

Do We Have a Right to Lie?

✘ I'm not sure I ever mentioned this, but before I became a journalist I used to play centerfield for the New York Yankees. Before that, I was the conductor of the New York Philharmonic. But I couldn't put up with the egos in the string section so I quit and became a world famous doctor who pioneered heart transplant surgery.

Okay, I'm a liar. Sue me. Better yet, call the cops! You'll be wasting your time, of course. It's not against the law to lie. Except sometimes it is, as Xavier Alvarez found out.

Xavier Alvarez went around telling people that he played hockey for the Detroit Red wings, that he was married to a Mexican starlet, and that he rescued the American ambassador during the Iranian hostage crisis. None of that is true and the fact that Alvarez lied about it isn't against the law.

Here's what is, as explained in a New York Times op-ed by William Bennett Turner, who teaches a course on freedom of speech at the University of California at Berkeley: "In 2007, while introducing himself at a meeting of a California water board, he said that he was a retired Marine who had been awarded the Medal of Honor (both lies). He was quickly exposed as a phony and pilloried in the community and press as an 'idiot' and the 'ultimate slime.'"

But it didn't end there. The federal government dragged Alvarez into court and prosecuted him under the Stolen Valor Act, which says you can't falsely claim to have been awarded a military medal. And if you say you won the Medal of Honor, you can go to prison for up to a year. Alvarez was convicted but appealed to the Ninth Circuit in San Francisco, which said the law is unconstitutional because it violates the First Amendment's guarantee of free speech.

The case is now before the U.S. Supreme Court. But it's not

about whether the constitution gives us a right to lie. It's about how much power the federal government has over our lives. It's about whether the government can punish us if we say something that isn't true about ourselves – even when our lie doesn't hurt any particular individual; doesn't cheat anyone; and doesn't get in the way of the government doing its job.

Professor Turner says, “The court should rule in favor of Mr. Alvarez. Harmless fibbing should not be a federal offense.”

Free speech, guaranteed under the First Amendment, of course, doesn't mean we can say anything we want anytime we want. You can yell “fire” all you want in your living room, but not in the proverbial crowded theater. You can say your next-door neighbor is a bank robber and a child molester– to yourself and maybe even to your wife. But if you go door to door and tell everyone on the block that lie, don't expect the U.S. Constitution to protect you.

So there are limitations on free speech. But should lying about being in the military and getting medals be counted among those limitations? The government says the law serves an “important” government interest. Lying about military medals cheapens both the meaning and the reputation of the medals, according to the government. Maybe, but that's going to be hard to prove.

Besides, as Professor Turner says, where will this end. “If the Supreme Court were to accept the government's argument, other disconcerting legislation could easily follow. Congress could enact a law that criminalized false claims by political candidates about their qualifications for office, or false claims about their opponents. Surely the government has an ‘important’ interest in preventing voter deception.”

Xavier Alvarez is a jerk, that's for sure. But do we really want jerks thrown into jail? I'm with the professor on this

one. Liars will be found out. They will be isolated and shunned. It is their reputation that will be tarnished, not the reputation of medals or the heroes who wear them.