicious than to interest the child in riflery.”

The case will be argued before the Supreme Court on February 22, 2012.

The media groups are represented by Michael A. Bamberger and Richard M. Zuckerman of SNR Denton US LLP and Jonathan Bloom of Weil Gotshal & Manges.