

The Alvarez Case

Implications for the Military

Alvarez's Statements

- In 2007, at a [Three Valley Water District Board meeting](#) in [Claremont, California](#),
- New member Xavier Alvarez introduced himself by saying,
- "I'm a retired Marine of 25 years. I retired in the year 2001. Back in 1987, I was awarded the Congressional Medal of Honor. I got wounded many times by the same guy."

Ninth Circuit Court of Appeals

- *"Saints may always tell the truth, but for mortals living means lying."*
- Those were the words of Chief Judge Alex Kozinski
- The Stolen Valor Act is an unconstitutional restraint on free speech and a threat to every citizen who fibs to embellish his or her image, avoid embarrassment or perpetuate a child's belief in Santa Claus.
- The court struck down both the 2005 act of Congress and the fines and sentence meted out to a Pomona man convicted on criminal charges for falsely claiming to have been awarded the congressional Medal of Honor.

Supreme Court

- The Supreme Court heard oral argument on February 22, 2012.
- [Donald Verrilli, Jr., Solicitor General of the United States](#), appeared on behalf of the United States.
- Jonathan D. Libby, Deputy Federal [Public Defender](#), appeared on behalf of Alvarez.

Solicitor General Verrilli

- “The military honors touch on the core values of the armed forces, and the Stolen Valor Act simply aims to protect those core values”.
- “[T]his Court has said in numerous contexts, numerous contexts, that the calculated factual falsehood has no First Amendment value for its own sake.”

Alvarez

- First Amendment is intended to protect personal autonomy. In response to several questions, Libby played on the Court's discontent with the apparent lack of harm by stating that there is value in falsity "so long as it doesn't cause imminent harm to another person or imminent harm to a government function."

Federal Public Defender Libby

- First Amendment is intended to protect personal autonomy. In response to several questions, Libby played on the Court's discontent with the apparent lack of harm by stating that there is value in falsity "so long as it doesn't cause imminent harm to another person or imminent harm to a government function."
- Libby stumbled in the Court's estimation, however, when he conceded that the Act did not chill any truthful speech

Supreme Court Decision

- On June 28, 2012, a divided Supreme Court held that the Stolen Valor Act's prohibition against making false statements of having been awarded a military medal violated the First Amendment.
- However, the six justices in the majority could not agree on a single rationale for the decision.

Aftermath

- Alvarez remained in legal trouble due to allegations that he defrauded the government by falsely receiving health insurance benefits. He was convicted of misappropriation of public funds, [grand theft](#), and insurance fraud in 2009 and sentenced to five years in state prison, and was discharged in March 2012 from [Calipatria State Prison](#).

Revised Stolen Valor Act

- In 2012, an effort was initiated to revise the Stolen Valor Act to comply with the Supreme Court's decision.
- This resulted in passage and signing of the [Stolen Valor Act of 2013](#).
- In addition to a wrongful claim of receiving one of the listed military awards, intent to gain some benefit or something of value by fraud was required.

First Amendment

- An **amendment** to the United States Constitution guaranteeing the rights of free expression and action that are fundamental to democratic government. These rights include freedom of assembly, freedom of the press, freedom of religion, and freedom of speech.
- **Free speech zones** (also known as **First Amendment zones**, **free speech cages**, and **protest zones**) are areas set aside in [public places](#) for the purpose of political protesting. The [First Amendment to the United States Constitution](#) states that "[Congress](#) shall make no law... abridging... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The existence of free speech zones is based on U.S. court decisions stipulating that the government may regulate the [time, place, and manner](#) – but not content – of expression.

Constitutional Issue of First Amendment

- Historically, the Supreme Court has allowed for content-based restrictions on speech in a few categories, including **obscenity, defamation, fraud, and true threats**.
- There is no general exemption for false statements, though the government argues that past cases show that false statements lack value, and, thus, do not warrant First Amendment protection.

The limitations of the case

- The Court acknowledges that protecting the Medal of Honor and its integrity is within the government's interest.
- However, for First Amendment scrutiny, there needs to be a link between the harm prevented and the limitations imposed, and the government has not shown that link here.
- The government did not address how the award's perception was diluted by these false representations or how counter-speech against the appellant did not also achieve the government's interest.

Dissenting Opinion

- In the dissent, justices note the multiple laws outlawing perjury and
- Congress' previous laws regarding the use and manufacturing of military decorations without permission.
- In the concurrence, justices agree that the law is overbroad but that Congress could create a narrower and acceptable law.

Summary

In a Nutshell

- **The Legislative Branch** – Congress – passed the [Stolen Valor Act of 2005](#), punishing those who misrepresent that they have received high military honors.
- **The Judicial Branch** – the Supreme Court of the United States – [ruled in 2012](#) that the Act was unconstitutional because it infringed on the right to free speech protected by the First Amendment.
- **The Executive Branch** – the Pentagon and the President – [took action](#) within a month of the Supreme Court's decision establishing a government-funded national database of medal citations – phased in over time – to enable verification of military honors.
- **The Legislative Branch** – Congress – is considering legislation that is more narrow than the Stolen Valor Act of 2005. The Stolen Valor Act of 2011 would make it a federal misdemeanor for anyone to benefit financially from false claims about military service, records, or awards. That would include receiving health care benefits, government contracts, or jobs reserved for veterans. The modified version of the law provides punishments for those seeking to profit strictly from false military service. Follow the progress of the [Stolen Valor Act of 2011](#).

Stolen Valor Act

- [President George W. Bush](#) signed the Stolen Valor Act of 2005, (18 U.S.C. § 704), into [law](#) on December 20, 2006.
- The Act broadens previous provisions addressing the unauthorized wear, manufacture, or sale of any [military decorations and medals](#) by making it a misdemeanor to falsely represent oneself as having received any U.S. military decoration or medal

Reference Cited

- UNITED STATES V. ALVAREZ: WHAT RESTRICTIONS DOES THE FIRST AMENDMENT IMPOSE ON LAWMAKERS WHO WISH TO REGULATE FALSE FACTUAL SPEECH?
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