

What About Stolen Valor is Actually Illegal?



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Memorial Day is the most solemn of all American military commemorations. It is the day when we honor those who sacrificed their lives so that their fellow citizens could flourish in freedom. At 3 PM, a grateful nation is called to observe 2 minutes of silence in remembrance of the heroes who died in battle or of the wounds they sustained in combat. Communities across the country will carry out ceremonies, lining national cemeteries with flags, holding patriotic parades, and conducting spiritual observances.¹

Sadly, almost as long as there has been a United States, there has been a parallel practice dishonoring the uniform and deceiving veterans and the public alike known as stolen valor. Stolen valor is a persistent, yet strange, psychological behavior: individuals who never served in the US Armed Forces claim they have done heroic deeds for which they often sustained serious injuries in the line of duty and almost always won medals for their heroism.² This editorial will trace the US legal history of stolen valor cases to provide the background for next month's editorial examining its clinical and ethical aspects.

While many cases of stolen valor do not receive media attention, the experience of Sarah Cavanaugh, a former VA social worker who claimed to be a marine veteran who served in Iraq and Afghanistan, was the subject of the Deep Cover podcast series.³ Cavanaugh had claimed that an improvised explosive device blew up her Humvee, crushing her hip. Still she somehow was able to help her fellow Marines and earned the Bronze Star among other decorations for her heroism. That was not the only lie Cavanaugh told: she also told her friends and wife that she had advanced lung cancer due to burn pit exposure. In line with the best-worst of those who have stolen valor, her mastery of manipulation enabled her to become the commander of a local Veterans of Foreign Wars post. Using stolen identities and fraudulent documents, Cavanaugh was

In a false quarrel there is no true valor.
Much Ado About Nothing by William Shakespeare

able to purloin veteran benefits, donated leave from other VA employees and money, and stole goods and services from various charitable organizations whose mission was to help wounded veterans and those struggling to adjust to civilian life. Before law enforcement unraveled her sordid tale, she misappropriated hundreds of thousands of dollars in VA benefits and donations and exploited dozens of generous veterans and compassionate civilians.⁴

Cavanaugh's story was so sordidly compelling that I kept saying out loud to myself (and my spouse), "This has to be illegal." The truth about stolen valor law is far more ambivalent and frustrating than I had anticipated or wanted. The first insult to my sense of justice was that lying about military service is not in itself illegal: you can pad your military resume with unearned decorations or impress a future partner or employer with your combat exploits without much fear of legal repercussions. The legal history of attempting to make stealing valor a crime has almost as many twists and turns as the fallacious narratives of military imposters and illustrates the uniquely American experiment in balancing freedom and fairness.

The Stolen Valor Act of 2005 made it a federal misdemeanor to wear, manufacture, or sell military decorations, or medals (Cavanaugh bought her medals online) without legal authorization. It also made it a crime to falsely represent oneself as having been the recipient of a decoration, medal, or service badge that Congress or the Armed Forces authorized. There were even stiffer penalties if the medal was a Silver Star, Distinguished Service Cross, US Air Force or US Navy Cross, or Purple Heart. Punishments include fines and imprisonment. The stated legislative purpose was to prohibit fraud that devalued military awards and the dignity of those who legitimately earned them.⁵

Next comes a distinctly American reaction to the initial Congressional attempt to protect the legacy of those who served—a lawsuit.

Xavier Alvarez was an official on a California district water board claimed to be a 25-year veteran of the US Marine Corps wounded in combat and received the Congressional Medal of Honor. The Federal Bureau of Investigation exposed the lie and instead of the nation's highest honor, Alvarez was the first to be convicted under the Stolen Valor Act of 2005. Alvarez appealed the decision, ironically claiming the law violated his free speech rights. The case landed in the Supreme Court, which ruled that the Stolen Valor Act did indeed violate the Free Speech Clause of the First Amendment. The majority opinion found the Act as passed was too encompassing of all speech and needed to target only cases in which false statements resulted in actual harm.⁶

The Stolen Valor Act of 2013 amends the criminal code regarding fraudulent claims about military service to include those who don't only lie but also profit from it, as Cavanaugh did. The revised act specifically focuses on individuals who claim to have earned military honors for the intended purpose of obtaining money, property, or any other tangible benefit.⁷

Despite the complicated nature of Stolen Valor Law, it did prevail in Cavanaugh's case. A US District Court Judge in Rhode Island found her guilty of stolen valor in all its permutations, along with identity theft of other veterans' military and medical records and fraud in obtaining benefits and services intended for real veterans. Cavanaugh was sentenced to 70 months in federal prison, 3 years of supervised release, ordered to pay \$284,796.82 in restitution, and to restore 261 hours of donated leave to the federal government, charitable organizations, and good Samaritans she duped and swindled.⁸

The revised law under which Cavanaugh was punished lasted 10 years until another classically American ethical concern—privacy—motivated additional legislative effort. A 2023/2024 US House of Representatives proposal to amend the Stolen Valor Act would have strengthened the privacy protections afforded military records. It would have required the information to only be accessed

with the permission of the individual who served or their family or through a Freedom of Information Act request. This would make the kind of journalistic and law enforcement investigations that eventually caught Cavanaugh in her lies far more laborious for false valor hunters while at the same time preventing unscrupulous inquiries into service members' personal information. Advocates for free speech and defenders of military honor are both lobbying Congress; as of this writing the legislation has not been passed.⁹

As we close part 1 of this review of stolen valor, we return to Memorial Day. This day provides the somber recognition that without the brave men and women of integrity who died in defense of a democracy that promotes the political activity of its citizens, we would not even be able to have this debate over justice, freedom, and truth.

Disclaimer

The opinions expressed herein are those of the author and do not necessarily reflect those of *Federal Practitioner*, Frontline Medical Communications Inc., the US Government, or any of its agencies.

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